

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 564

1

AN ACT

2 To repeal sections 324.200, 324.203, 324.205,
3 324.210, 324.215, 209.323, 324.077, 324.409,
4 327.401, 327.411, 328.080, 329.050, 329.070,
5 332.071, 332.171, 332.181, 332.261, 332.321,
6 332.327, 332.341, 334.702, 334.704, 334.706,
7 334.708, 334.710, 334.712, 334.715, 334.717,
8 337.030, 337.600, 337.633, 339.010, 339.020,
9 339.030, 339.040, 339.060, 339.100, 339.105,
10 339.120, 339.130, 339.150, 339.160, 339.170,
11 339.180, 339.600, 339.603, 339.605, 339.606,
12 339.607, 339.608, 339.610, 339.612, 339.614,
13 339.617, 339.710, 339.760, 339.780, 339.800,
14 343.010, 343.030, 343.040, 343.050, 343.060,
15 343.070, 343.080, 343.090, 343.100, 343.250,
16 436.200, 436.205, 436.209, 436.212, and
17 621.045, RSMo, and to enact in lieu thereof
18 one hundred nine new sections relating to
19 professional registration, with penalty
20 provisions and an effective date for certain
21 sections.

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

24 Section A. Sections 324.200, 324.203, 324.205, 324.210,
25 324.215, 209.323, 324.077, 324.409, 327.401, 327.411, 328.080,
26 329.050, 329.070, 332.071, 332.171, 332.181, 332.261, 332.321,
27 332.327, 332.341, 334.702, 334.704, 334.706, 334.708, 334.710,
28 334.712, 334.715, 334.717, 337.030, 337.600, 337.633, 339.010,

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in boldface type in the above law is new proposed language.

1 339.020, 339.030, 339.040, 339.060, 339.100, 339.105, 339.120,
2 339.130, 339.150, 339.160, 339.170, 339.180, 339.600, 339.603,
3 339.605, 339.606, 339.607, 339.608, 339.610, 339.612, 339.614,
4 339.617, