

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1689

AN ACT

To repeal sections 324.400, 324.406, 324.409, 324.412, 324.415, 324.421, 324.424, 324.427, 324.430, 324.436, 326.256, 326.271, 326.280, 326.283, 326.286, 326.289, 326.292, 327.011, 327.031, 327.081, 327.401, 327.411, 329.010, 329.040, 329.045, 329.050, 329.070, 329.080, 329.085, 329.110, 329.120, 329.180, 329.190, 332.051, 332.071, 332.081, 332.111, 332.121, 332.181, 332.261, 332.327, 332.341, 334.104, 334.506, 334.702, 334.704, 334.706, 334.708, 334.710, 334.712, 334.715, 334.717, 334.720, 335.016, 339.710, 339.720, 339.770, 620.010 and 621.045, RSMo, and to enact in lieu thereof one hundred seven new sections relating to professional licensing requirements, with penalty provisions.

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

Section A. Sections 324.400, 324.406, 324.409, 324.412, 324.415, 324.421, 324.424, 324.427, 324.430, 324.436, 326.256, 326.271, 326.280, 326.283, 326.286, 326.289, 326.292, 327.011, 327.031, 327.081, 327.401, 327.411, 329.010, 329.040, 329.045, 329.050, 329.070, 329.080, 329.085, 329.110, 329.120, 329.180, 329.190, 332.051, 332.071, 332.081, 332.111, 332.121, 332.181, 332.261, 332.327, 332.341, 334.104, 334.506, 334.702, 334.704, 334.706, 334.708, 334.710, 334.712, 334.715, 334.717, 334.720, 335.016, 339.710, 339.720, 339.770, 620.010 and 621.045, RSMo, are repealed and one hundred seven new sections enacted in lieu thereof, to be known as sections 256.451, 256.452, 324.278,

324.281, 324.400, 324.409, 324.412, 324.415, 324.421, 324.424, 324.427, 324.430, 324.436, 324.442, 324.445, 324.448, 324.1100, 324.1102, 324.1104, 324.1106, 324.1108, 324.1110, 324.1112, 324.1114, 324.1116, 324.1118, 324.1120, 324.1122, 324.1124, 324.1126, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136, 324.1138, 324.1140, 326.256, 326.271, 326.280, 326.283, 326.286, 326.289, 326.292, 327.011, 327.031, 327.081, 327.401, 327.411, 328.001, 328.002, 328.003, 329.001, 329.002, 329.003, 329.010, 329.040, 329.045, 329.050, 329.070, 329.080, 329.085, 329.110, 329.120, 329.180, 329.190, 331.001, 331.002, 331.003, 332.051, 332.071, 332.081, 332.111, 332.121, 332.181, 332.261, 332.327, 334.104, 334.506, 334.702, 334.704, 334.706, 334.708, 334.710, 334.712, 334.715, 334.717, 334.720, 335.016, 336.001, 336.002, 336.003, 337.002, 339.001, 339.002, 339.003, 339.710, 339.720, 339.770, 340.001, 340.002, 340.003, 346.001, 346.002, 346.003, 620.010 and 621.045, to read as follows:

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

256.452. 1. Notwithstanding any law to the contrary, any person registered pursuant to this chapter may apply to the

appropriate registration board for an inactive registration status on a form furnished by the board. Upon receipt of the completed inactive status application form and the board's determination that the registrant meets the requirements established by rule, the board shall declare the registrant inactive and shall place the registrant on an inactive status list. A person whose registration 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 registration is granted inactive status, the registrant 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 registrant allowing his or her inactive registration to lapse, may within five years of the lapse return their registration to active status by notifying the board in advance of such intention, paying the appropriate fees, and meeting all established registration requirements of the appropriate registration board, excluding the registration examination, as a condition of reinstatement.

324.278. Notwithstanding any law to the contrary, if in the determination of the appropriate licensing board, another state is deemed to have substantially equivalent certification or licensure requirements, an applicant who is certified or licensed under the laws of the other state may obtain a license pursuant to sections 324.240 to 324.281 upon the terms and conditions as

may be determined by the board, regardless of the minimum age requirements of the other state; provided that the terms and conditions shall comply with the minimum criteria for certification or licensure issued by the board.

324.281. 1. Notwithstanding any law to the contrary, any person licensed pursuant to sections 324.240 to 324.281 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. A license shall be restored if, within five years of the expiration date of the license, the applicant provides written application to the board, pays the required fees, and documents compliance with applicable licensure reinstatement requirements as defined by the board.

324.400. As used in sections 324.400 to 324.439, the following terms mean:

(1) ["Council", the interior design council created in section 324.406;

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

[(3)] (2) "Division", the division of professional registration of the department of economic development;

[(4)] (3) "Registered commercial interior designer", a design professional who provides services including preparation of documents and specifications relative to nonload bearing interior construction, furniture, finishes, fixtures and equipment and who meets the criteria of education, experience and examination as provided in sections 324.400 to 324.439.

324.409. 1. To be a registered commercial interior designer, a person:

(1) Shall take and pass or have passed the examination administered by the National Council for Interior Design Qualification or an equivalent examination approved by the [council] division. In addition to proof of passage of the examination, the application shall provide substantial evidence to the [council] division that the applicant:

(a) Is a graduate of a five-year or four-year interior design program from an accredited institution and has completed at least two years of diversified and appropriate interior design experience; or

(b) Has completed at least three years of an interior design curriculum from an accredited institution and has completed at least three years of diversified and appropriate interior design experience; or

(c) Is a graduate of a two-year interior design program

from an accredited institution and has completed at least four years of diversified and appropriate interior design experience;

(2) Within twenty-four months of August 28, 1998, a person may qualify for registration by providing substantial evidence to the [council] division that the applicant:

(a) Has passed the full examination administered by the National Council for Interior Design Qualification or an equivalent state examination approved by the [council] division and has a minimum of six years of interior design experience acceptable to the [council] division;

(b) Has passed or intends to take and pass within the next twelve months the building and barrier-free portion of the examination administered by the National Council for Interior Design Qualification or an equivalent state codes examination approved by the [council] division and has provided satisfactory evidence of having used or been identified by the title, interior designer, and has diversified and appropriate experience totaling a minimum of ten years; or

(c) Has taken and passed the building and barrier-free portion of the examination administered by the National Council for Interior Design Qualification or an equivalent state codes examination approved by the [council] division, and has passed the American Institute of Interior Designers accreditation examination; or

(3) May qualify who is currently registered pursuant to sections 327.091 to 327.171, RSMo, and section 327.401, RSMo, pertaining to the practice of architecture and registered with the [council] division. Such applicant shall give authorization

to the [council] division in order to verify current registration with sections 327.091 to 327.171, RSMo, and section 327.401, RSMo, pertaining to the practice of architecture.

2. Verification of experience required pursuant to this section shall be based on a minimum of five client references, business or employment verification and five industry references, submitted to the [council] division.

3. The [council] division shall verify if an applicant has complied with the provisions of this section and has paid the required fees, then the [council] division shall recommend such applicant be registered as a registered commercial interior designer by the [council] division.

324.412. [1.] The division shall:

(1) Employ, within the limits of the appropriations for that purpose, such employees as are necessary to carry out the provisions of sections 324.400 to 324.439;

(2) Exercise all budgeting, purchasing, reporting and other related management functions[.

2. The council shall:

(1)];

(3) Recommend prosecution for violations of sections 324.400 to 324.439 to the appropriate prosecuting or circuit attorney; and

[(2)] (4) Promulgate such rules and regulations as are necessary to administer the provisions of sections 324.400 to 324.439. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated to administer and enforce sections 324.400 to 324.439, shall become effective only

if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this section shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

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

324.421. The [council] division shall register without

examination, any interior designer certified, licensed or registered in another state or territory of the United States or foreign country if the applicant has qualifications which are at least equivalent to the requirements for registration as a registered commercial interior designer in this state and such applicant pays the required fees.

324.424. 1. The [council] division shall set the amount of the fees authorized by sections 324.400 to 324.439 by rules and regulations. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 324.400 to 324.439. All fees required pursuant to sections 324.400 to 324.439 shall be paid to and collected by the division of professional registration and transmitted to the department of revenue for deposit in the state treasury to the credit of the "Interior Designer [Council] Fund", which is hereby created.

2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in the fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation to the council for the preceding fiscal year. The amount, if any, in the fund which shall lapse is the amount in the fund which exceeds the appropriate multiple of the appropriations to the [council] division for the preceding fiscal year.

324.427. It is unlawful for any person to advertise or indicate to the public that the person is a registered commercial interior designer in this state, unless such person is registered

as a registered commercial interior designer by the [council] division and is in good standing pursuant to sections 324.400 to 324.439.

324.430. No person may use the designation registered commercial interior designer in Missouri, unless the [council] division has issued a current certificate of registration certifying that the person has been duly registered as a registered commercial interior designer in Missouri and unless such registration has been renewed or reinstated as provided in section 324.418.

324.436. 1. The [council] division may refuse to issue any certificate required pursuant to sections 324.400 to 324.439, or renew or reinstate any such certificate, for any one or any combination of the reasons stated in subsection 2 of this section. The [council] division shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the person's right to file a complaint with the administrative hearing commission as provided in chapter 621, RSMo.

2. The [council] division may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of a certificate of registration required by sections 324.400 to 324.439 or any person who has failed to renew or has surrendered the person's certificate of registration for any one or combination of the following reasons:

(1) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other

state or of the United States, for any offense reasonably related to the qualifications, functions or duties of the profession regulated by sections 324.400 to 324.439; for any offense for which an essential element is fraud, dishonesty or an act of violence; or for a felony, whether or not sentence is imposed;

(2) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration issued pursuant to sections 324.400 to 324.439 or in obtaining permission to take any examination given or required pursuant to sections 324.400 to 324.439;

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

(4) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of the profession regulated by sections 324.400 to 324.439;

(5) Violation of, or assisting or enabling any person to violate, any provision of sections 324.400 to 324.439, or of any lawful rule or regulation adopted pursuant to such sections;

(6) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use the person's certificate or diploma from any school;

(7) Disciplinary action against the holder of a certificate of registration or other right to perform the profession regulated by sections 324.400 to 324.439 granted by another state, territory, federal agency or country upon grounds for

which revocation or suspension is authorized in this state;

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

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

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

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

324.442. Notwithstanding any law to the contrary, if in the determination of the appropriate licensing board, another state is deemed to have substantially equivalent certification or licensure requirements, an applicant who is certified or licensed under the laws of the other state may obtain a license pursuant to sections 324.400 to 324.448 upon the terms and conditions as may be determined by the board, regardless of the minimum age requirements of the other state; provided that the terms and conditions shall comply with the minimum criteria for

certification or licensure issued by the board.

324.445. 1. Notwithstanding any law to the contrary, any person licensed pursuant to sections 324.400 to 324.448 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.

324.448. 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The members shall be appointed for terms of four years.

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

4. The members of the board may receive compensation, as determined by the director for their services but shall be reimbursed for actual and necessary expenses incurred in performing their official duties on the board.

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

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

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

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

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

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

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

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

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

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

(5) A collection agency or an employee thereof while acting within the scope of employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or a debtor's property where the contract with an assignor creditor is for the collection of claims owed or due, or asserted to be owed or due.

or the equivalent thereof;

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

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

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

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

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

(11) Any real estate broker, real estate salesperson, or real estate appraiser acting within the scope of his or her license.

324.1108. 1. Every person desiring to be licensed in this state as a private investigator or private investigator agency shall make application therefor to the board of private investigator examiners. An application for a license pursuant to

the provisions of sections 324.1100 to 324.1140 shall be on a form prescribed by the board of private investigator examiners and accompanied by the required application fee. An application shall be verified and shall include:

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

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

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

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

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

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

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

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

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

(2) Be a citizen of the United States;

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

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

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

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

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

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

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

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

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

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

4. The board may review applicants seeking reciprocity. An

applicant seeking reciprocity shall have undergone a licensing procedure similar to that required by this state and shall meet this state's minimum insurance requirements.

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

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

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

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

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

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

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

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

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

(4) While unlicensed, committed or aided and abetted the

commission of any act for which a license is required by sections 324.1100 to 324.1140 after the effective date of this section; or

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

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

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

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

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

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

4. A private investigator license shall allow only the individual licensed by the state to conduct investigations. An agency license shall be applied for separately and held by an individual who is licensed as a private investigator. The agency may hire individuals to work for the agency conducting investigations for the agency only. Persons hired shall make application as determined by the board and meet all requirements

set forth by the board except that they shall not be required to meet any experience requirements and shall be allowed to begin working immediately upon the agency submitting their applications. Employees shall attend a certified training program within a time frame to be determined by the board.

324.1116. 1. The board of private investigator examiners shall determine the form of the license which shall include the:

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

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

issuance. Renewal of any such license shall be made in the manner prescribed for obtaining an original license, including payment of the appropriate fee, except that:

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

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

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

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

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

324.1120. 1. Any licensee may divulge to the board, any law enforcement officer, or prosecuting attorney, or such person's representative, any information such person may acquire as to any criminal offense, or instruct his or her client to do so if the client is the victim but such person shall not divulge to any other person, except as he or she may be required by law

to do, any information acquired by such person at the direction of the employer or client for whom the information was obtained.

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

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

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

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

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

(5) Manufacture false evidence; or

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

324.1122. Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board of private investigator examiners. Such licensee shall file with the board the complete address of the

licensee's principal place of business including the name and number of the street. The board may require the filing of other information for the purpose of identifying such principal place of business.

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

324.1126. 1. The board of private investigator examiners may suspend or revoke a license issued pursuant to sections 324.1100 to 324.1140 if, after notice and opportunity for hearing in accordance with the provisions of chapter 621, RSMo, the administrative hearing commission determines that the licensee has:

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

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

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

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

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

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

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

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

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

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

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

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

324.1128. 1. Each private investigator or investigator agency operating pursuant to the provisions of sections 324.1100 to 324.1140 shall be required to keep a complete record of the business transactions of such investigator or investigator agency for a period of seven years. Upon the service of a court order issued by a court of competent jurisdiction or upon the service of a subpoena issued by the board which is based on a complaint supported by oath or affirmation, and particularly describing the records and reports, any licensed private investigator who is the owner, partner, director, corporate officer, or custodian of business records shall provide an opportunity for the inspection of the same and to inspect reports made; but any information

obtained by the board shall be kept confidential, except as may be necessary to commence and prosecute any legal proceedings.

The board shall not personally enter a licensee's place of business to inspect records, but shall utilize an employee of the division of professional registration to act as a gatherer of information and facts to present to the board regarding any complaint or inspection they are looking into.

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

practices and methods or such violations, shall be guilty of a class A misdemeanor. The testimony of witnesses in any investigative proceeding shall be under oath.

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

2. No rule or portion of a rule promulgated pursuant to the authority of sections 324.1100 to 324.1140 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

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

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

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

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

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

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

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

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

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

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

(4) Has paid the required fee.

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

324.1134. Any person who knowingly falsifies the fingerprints or photographs or other information required to be submitted pursuant to sections 324.1100 to 324.1140 is guilty of a class D felony; and any person who violates any of the other provisions of 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 appropriate officials in other states to permit licensed private investigator agencies and licensed private investigators who meet or exceed the qualifications established in sections 324.1100 to 324.1140 to operate across state lines under mutually acceptable terms.

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

(1) The board may waive testing for law enforcement officers currently certified pursuant to then existing peace

officer standards and training requirements pursuant to chapter 590, RSMo;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

service;

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

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

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

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

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

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

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

(15) "Permit", a permit to practice as a certified public accountant firm issued pursuant to section 326.289 or

corresponding provisions of prior law or pursuant to corresponding provisions of the laws of other states;

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

(17) "Public [accountancy] accounting":

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

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

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

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

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

(20) "State", any state of the United States, the District

of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that "this state" means the state of Missouri;

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

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

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

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

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

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

(1) May use and rely upon guidelines and pronouncements of

recognized educational and professional associations;

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

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

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

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

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

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This chapter and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be 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 temporary license be in effect for more than twelve months after the date of issuance nor shall a temporary license be reissued to the same applicant. No fee shall be charged for a temporary license. The holder of a temporary license which has not expired, been suspended or revoked shall be deemed to be the holder of a license issued pursuant to this section until the

temporary license expires, is terminated, suspended or revoked.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) If the applicant's certificate, license or permit was issued more than four years prior to the application for issuance

of a license pursuant to this section, the applicant has fulfilled the requirements of continuing professional education that would have been applicable pursuant to subsection 6 of this section.

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

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

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

letterhead or any other document or device, except their certified public accountant certificate, on which their certified public accountant title appears.

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

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

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

(2) The foreign designation:

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

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

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

(3) The applicant:

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

(b) Completed an experience requirement substantially equivalent to the requirement set out in subdivision (6) of subsection 1 of section 326.280 in the jurisdiction which granted the foreign designation or has completed four years of professional experience in this state, or meets equivalent requirements prescribed by the board by rule within the ten years immediately preceding the application; and

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

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

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

[11. The board shall require by rule as a condition for renewal of a license by any licensee who performs review or compilation services for the public other than through a

certified public accountant firm that the individual undergo, no more frequently than once every three years, a peer review conducted in a manner as the board by rule shall specify, and the review shall include verification that the individual has met the competency requirements set out in professional standards for such services.]

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

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

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

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

(1) Notwithstanding any other provision of law to the contrary, a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, principals, shareholders, members or managers, belongs

to licensees who are licensed in some state, and the partners, officers, principals, shareholders, members or managers, whose principal place of business is in this state and who perform professional services in this state are licensees pursuant to section 326.280 or the corresponding provision of prior law. Although firms may include nonlicensee owners, the firm and its ownership shall comply with rules promulgated by the board;

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

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

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

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

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

(4) Any licensee who is responsible for supervising review

services or signs or authorizes someone to sign review reports shall meet the competency requirements as determined by board by rule which shall include experience in review services.

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

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

- (1) The legal form of the firm;
- (2) The persons who are partners, officers, members, managers or shareholders of the firm; or
- (3) Any other matter.

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

7. Applicants for initial issuance or renewal of permits

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

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

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

statements on behalf of the firm meet the competency requirements set out in the professional standards for such services, provided that any such rule:

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

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

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

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

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

12. In connection with proceedings before the board or upon

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

13. The peer review processes shall be operated and the documents generated thereby be maintained in a manner designed to preserve their confidentiality. No third party, other than the oversight body, the board, subject to the provisions of subsection 12 of this section, or the organization performing peer review shall have access to documents furnished or generated in the course of the review. All documents shall be privileged and closed records for all purposes and all meetings at which the documents are discussed shall be considered closed meetings pursuant to subdivision (1) of section 610.021, RSMo. The proceedings, records and workpapers of the board and any peer review subjected to the board process shall be privileged and shall not be subject to discovery, subpoena or other means of legal process or introduction into evidence at any civil action, arbitration, administrative proceeding or board proceeding. No member of the board or person who is involved in the peer review process shall be permitted or required to testify in any civil action, arbitration, administrative proceeding or board proceeding as to any matters produced, presented, disclosed or discussed during or in connection with the peer review process or

as to any findings, recommendations, evaluations, opinions or other actions of such committees or any of its members; provided, however, that information, documents or records that are publicly available shall not be subject to discovery or use in any civil action, arbitration, administrative proceeding or board proceeding merely because they were presented or considered in connection with the peer review process.

326.292. 1. Only licensees may issue a report on financial statements of any person, firm, organization or governmental unit or offer to render or render any attest service. Such restriction shall not prohibit any act of a public official or public employee in the performance of the person's duties as such; nor prohibit the performance by any nonlicensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services and the preparation of nonattest financial statements. Nonlicensees may prepare financial statements and issue nonattest transmittals or information thereon which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS).

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

(1) A certified public accountant whose certificate was in full force and effect, issued pursuant to the laws of this state

prior to August 28, 2001, and who does not engage in the practice of public accounting, auditing, bookkeeping or any similar occupation, from using the title certified public accountant or abbreviation CPA;

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

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

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

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

4. Only persons holding a valid license or permit issued pursuant to section 326.280 or 326.289 shall assume or use the title certified accountant, chartered accountant, enrolled accountant, licensed accountant, registered accountant, accredited accountant or any other title or designation likely to

be confused with the titles certified public accountant or public accountant, or use any of the abbreviations CA, LA, RA, AA or similar abbreviation likely to be confused with the abbreviation CPA or PA. The title enrolled agent or EA shall only be used by individuals so designated by the Internal Revenue Service. Nothing in this section shall prohibit the use or issuance of a title for nonattest services provided that the organization and the title issued by the organization existed prior to August 28, 2001.

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

(a) For compilations:

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

(b) For reviews:

"I (We) reviewed the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. These financial statements (information) are (is) the responsibility of the company's management. I (We) have not audited the accompanying financial statements and accordingly do

not express an opinion or any other form of assurance on them."

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

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

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

8. None of the foregoing provisions of this section shall

apply to a person or firm holding a certification, designation, degree or license granted in a foreign country entitling the holder to engage in the practice of public [accountancy] accounting or its equivalent in the country whose activities in this state are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds the entitlement, who performs no attest, review or compilation services and who issues no reports with respect to the financial statements of any other persons, firms or governmental units in this state, and who does not use in this state any title or designation other than the one under which the person practices in such country, followed by a translation of such title or designation into the English language, if it is in a different language, and by the name of such country.

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

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

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

(2) Meets the competency requirement provided in applicable

standards; and

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

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

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

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

[14.] 13. (1) A licensee shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be

supplied by a client, or receive a commission, when the licensee also performs for that client:

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

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

(c) An examination of prospective financial information.

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

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

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

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

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

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

b. A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use

the financial statement and the licensee's compilation report does not disclose a lack of independence; or

c. An examination of prospective financial information;

[or]

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

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

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

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

[16.] 15. Any person who violates any provision of subsections 1 to 5 of this section shall be guilty of a class A misdemeanor. Whenever the board has reason to believe that any person has violated this section it may certify the facts to the

attorney general of this state or bring other appropriate proceedings.

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 surveying is defined in section 327.272.

327.031. 1. The "Missouri Board for Architects, [Professional] Engineers, [Professional] Land Surveyors and Landscape Architects" is hereby established and shall consist of

fourteen members: a chairperson, who may be either an architect, a professional engineer or a professional land surveyor; three architects, who shall constitute the architectural division of the board; three professional engineers, who shall constitute its professional engineering division; three professional land surveyors, who shall constitute its professional land surveying division; three landscape architects, who shall constitute its landscape architecture division; and a voting public member.

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

3. The chairperson shall be the administrative and executive officer of the board, and it shall be his or her duty to supervise and expedite the work of the board and its divisions, and, at his or her election, when a tie exists between the divisions of the board, to break the tie by recording his or her vote for or against the action upon which the divisions are in disagreement. Each member of the architectural division shall have one vote when voting on an action pending before the board; each member of the professional engineering division shall have one vote when voting on an action pending before the board; the chairperson of the landscape architecture division or the chairperson's designee shall have one vote when voting on an action pending before the board; and each member of the professional land surveying division shall have one vote when voting on an action pending before the board. Every motion or

proposed action upon which the divisions of the board are tied shall be deemed lost, and the chairperson shall so declare, unless the chairperson shall elect to break the tie as provided in this section. Seven voting members of the board and two members of each division shall constitute a quorum, respectively, for the transaction of business.

4. Each division of the board shall, at its first meeting in each even-numbered year, elect one of its members as division chairperson for a term of two years. The chairpersons of the architectural division, professional engineering division and the professional land surveying division so elected shall be vice chairpersons of the board, and when the chairperson of the board is an architect, the chairperson of the architectural division shall be the ranking vice chairperson, and when the chairperson of the board is a professional engineer, the chairperson of the professional engineering division shall be the ranking vice chairperson, and when the chairperson of the board is a professional land surveyor, the chairperson of the professional land surveying division shall be the ranking vice chairperson. The chairperson of each division shall be the administrative and executive officer of his or her division, and it shall be his or her duty to supervise and expedite the work of the division, and, in case of a tie vote on any matter, the chairperson shall, at his or her election, break the tie by his or her vote. Every motion or question pending before the division upon which a tie exists shall be deemed lost, and so declared by the chairperson of the division, unless the chairperson shall elect to break such tie by his or her vote.

5. Any person appointed to the board, except a public member, shall be a currently licensed architect, licensed professional engineer, licensed professional land surveyor or registered or licensed landscape architect in Missouri, as the vacancy on the board may require, who has been a resident of Missouri for at least five years, who has been engaged in active practice as an architect, professional engineer, professional land surveyor or landscape architect, as the case may be, for at least ten consecutive years immediately preceding such person's appointment and who is and has been a citizen of the United States for at least five years immediately preceding such person's appointment. Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of engineering shall be regarded as active practice of engineering, for the purposes of this chapter. Active service as a faculty member, after meeting the qualifications required by section 327.314, while holding the rank of assistant professor or higher in an accredited school of engineering and teaching land surveying courses shall be regarded as an active practice of land surveying for the purposes of this chapter. Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of architecture shall be regarded as active practice of architecture for the purposes of this chapter; provided, however, that no faculty member of an accredited school of architecture shall be eligible for appointment to the board unless such person has had at least three years' experience in the active practice of architecture other than in teaching. The public member shall be,

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

6. The governor shall appoint the chairperson and the other members of the board when a vacancy occurs either by the expiration of a term or otherwise, and each board member shall serve until such member's successor is appointed and has qualified. The position of chairperson shall alternate among an architect, a professional engineer and a professional land surveyor. All appointments, except to fill an unexpired term, shall be for terms of four years; but no person shall serve on the board for more than two consecutive four-year terms, and each four-year term shall be deemed to have begun on the date of the expiration of the term of the board member who is being replaced or reappointed, as the case may be. Any appointment to the board

which is made when the senate is not in session shall be submitted to the senate for its advice and consent at its next session following the date of the appointment.

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

8. The board may sue and be sued as the Missouri board for architects, [professional] engineers, [professional] land

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

9. Upon appointment by the governor and confirmation by the senate of the landscape architecture division, the landscape architectural council is hereby abolished and all of its powers, duties and responsibilities are transferred to and imposed upon the Missouri board for architects, [professional] engineers, [professional] land surveyors and landscape architects established pursuant to this section. Every act performed by or under the authority of the Missouri board for architects, [professional] engineers, [professional] land surveyors and landscape architects shall be deemed to have the same force and effect as if performed by the landscape architectural council pursuant to sections 327.600 to 327.635. All rules and regulations of the landscape architectural council shall continue in effect and shall be deemed to be duly adopted rules and regulations of the Missouri board of architects, [professional] engineers, [professional] landscape architects and land surveyors until such rules and regulations are revised, amended or repealed by the board as provided by law, such action to be taken by the board on or before January 1, 2002.

10. Upon appointment by the governor and confirmation by the senate of the landscape architecture division, all moneys deposited in the landscape architectural council fund created in

section 327.625 shall be transferred to the state board for architects, [professional] engineers, [professional] land surveyors and landscape architects fund created in section 327.081. The landscape architectural council fund shall be abolished upon the transfer of all moneys in it to the state board of architects, [professional] engineers, land surveyors and landscape architects.

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

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

327.401. 1. The right to practice as an architect or to practice as a professional engineer or to practice as a professional land surveyor shall be deemed a personal right,

based upon the qualifications of the individual, evidenced by such individual's professional license and shall not be transferable; but any architect or any professional engineer or any professional land surveyor may practice his or her profession through the medium of, or as a member or as an employee of, a partnership or corporation if the plans, specifications, estimates, plats, reports, surveys or other like documents or instruments of the partnership or corporation are signed and stamped with the personal seal of the architect, professional engineer [or], professional land surveyor or landscape architect by whom or under whose immediate personal supervision the same were prepared and provided that the architect or professional engineer or professional land surveyor or landscape architect who affixes his or her signature and personal seal to any such plans, specifications, estimates, plats, reports or other documents or instruments shall be personally and professionally responsible therefor.

2. Any domestic corporation formed under the corporation law of this state, or any foreign corporation, now or hereafter organized and having as one of its purposes the practicing of architecture or professional engineering or professional land surveying or landscape architecture and any existing corporation which amends its charter to propose to practice architecture or professional engineering or professional land surveying or landscape architecture shall obtain a certificate of authority for each profession named in the articles of incorporation or articles of organization from the board which shall be renewed in accordance with the provisions of section 327.171 or 327.261 or

327.351, as the case may be, and from and after the date of such certificate of authority and while the authority or a renewal thereof is in effect, may offer and render architectural or professional engineering or professional land surveying or landscape architectural services in this state if:

(1) At all times during the authorization or any renewal thereof the directors of the corporation shall have assigned responsibility for the proper conduct of all its architectural or professional engineering or professional land surveying or landscape architectural activities in this state to an architect licensed and authorized to practice architecture in this state or to a professional engineer licensed and authorized to practice engineering in this state or to a professional land surveyor licensed and authorized to practice professional land surveying in this state or to a landscape architect licensed and authorized to practice landscape architecture in this state, as the case may be; and

(2) The person or persons who is or are personally in charge and supervises or supervise the architectural or professional engineering or professional land surveying or landscape architectural activities, as the case may be, of any such corporation in this state shall be licensed and authorized to practice architecture or professional engineering or professional land surveying or landscape architecture, as the case may be, as provided in this chapter; and

(3) The corporation pays such fees for the certificate of authority, renewals or reinstatements thereof as are required.

327.411. 1. Each architect and each professional engineer

and each professional land surveyor and each landscape architect shall have a personal seal in a form prescribed by the board, and he or she shall affix the seal to all final documents including, but not limited to, plans, specifications, estimates, plats, reports, surveys, proposals and other documents or instruments prepared by the licensee, or under such licensee's immediate personal supervision, and such licensee shall be held personally responsible for the contents of all such documents sealed by such licensee.

2. The personal seal of an architect or professional engineer or professional land surveyor or landscape architect shall be the legal equivalent of the licensee's signature whenever and wherever used, and the owner of the seal shall be responsible for the architectural, engineering [or], surveying or landscape architectural documents, as the case may be, when the licensee places his or her personal seal on such plans, specifications, estimates, plats, reports, surveys or other documents or instruments for, or to be used in connection with, any architectural [or], engineering or landscape architectural project or survey.

3. Any architect, professional engineer [or], professional land surveyor or landscape architect may, but is not required to, attach a statement over his or her signature, authenticated by his or her personal seal, specifying the particular plans, specifications, plats, reports, surveys or other documents or instruments, or portions thereof, intended to be authenticated by the seal, and disclaiming any responsibility for all other plans, specifications, estimates, reports, or other documents or

instruments relating to or intended to be used for any part or parts of the architectural [or], engineering or landscape architectural project or survey.

4. Nothing in this section, or any rule or regulation of the board shall require any professional to seal preliminary or incomplete documents.

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

328.002. 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.

328.003. 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.

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

conditions shall comply with the minimum criteria for certification or licensure issued by the board.

329.002. 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.

329.003. 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.

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

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

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

(3) "Braider", any person who, for compensation, engages in the practice of cosmetology, as defined in paragraph (b) of subdivision (5) of this section;

[(3)] (4) "Cosmetologist", any person who, for compensation, engages in the practice of cosmetology, as defined in subdivision [(4)] (5) of this section;

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

(a) "Class CH - hairdresser" includes arranging, dressing, curling, singeing, waving, permanent waving, cleansing, cutting, bleaching, tinting, coloring or similar work upon the hair of any person by any means; or removing superfluous hair from the body of any person by means other than electricity, or any other means

of arching or tinting eyebrows or tinting eyelashes. Class CH - hairdresser, also includes, any person who either with the person's hands or with mechanical or electrical apparatuses or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams engages for compensation in any one or any combination of the following: massaging, cleaning, stimulating, manipulating, exercising, beautifying or similar work upon the scalp, face, neck, arms or bust;

(b) "Class CB - braider", includes arranging, shampooing, singeing, braiding, hair extensions, hair twisting, hair dreadlocking or other similar work upon the hair of any person;

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

[(c)] (d) "Class CA - hairdressing and manicuring" includes all practices of cosmetology, as defined in paragraphs (a) [and], (b) and (c) of this subdivision;

[(d)] (e) "Class E - estheticians" includes the use of mechanical, electrical apparatuses or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, not to exceed ten percent phenol, engages for compensation, either directly or indirectly, in any one, or any combination, of the following practices: massaging, cleansing, stimulating,

manipulating, exercising, beautifying or similar work upon the scalp, face, neck, ears, arms, hands, bust, torso, legs or feet and removing superfluous hair by means other than electric needle or any other means of arching or tinting eyebrows or tinting eyelashes, of any person;

(f) "Class RE - electrologist" includes the use of equipment and devices which have been approved by and registered with the federal Food and Drug Administration for the permanent removal of hair by destroying the hair-producing cells of the skin and vascular system;

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

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

(8) "Electrologist", a person who engages in the practice of electrolysis;

(9) "Electrolysis", the permanent removal of hair by destroying the hair-producing cells of the skin and vascular system using equipment and devices which have been approved by and registered with the federal Food and Drug Administration for the removal of hair;

[(6)] (10) "Hairdresser", any person who, for compensation, engages in the practice of cosmetology as defined in paragraph (a) of subdivision [(4)] (5) of this section;

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

[(8)] (12) "Manicurist", any person who, for compensation, engages in any or all of the practices in paragraph [(b)] (c) of subdivision [(4)] (5) of this section;

[(9)] (13) "School of cosmetology" or "school of manicuring", an establishment operated for the purpose of teaching cosmetology as defined in subdivision [(4)] (5) of this section.

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

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

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

(1) Employs and has present in the school a competent licensed instructor for every twenty-five students in attendance for a given class period and one to ten additional students may be in attendance with the assistance of an instructor trainee.

One instructor is authorized to teach up to three instructor trainees immediately after being granted an instructor's license;

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

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

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

(5) Requires for the classified occupation of esthetician,

the course of study shall be no less than seven hundred fifty hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended. The student shall earn a minimum of seventy-five hours or equivalent credits of classroom training before the student may perform any of the acts of the classified occupation of esthetics on any patron or customer of the school of cosmetology or an esthetics school;

(6) Requires for the classified occupation of class CB - braider the course of study shall be no less than six hundred hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended. The student must earn a minimum of one hundred hours or equivalent credits of classroom training before the student may perform any of the acts of the classified occupation of braider on any patron or customer of the school of cosmetology;

(7) Requires for the classified occupation of electrologist, the course of study shall be no less than six hundred hours or the credit hours determined by the formula in subpart A of part 668 of section 688.8 of Title 34 of the Code of Federal Regulations, as amended. The student shall earn a minimum of forty hours of classroom training before the student may perform any of the acts of the classified occupation of electrologist on any patron or customer of the school of cosmetology or an electrolysis school.

4. The subjects to be taught for the classified occupation of cosmetology shall be as follows and the hours required for

each subject shall be not less than those contained in this subsection or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended:

- (1) Shampooing of all kinds, forty hours;
- (2) Hair coloring, bleaches and rinses, one hundred thirty hours;
- (3) Hair cutting and shaping, one hundred thirty hours;
- (4) Permanent waving and relaxing, one hundred twenty-five hours;
- (5) Hairsetting, pin curls, fingerwaves, thermal curling, two hundred twenty-five hours;
- (6) Combouts and hair styling techniques, one hundred five hours;
- (7) Scalp treatments and scalp diseases, thirty hours;
- (8) Facials, eyebrows and arches, forty hours;
- (9) Manicuring, hand and arm massage and treatment of nails, one hundred ten hours;
- (10) Cosmetic chemistry, twenty-five hours;
- (11) Salesmanship and shop management, ten hours;
- (12) Sanitation and sterilization, thirty hours;
- (13) Anatomy, twenty hours;
- (14) State law, ten hours;
- (15) Curriculum to be defined by school, not less than four hundred seventy hours.

5. The subjects to be taught for the classified occupation of class CB - braider shall be as follows and the hours required for each subject shall be not less than those contained in this

subsection:

- (1) Shampooing of all kinds, thirty hours;
- (2) Artistry of hair braiding, fifty hours;
- (3) Hairsetting, twenty hours;
- (4) Hair styling techniques, one hundred five hours;
- (5) Scalp treatments and scalp diseases, fifty hours;
- (6) Salesmanship and shop management, forty hours;
- (7) Sanitation and sterilization, forty hours;
- (8) Anatomy, twenty hours;
- (9) State law, ten hours;
- (10) Curriculum to be defined by school, not less than two hundred thirty hours.

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

- (1) Manicuring, hand and arm massage and treatment of nails, two hundred twenty hours;
- (2) Salesmanship and shop management, twenty hours;
- (3) Sanitation and sterilization, twenty hours;
- (4) Anatomy, ten hours;
- (5) State law, ten hours;
- (6) Study of the use and application of certain chemicals, forty hours; and
- (7) Curriculum to be defined by school, not less than eighty hours.

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

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

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

(3) Hair removal, thirty hours;

(4) Body treatments, aromatherapy, wraps, one hundred twenty hours;

(5) Reflexology, thirty-five hours;

(6) Cosmetic sciences, structure, condition, disorder, eighty-five hours;

(7) Cosmetic chemistry, products and ingredients, seventy-five hours;

(8) Salon management and salesmanship, fifty-five hours;

(9) Sanitation and sterilization, safety, forty-five hours;

(10) State law, ten hours; and

(11) Curriculum to be defined by school, not less than seventy-five hours.

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

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

[9.] 10. Nothing contained in this chapter shall prohibit a licensee within a cosmetology establishment from teaching any of the practices of the classified occupations for which the licensee has been licensed for not less than two years in the licensee's regular course of business, if the owner or manager of the business does not hold himself or herself out as a school and does not hire or employ or personally teach regularly at any one and the same time, more than one apprentice to each licensee regularly employed within the owner's business, not to exceed one apprentice per establishment, and the owner, manager, or trainer does not accept any fee for instruction.

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

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

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

[13.] 14. No school of cosmetology may have a greater number of students enrolled and scheduled to be in attendance for a given class period than the total floor space of that school will accommodate. Floor space required per student shall be no less than fifty square feet per additional student beyond twenty students for a school of cosmetology, beyond ten students for a school of manicuring and beyond ten students for a school of esthetics.

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

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

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

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

329.045. Every establishment in which the occupation of cosmetology is practiced shall be required to obtain a license from the state board of cosmetology. Every establishment required to be licensed shall pay to the state an establishment fee for the first three licensed cosmetologists esthetician, and/or electrologists, and/or manicurists, and/or apprentices and an additional fee for each additional licensee. The fee shall be due and payable on the renewal date and, if the fee remains unpaid thereafter, there shall be a late fee in addition to the regular establishment fee or, if a new establishment opens any time during the licensing period and does not register before opening, there shall be a delinquent fee in addition to the regular establishment fee. The license shall be kept posted in plain view within the establishment at all times.

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

(1) They must be persons of good moral character, have an education equivalent to the successful completion of the tenth grade and be at least seventeen years of age; except that, applicants for examination for licensure as an electrologist must be eighteen years of age and have obtained a high school diploma or its equivalent;

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

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

as amended, for the classification of esthetician. However, when the classified occupation of manicurist is taken in conjunction with the classified occupation of cosmetologist, the student shall not be required to serve the extra four hundred hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended, otherwise required to include manicuring of nails. All students shall complete no less than six hundred hours of training or the credit hours determined by the formula in Subpart A of Part 668 of Title 34 of the Code of Federal Regulations, as amended, for the classification of CB - braider. All students shall complete no less than six hundred hours or the credit hours as determined by the formula in subpart A of part 668 of section 688.8 of Title 34 of the Code of Federal Regulations, as amended, for the classification of electrologist; and

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

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

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

belief of the person signing the application.

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

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

6. Notwithstanding the provisions of sections 329.010 to 329.265, prior to but not beyond December 31, 2003, a person is eligible to make application to the board, pay all appropriate fees and receive a license for the classification RE-electrologist, if the person meets one of the following conditions:

(1) The person, as of December 31, 2003, has engaged in the board-approved practice of electrolysis for two of the last four years; or

(2) The person has passed a board-approved licensing examination; or

(3) The person has successfully completed a course of study from a board-approved school in electrolysis.

The board shall promulgate rules and regulations that define the approved practice of electrolysis for a person applying for a license pursuant to subdivision (1) of this subsection.

7. No person shall practice as an electrologist without a license after July 1, 2004.

8. Any rule or portion of a rule, as that term is defined

in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

329.070. 1. Apprentices or students shall be licensed with the board and shall pay a student fee or an apprentice fee prior to beginning their course, and shall be of good moral character and have an education equivalent to the successful completion of the tenth grade; except that, applicants for examination for licensure as an electrologist must be eighteen years of age and have obtained a high school diploma.

2. An apprentice or student shall not be enrolled in a course of study that shall exceed eight hours per day or that is less than three hours per day. The course of study shall be no more than forty-eight hours per week and no less than fifteen hours per week.

3. Every person desiring to act as an apprentice in any of the classified occupations within this chapter shall file with the board a written application on a form supplied to the applicant, together with the required apprentice fee.

329.080. 1. An instructor trainee shall be a licensed cosmetologist, esthetician, electrologist, or manicurist and

shall hold a license as an instructor trainee in cosmetology, esthetics or manicuring. An applicant for a license to practice as an instructor trainee shall submit to the board the required fee and a written application on a form supplied by the board upon request that the applicant is of good moral character, in good physical and mental health, has successfully completed at least a four-year high school course of study or the equivalent, and holds a Missouri license to practice as a cosmetologist, esthetician, electrologist, or manicurist. Each application shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the application, subject to the penalties of making a false affidavit or declaration.

2. An applicant approved by the board shall be issued an instructor trainee license. The license shall be issued for a definite period needed to complete training requirements to become eligible for taking the examinations. An applicant shall be approved for an instructor trainee license only for those classified occupations of cosmetology for which the applicant is licensed at the time the instructor trainee application is submitted to the board.

3. The instructor trainee shall be required to complete six hundred hours of instructor training within a Missouri licensed school of cosmetology consisting of a curriculum including both theory and practical training to include the following:

(1) Two hundred hours to be devoted to basic principles of student teaching to include teaching principles, lesson planning,

curriculum planning and class outlines, teaching methods, teaching aids, testing and evaluation;

(2) Fifty hours of psychology as applied to cosmetology, personality and teaching, teacher evaluation, counseling, theories of learning, and speech;

(3) Fifty hours of business experience or management including classroom management, record keeping, buying and inventorying supplies, and state law; and

(4) Three hundred hours of practice teaching in both theory and practical application.

4. For the purpose of meeting the minimum requirements for examination, training completed within a school of cosmetology by an instructor trainee shall be recognized by the board for a period of no more than five years from the date it is received.

5. The six hundred hours required pursuant to subsection 3 of this section may be reduced as follows:

(1) Three years of experience as a practicing cosmetologist may be substituted for three hundred hours of training. The three hundred hours will be partially reduced in proportion to experience greater than six months but less than three; or

(2) Four and one-half college credit hours in teaching methodology, as defined by rule, may be substituted for three hundred hours of training. Applicants requesting credit shall submit to the board a certified transcript together with a course description certified by the administering education institution as being primarily directed to teaching methodology. The three hundred hours will be partially reduced in proportion to college credit hours in teaching methodology of less than four and

one-half hours; or

(3) Applicants who apply from states where the requirements are not substantially equal to those in force in Missouri at the time of application, may be eligible for the examination if they provide:

(a) An affidavit verifying a current, valid instructor license in another state, territory of the United States, District of Columbia, or foreign country, state or province; and

(b) Proof of full-time work experience of not less than one year as a cosmetology instructor within the three-year period immediately preceding the application for examination.

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

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

3. The instructor license renewal fee shall be in addition to the regular cosmetologist, esthetician or manicurist license renewal fee. For each renewal the instructor shall submit proof of having attended a teacher training seminar or workshop at least once every two years, sponsored by any university, or

Missouri vocational association, or bona fide state cosmetology association specifically approved by the board to satisfy the requirement for continued training of this subsection. Renewal fees shall be due and payable on or before the renewal date and, if the fee remains unpaid thereafter in such license period, there shall be a late fee in addition to the regular fee.

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

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

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

provided in this section and section 329.080.

329.110. 1. If an applicant for examination [for cosmetology] passes the examination to the satisfaction of the state board of cosmetology and has paid the fee required and complied with the requirements pertaining to this chapter, the board shall cause to be issued a license to that effect. The license shall be evidence that the person to whom it is issued is entitled to engage in the practices, occupation or occupations stipulated therein as prescribed in this chapter. The license shall be conspicuously displayed in his or her principal office, place of business, or employment.

2. Whenever anyone who has been licensed in accordance with this chapter practices any of the occupations authorized in this chapter outside of or away from the person's principal office, place of business, or employment, he or she shall deliver to each person in his or her care a certificate of identification. This certificate shall contain his or her signature, the number and date of his or her license, the post office address and the date upon which the certificate of identification is delivered to the person under his or her care.

329.120. 1. The holder of a license issued by the state board of cosmetology who continues in active practice or occupation shall on or before the license renewal date renew the holder's license and pay the renewal fee. A license which has not been renewed prior to the renewal date shall expire on the renewal date. The holder of an expired license may have the license restored within two years of the date of expiration without examination, upon the payment of a delinquent fee in

addition to the renewal fee.

2. An application for license renewal as an electrologist shall be accompanied by proof of the successful completion of one continuing education unit every two years, with one unit equaling ten hours, or proof of successfully passing a reexamination for licensure within the immediately preceding biennium which meets the criteria established by the board.

329.180. There is hereby created and established a "State Board of Cosmetology" for the purpose of licensing all persons engaged in the practice of hair dressing, cosmetology, electrolysis, and manicuring in this state. The board shall have control and supervision of the licensed occupations, and enforcement of the terms and provisions of this chapter.

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

2. The members of the board shall receive as compensation for their services the sum set by the board not to exceed fifty dollars for each day actually spent in attendance at meetings of the board, within the state, not to exceed forty-eight days in any calendar year, and in addition thereto they shall be reimbursed for all necessary expenses incurred in the performance of their duties as members of the board.

3. All members, except the public member, shall be cosmetologists, electrologists, and manicurists duly registered

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

331.001. Notwithstanding any law to the contrary, if in the determination of the appropriate licensing board, another state is deemed to have substantially equivalent certification or

licensure requirements, an applicant who is certified or licensed under the laws of the other state may obtain a license pursuant to this chapter upon the terms and conditions as may be determined by the board, regardless of the minimum age requirements of the other state; provided that the terms and conditions shall comply with the minimum criteria for certification or licensure issued by the board.

331.002. 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.

331.003. 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. A person whose temporary permit or license is inactive shall not practice his or her profession in this state.

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

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

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

- (1) Undertakes to do or perform dental work or dental

services or dental operations or oral surgery, by any means or methods, gratuitously or for a salary or fee or other reward, paid directly or indirectly to the person or to any other person or entity;

(2) Diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats or professes to treat, any disease, pain, deformity, deficiency, injury or physical condition of human teeth or adjacent structures or treats or professes to treat any disease or disorder or lesions of the oral regions;

(3) Attempts to or does replace or restore a part or portion of a human tooth;

(4) Attempts to or does extract human teeth or attempts to or does correct malformations of human teeth or jaws;

(5) Attempts to or does adjust an appliance or appliances for use in or used in connection with malposed teeth in the human mouth;

(6) Interprets or professes to interpret or read dental radiographs;

(7) Administers an anesthetic in connection with dental services or dental operations or dental surgery;

(8) Undertakes to or does remove hard and soft deposits from or polishes natural and restored surfaces of teeth;

(9) Uses or permits to be used for the person's benefit or for the benefit of any other person or other entity the following titles or words in connection with the person's name: "Doctor", "Dentist", "Dr.", "D.D.S.", or "D.M.D.", or any other letters, titles, degrees or descriptive matter which directly or

indirectly indicate or imply that the person is willing or able to perform any type of dental service for any person or persons, or uses or permits the use of for the person's benefit or for the benefit of any other person or other entity any card, directory, poster, sign or any other means by which the person indicates or implies or represents that the person is willing or able to perform any type of dental services or operation for any person;

(10) Directly or indirectly owns, leases, operates, maintains, manages or conducts an office or establishment of any kind in which dental services or dental operations of any kind are performed for any purpose; but this section shall not be construed to prevent owners or lessees of real estate from lawfully leasing premises to those who are qualified to practice dentistry within the meaning of this chapter;

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

(12) Attempts to or does place any substitute described in subdivision (11) of this section in a human mouth or attempts to or professes to adjust any substitute or delivers any substitute

to any person other than the dentist upon whose order the work in producing the substitute was performed;

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

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

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

2. The Missouri dental board shall have the authority to promulgate rules and regulations specifying the training and supervision a dentist licensed under chapter 332 shall complete in order to administer services defined in subdivision (7) of subsection 1 of this section.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,

RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

332.081. 1. No person, corporation, or entity shall practice dentistry in Missouri as defined in section 332.071 unless and until the board has issued to the person a certificate certifying that the person has been duly registered as a dentist in Missouri and unless and until the board has issued to the person a license, to be renewed each period as provided in this chapter, to practice dentistry in Missouri; but nothing in this chapter shall be so construed as to make it unlawful for a legally qualified and licensed physician or surgeon, who does not practice dentistry as a specialty, from extracting teeth, or to make it unlawful for a dentist licensed in a state other than Missouri from making a clinical demonstration before a meeting of dentists in Missouri, or to make it unlawful for dental students in any accredited dental school to practice dentistry under the personal direction of instructors, or to make it unlawful for any duly registered and licensed dental hygienist in Missouri to practice as a dental hygienist as defined in section 332.091, or to make it unlawful for dental assistants, certified dental assistants or expanded functions dental assistants to be delegated duties as defined in section 332.093, or to make it unlawful for persons to practice dentistry in the United States armed services or in or for the United States Public Health Service, or in or for the United States Veterans Bureau, or to make it unlawful to teach in an accredited dental school, or to

make it unlawful for a duly qualified anesthesiologist or anesthesiologist to administer an anesthetic in connection with dental services or dental surgery.

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

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

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

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

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

(4) Be organized for a health purpose only and the articles of incorporation and bylaws shall clearly state that only dental personnel licensed to practice dentistry or dental hygiene in Missouri shall make decisions and judgments about the dental care of patients. This subdivision shall apply to entities applying for licensure after January 1, 2003.

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

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

6. Any not-for-profit corporation that obtains a license to practice dentistry in this state is subject to discipline pursuant to section 332.321. If the board concludes that a not-for-profit corporation has committed an act or is engaging in a course of conduct that would be grounds for disciplinary action, the board may file a complaint before the administrative hearing commission. The board may refuse to issue or renew the license of a not-for-profit corporation for one or any combination of causes stated in subsection 2 of section 332.321. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of their right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

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

for not-for-profit corporations to report patient census data to the board.

8. All not-for-profit corporations organized and operated as migrant, community, or homeless health centers pursuant to 42 U.S.C. Section 254(b) or 254(c), or federally qualified health centers pursuant to 42 U.S.C. Section 1396(d), or as otherwise authorized herein, shall be exempt from sections 332.051 through 332.121.

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

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

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

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license

issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client or patient of the licensee; or

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

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

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

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

2. Any person desiring a license to practice dentistry in Missouri shall make application to the board on a form prescribed by the board pursuant to section 332.141. An application for licensure shall be active for one year after the date it is received by the board. The application becomes void if not completed within such one-year period.

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

dentistry.

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

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

6. The license of any dentist who fails to renew within

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

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

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

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

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

4. Effective with the licensing period beginning on December 1, 2002, a license shall be renewed every two years. [The board shall not renew the license of any hygienist unless the licensee provides satisfactory evidence that he or she has completed thirty hours of continuing education within a two-year period.] To renew a license, each dental hygienist shall submit satisfactory evidence of completion of thirty hours of continuing education during the two-year period immediately preceding the renewal period. Each dental hygienist shall maintain documentation of completion of the required continuing education hours as provided by rule. Failure to obtain the required continuing education hours, failure to submit satisfactory evidence, or failure to maintain documentation is a violation of section 332.321. As provided by rule, the board may extend the time requirements for completion of the continuing education up to six months for reasons related to health, military service, foreign residency or for other good cause. All requests for

extensions of time shall be made in writing and submitted to the board before the renewal date. [The board may waive the requirements for continuing education for retired or disabled hygienists or for other good cause.]

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

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

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

332.327. 1. The board may establish an impaired dentist or dental hygienist committee, to be designated as the well-being committee, to promote the early identification, intervention, treatment and rehabilitation of dentists or dental hygienists who may be impaired by reasons of illness, substance abuse, or as a result of any physical or mental condition. The board may enter into a contractual agreement with a nonprofit corporation or a dental association for the purpose of creating, supporting and maintaining a committee to be designated as the well-being committee. The board may promulgate administrative rules subject to the provisions of this section and chapter 536, RSMo, to effectuate and implement any committee formed pursuant to this section. The board may expend appropriated funds necessary to provide for operational expenses of the committee formed pursuant to this section. Any member of the well-being committee, as well as any administrator, staff member, consultant, agent or employee of the committee, acting within the scope of his or her duties and without actual malice and, all other persons who furnish information to the committee in good faith and without actual

malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation or action taken by the committee, or by any individual member of the committee.

2. All information, interviews, reports, statements, memoranda or other documents furnished to or produced by the well-being committee, as well as communications to or from the committee, any findings, conclusions, interventions, treatment, rehabilitation or other proceedings of the committee which in any way pertain to a licensee who may be, or who actually is, impaired shall be privileged and confidential.

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

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

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

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

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

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

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

334.104. 1. A physician may enter into collaborative practice arrangements with registered professional nurses. Collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols, or standing orders for the delivery of health care services. Collaborative practice arrangements, which shall be in writing, may delegate to

a registered professional nurse the authority to administer or dispense drugs and provide treatment as long as the delivery of such health care services is within the scope of practice of the registered professional nurse and is consistent with that nurse's skill, training and competence.

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

3. The state board of registration for the healing arts pursuant to section 334.125 and the board of nursing pursuant to section 335.036, RSMo, may jointly promulgate rules regulating the use of collaborative practice arrangements. Such rules shall be limited to specifying geographic areas to be covered, the methods of treatment that may be covered by collaborative practice arrangements and the requirements for review of services provided pursuant to collaborative practice arrangements. Any rules relating to dispensing or distribution of medications or devices by prescription or prescription drug orders under this section shall be subject to the approval of the state board of pharmacy. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither the state board of registration for the healing arts nor the board of nursing may separately promulgate rules relating to collaborative

practice arrangements. Such jointly promulgated rules shall be consistent with guidelines for federally funded clinics. The rulemaking authority granted in this subsection shall not extend to collaborative practice arrangements of hospital employees providing inpatient care within hospitals as defined pursuant to chapter 197, RSMo.

4. The state board of registration for the healing arts shall not deny, revoke, suspend or otherwise take disciplinary action against a physician for [acts arising out of an agreement, which on or after August 28, 1993, shall be a written agreement, with] health care services delegated to a registered professional nurse [, a pharmacist or registered physician assistant practicing within the scope of his license or registration] provided the provisions of this section and the rules promulgated thereunder are satisfied. Upon the written request of [the] a physician subject to [the] a disciplinary action[, the record of any such disciplinary licensure action] imposed as a result of an agreement between a physician and a registered professional nurse or registered physician assistant, whether written or not, prior to August 28, 1993, all records of such disciplinary licensure action and all records pertaining to the filing, investigation or review of an alleged violation of this chapter incurred as a result of such an agreement shall be removed from the records of the state board of registration for the healing arts and the division of professional registration and shall not be disclosed to any public or private entity seeking such information from the board or the division. The state board of registration for the healing arts shall take action to correct reports of alleged

violations and disciplinary actions as described in this section which have been submitted to the National Practitioner Data Bank. In subsequent applications or representations relating to his medical practice, a physician completing forms or documents shall not be required to report any actions of the state board of registration for the healing arts for which the records are subject to removal under this section.

334.506. 1. Nothing in this chapter shall prevent a physical therapist, whose license is in good standing, from providing educational resources and training, developing fitness or wellness programs for asymptomatic persons, or providing screening, first aid, or consultative services within the scope of physical therapy practice without the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, whose license is in good standing, except that no physical therapist shall initiate treatment for a new injury or illness without the prescription or direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, whose license is in good standing.

2. Nothing in this chapter shall prevent a physical therapist, whose license is in good standing, from examining and treating, without the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to

this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, whose license is in good standing, any person with a recurring, self-limited injury within one year of diagnosis by a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, whose license is in good standing, or any person with a chronic illness that has been previously diagnosed by a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, whose license is in good standing, except that a physical therapist shall contact the patient's current physician, chiropractor, dentist, or podiatrist, within seven days of initiating physical therapy services, pursuant to this subsection, shall not change an existing physical therapy referral available to the physical therapist without approval of the patient's current physician, chiropractor, dentist, or podiatrist, and shall refer to a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, whose license is in good standing, any patient whose medical condition should, at the time of examination or treatment, be determined to be beyond the scope of practice of physical therapy. A physical therapist shall refer to a person licensed and registered as a physician and surgeon

pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or as a podiatrist pursuant to chapter 330, RSMo, whose license is in good standing, any person whose condition, for which physical therapy services are rendered pursuant to this subsection, has not been documented to be progressing toward documented treatment goals after six visits or fourteen days, whichever shall come first. If the person's condition for which physical therapy services are rendered under this subsection shall be documented to be progressing toward documented treatment goals, a physical therapist may continue treatment without referral from a physician, chiropractor, dentist or podiatrist, whose license is in good standing. If treatment rendered under this subsection is to continue beyond thirty days, a physical therapist shall notify the patient's current physician, chiropractor, dentist, or podiatrist before continuing treatment beyond the thirty-day limitation. A physical therapist shall also perform such notification before continuing treatment rendered under this subsection for each successive period of thirty days.

3. The provision of physical therapy services of evaluation and screening pursuant to this section, shall be limited to a physical therapist, and any authority for evaluation and screening granted within this section, may not be delegated. Upon each reinitiation of physical therapy services, a physical therapist shall provide a full physical therapy evaluation prior to the reinitiation of physical therapy treatment. Physical therapy treatment provided pursuant to the provisions of subsection 2 of this section, may be delegated by physical

therapists to physical therapist assistants only if the patient's current physician, chiropractor, dentist, or podiatrist has been so informed as part of the physical therapist's seven-day notification upon reinitiation of physical therapy services as required in subsection 2 of this section. Nothing in this subsection shall be construed as to limit the ability of physical therapists or physical therapist assistants to provide physical therapy services in accordance with the provisions of this chapter, and upon the referral of a physician and surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, whose license is in good standing. Nothing in this subsection shall prohibit a person licensed or registered as a physician or surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, whose license is in good standing, from acting within the scope of their practice as defined by the applicable chapters of RSMo.

4. No person licensed to practice, or applicant for licensure, as a physical therapist or physical therapist assistant shall make a medical diagnosis.

334.702. As used in sections 334.700 to 334.725, unless the context clearly requires otherwise, the following terms mean:

(1) "[Apprentice] Student athletic trainer", a person who assists in the duties usually performed by [an] a licensed athletic trainer and who works under the direct supervision of a [registered] licensed athletic trainer;

(2) "Athlete", a person who participates in a sanctioned amateur or professional sport or recreational sport activity;

(3) "Athletic trainer", a person who meets the qualifications of section 334.708 and who, upon the direction of the team physician and/or consulting physician, practices prevention, emergency care, first aid, treatment, or physical rehabilitation of injuries incurred by athletes in the manner, means, and methods deemed necessary to effect care or rehabilitation, or both;

(4) "Board", the Missouri board for the healing arts;

(5) "Committee", the athletic trainers advisory committee;

(6) "Division", the division of professional registration of the department of economic development.

334.704. No person shall hold himself or herself out as an athletic trainer in this state unless [he] such person has been [registered] licensed as such under the provisions of sections 334.700 to 334.725.

334.706. 1. The board shall [register] license applicants who meet the qualifications for athletic trainers, who file for [registration] licensure, and who pay all fees required for this [registration] licensure.

2. The board shall:

(1) Prescribe application forms to be furnished to all persons seeking [registration] licensure under sections 334.700 to 334.725;

(2) Prepare and conduct examinations for applicants for [registration] licensure under sections 334.700 to 334.725;

(3) Prescribe the form and design of the [registration]

licensure to be issued under sections 334.700 to 334.725;

(4) Set the fee for examination, [registration] licensure, and renewal thereof;

(5) Keep a record of all of its proceedings regarding the Missouri athletic trainers act and of all athletic trainers [registered] licensed in this state;

(6) Annually prepare a roster of the names and addresses of all athletic trainers [registered] licensed in this state, copies of which shall be made available upon request to any person paying the fee therefor;

(7) Set the fee for the roster at an amount sufficient to cover the actual cost of publishing and distributing the roster;

(8) Appoint members of the Missouri athletic trainer advisory committee;

(9) Adopt an official seal.

3. The board may:

(1) Issue subpoenas to compel witnesses to testify or produce evidence in proceedings to deny, suspend, or revoke [registration] a license;

(2) Promulgate rules pursuant to chapter 536, RSMo, in order to carry out the provisions of sections 334.700 to 334.725;

(3) Establish guidelines for athletic trainers in sections 334.700 to 334.725.

4. No rule or portion of a rule promulgated under the authority of sections 334.700 to 334.725 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

334.708. 1. Any person seeking [registration] licensure

under sections 334.700 to 334.725 must be a resident or in the process of establishing residency in this state and must meet at least one set of the following qualifications:

(1) Has met all of the National Athletic Trainers Association certification qualifications;

(2) Holds a degree in physical therapy with at least a minor in physical education or health which included a basic athletic training course and has spent at least two academic years, military duty included, working under the direct supervision of a certified athletic trainer;

(3) Can show proof acceptable to the board of experience and educational quality equal to that in subdivision (1), and can pass the examination for [registration] licensure under sections 334.700 to 334.725.

2. The board shall grant, without examination, [registration] licensure to any qualified nonresident athletic trainer holding a license or registration in another state if such other state recognizes [registrants] licensees of the state of Missouri in the same manner.

334.710. 1. All applications for initial [registration] licensure under sections 334.700 to 334.725 shall be submitted on forms prescribed by the board and shall be accompanied by an initial [registration] licensure fee. All applications for renewal of [registration] licensure issued under sections 334.700 to 334.725 shall be submitted on forms prescribed by the board and shall be accompanied by a renewal fee.

2. All fees of any kind and character authorized to be charged by the board shall be paid to the director of revenue and

shall be deposited by the state treasurer into the board for the healing arts fund, to be disbursed only in payment for expenses of maintaining the athletic trainer [registration] licensure program and for the enforcement of the provisions of sections 334.700 to 334.725.

334.712. 1. Any person who meets the qualifications listed in section 334.708, submits his or her application and fees in accordance with section 334.710, and has not committed any act listed in section 334.715 shall be issued [registration] a license under sections 334.700 to 334.725.

2. Each [registration] license issued under sections 334.700 to 334.725 shall contain the name of the person to whom it was issued, the date on which it was issued and such other information as the board deems advisable. All [registrations] licenses issued under sections 334.700 to 334.725 shall expire on January thirtieth of each year.

334.715. 1. The board may refuse to [register] license any applicant or may suspend, revoke, or refuse to renew the [registration] license of any [registrant] licensee for any one or any combination of the causes provided in section 334.100, or if the applicant or [registrant] licensee:

(1) Violated or conspired to violate any provision of sections 334.700 to 334.725 or any provision of any rule promulgated pursuant to sections 334.700 to 334.725; or

(2) Has been found guilty of unethical conduct as defined in the ethical standards of the National Athletic Trainers Association or the National Athletic Trainers Association Board of Certification as adopted and published by the committee and

the board and filed with the secretary of state.

2. Upon receipt of a written application made in the form and manner prescribed by the board, the board may reinstate any [registration] license which has expired, been suspended or been revoked or may issue any [registration] license which has been denied; provided, that no application for reinstatement or issuance of [registration] licensure shall be considered until at least six months have elapsed from the date of denial, expiration, suspension, or revocation when the [registration] license to be reinstated or issued was denied issuance or renewal or was suspended or revoked for one of the causes listed in subsection 1 of this section.

334.717. 1. There is hereby created the "Missouri Athletic Trainer Advisory Committee", to be composed of five members to be appointed by the board.

2. The athletic trainer advisory committee shall:

(1) Assist the board in conducting examinations for applicants of athletic trainer [registration] licensure;

(2) Advise the board on all matters pertaining to the [registration] licensure of athletic trainers;

(3) Review all complaints and/or investigations wherein there is a possible violation of sections 334.700 to 334.725 or regulations promulgated pursuant thereto and make recommendations to the board for action;

(4) Follow the provisions of the board's administrative practice procedures in conducting all official duties.

3. Each athletic trainer advisory committee member shall:

(1) Be a citizen of the United States and a resident of the

state of Missouri for five years next preceding appointment; and

(2) Be comprised of three [registered] licensed athletic trainers except for initial appointees; and

(3) One member shall be a physician duly licensed by the Missouri state board for the healing arts; and

(4) One member shall be a general public member.

4. Except for the initial appointees, members shall hold office for terms of six years. The board shall designate one member for a term expiring in 1984, one member for a term expiring in 1985, one member for a term expiring in 1986, one member for a term expiring in 1987, and one member for a term expiring in 1988. In the event of death, resignation, or removal of any member, the vacancy of the unexpired term shall be filled by the board in the same manner as the other appointments.

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

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

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

(2) "Advanced practice nurse", a nurse who has had education beyond the basic nursing education and is certified by

a nationally recognized professional organization as having a nursing specialty, or who meets criteria for advanced practice nurses established by the board of nursing. The board of nursing may promulgate rules specifying which professional nursing organization certifications are to be recognized as advanced practice nurses, and may set standards for education, training and experience required for those without such specialty certification to become advanced practice nurses;

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

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

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

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

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

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

practical nursing;

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

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

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

(b) Assessment, nursing diagnosis, nursing care, and counsel of persons who are ill, injured or experiencing

alterations in normal health processes;

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

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

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

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

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

339.001. Notwithstanding any law to the contrary, if in the determination of the appropriate licensing board, another state is deemed to have substantially equivalent certification or licensure requirements, an applicant who is certified or licensed under the laws of the other state may obtain a license pursuant to this chapter upon the terms and conditions as may be

determined by the board, regardless of the minimum age requirements of the other state; provided that the terms and conditions shall comply with the minimum criteria for certification or licensure issued by the board.

339.002. 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.

339.003. 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.

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

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

Adverse material facts may include matters pertaining to:

- (a) Environmental hazards affecting the property;
- (b) Physical condition of the property which adversely affects the value of the property;
- (c) Material defects in the property;
- (d) Material defects in the title to the property;
- (e) Material limitation of the party's ability to perform under the terms of the contract;

(2) "Affiliated licensee", any broker or salesperson who works under the supervision of a designated broker;

(3) "Agent", a person or entity acting pursuant to the provisions of this chapter;

(4) "Broker disclosure form", the current form prescribed by the commission for presentation to a seller, landlord, buyer or tenant who has not entered into a written agreement for

brokerage services;

(5) "Brokerage relationship", the relationship created between a designated broker, the broker's affiliated licensees, and a client relating to the performance of services of a broker as defined in section 339.010, and sections 339.710 to 339.860. If a designated broker makes an appointment of an affiliated licensee or affiliated licensees pursuant to section 339.820, such brokerage relationships are created between the appointed licensee or licensees and the client. Nothing in this subdivision shall:

(a) Alleviate the designated broker from duties of supervision of the appointed licensee or licensees; or

(b) Alter the designated broker's underlying contractual agreement with the client;

(6) "Client", a seller, landlord, buyer, or tenant who has entered into a brokerage relationship with a licensee pursuant to sections 339.710 to 339.860;

(7) "Commercial real estate", any real estate other than real estate containing one to four residential units, real estate on which no buildings or structures are located, or real estate classified as agricultural and horticultural property for assessment purposes pursuant to section 137.016, RSMo. Commercial real estate does not include single family residential units including condominiums, townhouses, or homes in a subdivision when that real estate is sold, leased, or otherwise conveyed on a unit-by-unit basis even though the units may be part of a larger building or parcel of real estate containing more than four units.

(8) "Commission", the Missouri real estate commission;

[(8)] (9) "Confidential information", information obtained by the licensee from the client and designated as confidential by the client, information made confidential by sections 339.710 to 339.860 or any other statute or regulation, or written instructions from the client unless the information is made public or becomes public by the words or conduct of the client to whom the information pertains or by a source other than the licensee;

[(9)] (10) "Customer", an actual or potential seller, landlord, buyer, or tenant in a real estate transaction in which a licensee is involved but who has not entered into a brokerage relationship with a licensee;

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

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

[(12)] (13) "Designated transaction broker", a licensee named by a designated broker or deemed appointed by a designated

broker as the transaction broker for a client pursuant to section 339.820;

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

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

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

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

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

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

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

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

(d) Setting an appointment to view property;

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

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

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

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

(i) Referral to another broker or service provider;

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

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

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

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

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

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

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

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

(a) Assists the parties to a transaction without an agency or fiduciary relationship to either party and is, therefore, neutral, serving neither as an advocate or advisor for either party to the transaction;

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

(c) Assists another party to the same transaction either

solely or through licensee affiliates. Such licensee shall be deemed to be a transaction broker and not a dual agent, provided that, notice of assumption of transaction broker status is provided to the buyer and seller immediately upon such default to transaction broker status, to be confirmed in writing prior to execution of the contract.

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

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

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

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

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

(4) The designated broker enters into a written agency

agreement pursuant to subsection 7 of section 339.780;

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

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

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

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

3. Sections 339.710 to 339.860 do not obligate any buyer or tenant to pay compensation to a designated broker unless the buyer or tenant has entered into a written agreement with the designated broker specifying the compensation terms in accordance with subsection 3 of section 339.780.

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

339.770. 1. In a residential real estate transaction, at

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

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

3. Disclosures made in accordance with sections 339.710 to 339.860 shall be sufficient 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 appropriate licensing board, another state is deemed to have substantially equivalent certification or licensure requirements, an applicant who is certified or licensed under the laws of the other state may obtain a license pursuant to this chapter upon the terms and conditions as may be determined by the board, regardless of the minimum age requirements of the other state; provided that the terms and conditions shall comply with the minimum criteria for certification or licensure issued by the board.

340.002. 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.

340.003. 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.

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

346.002. 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.

346.003. 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.

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

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

department of economic development. The department of business and administration is hereby abolished.

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

4. The powers, duties and functions vested in the public service commission, chapters 386, 387, 388, 389, 390, 392, and 393, RSMo, and others, and the administrative hearing commission, sections 621.015 to 621.198, RSMo, and others, are transferred by type III transfers, and the state banking board, chapter 361, RSMo, and others, and the savings and loan commission, chapter 369, RSMo, and others, are transferred by type II transfers to the department of economic development. The director of the department is directed to provide and coordinate staff and equipment services to these agencies in the interest of facilitating the work of the bodies and achieving optimum efficiency in staff services common to all the bodies. Nothing in the Reorganization Act of 1974 shall prevent the chairman of the public service commission from presenting additional budget requests or from explaining or clarifying its budget requests to the governor or general assembly.

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

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

relating to representation of the public before the public service commission.

7. There is hereby created a "Division of Credit Unions" in the department of economic development, to be headed by a director, nominated by the department director and appointed by the governor with the advice and consent of the senate. All the powers, duties and functions vested in the state supervisor of credit unions in chapter 370, RSMo, and the powers and duties relating to credit unions vested in the commissioner of finance in chapter 370, RSMo, are transferred to the division of credit unions of the department of economic development, by a type II transfer, and the office of the state supervisor of credit unions is abolished. The salary of the director of the division of credit unions shall be set by the director of the department within the limits of the appropriations therefor. The director of the division shall assume all the duties and functions of the state supervisor of credit unions and the commissioner of finance only where the director has duties and responsibilities relating to credit unions as set out in chapter 370, RSMo.

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

9. All the powers, duties and functions vested in the director of the division of savings and loan supervision in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, or by any

other provision of law are transferred to the division of finance of the department of economic development by a type I transfer. The position of the director of the division of savings and loan supervision is hereby abolished. The director of the division of finance shall assume all the duties and functions of the director of the division of savings and loan supervision as provided in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, and by any other provision of law. The division of savings and loan is hereby abolished. The powers of the savings and loan commission are hereby limited to hearing appeals from decisions of the director of the division of finance approving or denying applications to incorporate savings and loan associations or to establish branches of savings and loan associations and approving regulations pertaining to savings and loan associations. Any appeals shall be held in accordance with section 369.319, RSMo.

10. On and after August 28, 1990, the status of the division is modified under a specific type transfer pursuant to section 1 of the Omnibus Reorganization Act of 1974. The status of the division is modified from that of a division transferred to the department of economic development pursuant to a type II transfer, as provided for in this section, to that of an agency possessing the characteristics of a division transferred pursuant to a type III transfer; provided, however, that the division will remain within the department of economic development. The division of insurance shall be assigned to the department of economic development as a type III division, and the director of the department of economic development shall have no supervision, authority or control over the actions or decisions of the

director of the division. All authority, records, property, personnel, powers, duties, functions, matter pending and all other pertinent vestiges pertaining thereto shall be retained by the division except as modified by this section. If the division of insurance becomes a department by operation of a constitutional amendment, the department of economic development shall continue until December 31, 1991, to provide at least the same assistance as was provided in previous fiscal years for personnel, data processing support and other benefits from appropriations.

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

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

13. All the powers, duties and functions of the department of community affairs, chapter 251, RSMo, and others, not otherwise assigned, are transferred by type I transfer to the

department of economic development, and the department of community affairs is abolished. The director of the department of economic development may assume all the duties of the director of community affairs or may establish within the department such subunits and advisory committees as may be required to administer the programs so transferred. The director of the department shall appoint all members of such committees and heads of subunits.

14. (1) There is hereby established a "Division of Professional Registration" assigned to the department of economic development as a type III division, headed by a director appointed by the governor with the advice and consent of the senate.

(2) The director of the division of professional registration shall promulgate rules and regulations which designate for each board or commission assigned to the division the renewal date for licenses or certificates. After the initial establishment of renewal dates, no director of the division shall promulgate a rule or regulation which would change the renewal date for licenses or certificates if such change in renewal date would occur prior to the date on which the renewal date in effect at the time such new renewal date is specified next occurs. Each board or commission shall by rule or regulation establish licensing periods of one, two, or three years. Registration fees set by a board or commission shall be effective for the entire licensing period involved, and shall not be increased during any current licensing period. Persons who are required to pay their first registration fees shall be allowed to pay the pro rata

share of such fees for the remainder of the period remaining at the time the fees are paid. Each board or commission shall provide the necessary forms for initial registration, and thereafter the director may prescribe standard forms for renewal of licenses and certificates. Each board or commission shall by rule and regulation require each applicant to provide the information which is required to keep the board's records current. Each board or commission shall issue the original license or certificate.

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

(4) The director of the division shall establish a system of accounting and budgeting, in cooperation with the director of

the department, the office of administration, and the state auditor's office, to ensure proper charges are made to the various boards for services rendered to them. The general assembly shall appropriate to the division and other state agencies from each board's funds, moneys sufficient to reimburse the division and other state agencies for all services rendered and all facilities and supplies furnished to that board.

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

(6) The director of the division shall be responsible for

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

(7) All educational transcripts, test scores, complaints, investigatory reports, and information pertaining to any person who is an applicant or licensee of any agency assigned to the division of professional registration by statute or by the department of economic development are confidential and may not be disclosed to the public or any member of the public, except with the written consent of the person whose records are involved. The agency which possesses the records or information shall disclose the records or information if the person whose records or information is involved has consented to the disclosure. Each agency is entitled to the attorney-client privilege and work-product privilege to the same extent as any other person. Provided, however, that any board may disclose confidential information without the consent of the person involved in the course of voluntary interstate exchange of information, or in the course of any litigation concerning that person, or pursuant to a lawful request, or to other

administrative or law enforcement agencies acting within the scope of their statutory authority. Information regarding identity, including names and addresses, registration, and currency of the license of the persons possessing licenses to engage in a professional occupation and the names and addresses of applicants for such licenses is not confidential information.

(8) Any deliberations conducted and votes taken in rendering a final decision after a hearing before an agency assigned to the division shall be closed to the parties and the public. Once a final decision is rendered, that decision shall be made available to the parties and the public.

15. (1) The division of registration and examination, department of education, within chapter 161, RSMo, and others, is abolished and the following boards and commissions are transferred by specific type transfers to the division of professional registration, department of economic development: state board of accountancy, chapter 326, RSMo; state board of barber examiners, chapter 328, RSMo; state board of registration for architects, professional engineers and land surveyors, chapter 327, RSMo; state board of chiropractic examiners, chapter 331, RSMo; state board of cosmetology, chapter 329, RSMo; state board of healing arts, chapter 334, RSMo; Missouri dental board, chapter 332, RSMo; state board of embalmers and funeral directors, chapter 333, RSMo; state board of optometry, chapter 336, RSMo; state board of nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo; state board of podiatry, chapter 330, RSMo; Missouri real estate commission, chapter 339, RSMo; and Missouri veterinary medical board chapter 340, RSMo. The

governor shall appoint members of these boards by and with the advice and consent of the senate from nominees submitted by the director of the [department] division of professional registration.

(2) The boards and commissions assigned to the division shall exercise all their respective statutory duties and powers, except those clerical and other staff services involving collecting and accounting for moneys and financial management relating to the issuance and renewal of licenses, which services shall be provided by the division, within the appropriation therefor. All clerical and other staff services relating to the issuance and renewal of licenses of the individual boards and commissions are abolished. All clerical and other staff services pertaining to collecting and accounting for moneys and to financial management relative to the issuance and renewal of licenses of the individual boards and commissions are abolished. Nothing herein shall prohibit employment of professional examining or testing services from professional associations or others as required by the boards or commissions on contract. Nothing herein shall be construed to affect the power of a board or commission to expend its funds as appropriated. However, the division shall review the expense vouchers of each board. The results of such review shall be submitted to the board reviewed and to the house and senate appropriations committees annually.

(3) Notwithstanding any other provisions of law, the director of the division shall exercise only those management functions of the boards and commissions specifically provided in the Reorganization Act of 1974, and those relating to the

allocation and assignment of space, personnel other than board personnel, and equipment.

(4) "Board personnel", as used in this section or chapters 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 338, 339 and 340, RSMo, shall mean personnel whose functions and responsibilities are in areas not related to the clerical duties involving the issuance and renewal of licenses, to the collecting and accounting for moneys, or to financial management relating to issuance and renewal of licenses; specifically included are executive secretaries (or comparable positions), consultants, inspectors, investigators, counsel, and secretarial support staff for these positions; and such other positions as are established and authorized by statute for a particular board or commission. Boards and commissions may employ legal counsel, if authorized by law, and temporary personnel if the board is unable to meet its responsibilities with the employees authorized above. Any board or commission which hires temporary employees shall annually provide the division director and the appropriation committees of the general assembly with a complete list of all persons employed in the previous year, the length of their employment, the amount of their remuneration and a description of their responsibilities.

(5) Board personnel for each board or commission shall be employed by and serve at the pleasure of the board or commission, shall be supervised as the board or commission designates, and shall have their duties and compensation prescribed by the board or commission, within appropriations for that purpose, except that compensation for board personnel shall not exceed that

established for comparable positions as determined by the board or commission pursuant to the job and pay plan of the department of economic development. Nothing herein shall be construed to permit salaries for any board personnel to be lowered except by board action.

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

16. All the powers, duties and functions of the division of athletics, chapter 317, RSMo, and others, are transferred by type I transfer to the division of professional registration. The athletic commission is abolished.

17. The state council on the arts, chapter 185, RSMo, and others, is transferred by type II transfer to the department of economic development, and the members of the council shall be appointed by the director of the department.

18. The Missouri housing development commission, chapter 215, RSMo, is assigned to the department of economic development,

but shall remain a governmental instrumentality of the state of Missouri and shall constitute a body corporate and politic.

19. All the authority, powers, duties, functions, records, personnel, property, matters pending and other pertinent vestiges of the division of manpower planning of the department of social services are transferred by a type I transfer to the "Division of Job Development and Training", which is hereby created, within the department of economic development. The division of manpower planning within the department of social services is abolished. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this section.

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

shall be invalid and void.

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

Missouri State Board of Accountancy

Missouri Board [of Registration] for Architects,

[Professional] Engineers [and], Land Surveyors and Landscape Architects

Board of Barber Examiners

Board of Cosmetology

Board of Chiropody and Podiatry

Board of Chiropractic Examiners

Missouri Dental Board

Board of Embalmers and Funeral Directors

Board of Registration for the Healing Arts

Board of Nursing

Board of Optometry

Board of Pharmacy

Missouri Real Estate Commission

Missouri Veterinary Medical Board

Supervisor of Liquor Control

Department of Health

Department of Insurance

Department of Mental Health

Board of Private Investigator Examiners

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

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

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

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

(3) If no contested case has been filed against the licensee, advise the licensee that the licensee may, either at the time the settlement agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the administrative hearing commission for determination that the

facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee; and

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

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

5. As to a matter settled prior to August 28, 1995, by consent agreement or agreed settlement, any party to a consent agreement or agreed settlement, other than a state agency, after having received written notice at their last known address known to the agency from the respective licensing agency of a person's rights under this section, shall have six months to file an action in the circuit court of Cole County contesting the authority of any agency described in subsection 1 of this section to enter into such consent agreement or agreed settlement. Any

consent agreement or agreed settlement which is not invalidated by the court pursuant to this subsection shall be given full force and effect by all courts and agencies.

[324.406. 1. There is hereby created within the division of professional registration a council to be known as the "Interior Design Council". The council shall consist of four interior designers and one public member appointed by the governor with the advice and consent of the senate. The governor shall give due consideration to the recommendations by state organizations of the interior design profession for the appointment of the interior design members to the council. Council members shall be appointed to serve a term of four years; except that of the members first appointed, one interior design member and the public member shall be appointed for terms of four years, one member shall be appointed for a term of three years, one member shall be appointed for a term of two years and one member shall be appointed for a term of one year. No member of the council shall serve more than two terms.

2. Each council member, other than the public member, shall be a citizen of the United States, a resident of the state of Missouri for at least one year, meet the qualifications for professional registration, practice interior design as the person's principal livelihood and, except for the first members appointed, be registered pursuant to sections 324.400 to 324.439 as an interior designer.

3. The public member shall be, at the time of such person's appointment, a citizen of the United States, a registered voter, a person who is not and never was a member of the profession regulated by sections 324.400 to 324.439 or the spouse of such a person and a person who does not have and never has had a material financial interest in the providing of the professional services regulated by sections 324.400 to 324.439. The duties of the public member shall not include the determination of the technical requirements for the registration of persons as interior designers. The provisions of section 620.132, RSMo, pertaining to public members of certain state boards and commissions shall apply to the public member of the council.

4. Members of the council may be removed from office for cause. Upon the death, resignation or removal from office of any member of the council, the appointment to fill the vacancy shall be for the unexpired portion of the term so vacated and shall be

filled in the same manner as the first appointment and due notice be given to the state organizations of the interior design profession prior to the appointment.

5. Each member of the council may receive as compensation an amount set by the division not to exceed fifty dollars per day and shall be reimbursed for the member's reasonable and necessary expenses incurred in the official performance of the member's duties as a member of the council. The director, in collaboration with the department of economic development, shall establish by rule, guidelines for payment.

6. The council shall meet at least twice each year and advise the division on matters within the scope of sections 324.400 to 324.439. The organization of the council shall be established by the members of the council.

7. The council may sue and be sued as the interior design council and the council members need not be named as parties. Members of the council shall not be personally liable either jointly or severally for any act committed in the performance of their official duties as council members. No council member shall be personally liable for any costs which accrue in any action by or against the council.]

[332.341. 1. Any person or other entity who believes that a registered and licensed dentist or a registered and licensed dental hygienist has so acted or failed to act that his certificate of registration or license or both should, under the provisions 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 hygienist is not entitled thereto under the provisions of this chapter, may file a complaint with the secretary-treasurer of the board.

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

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

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

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

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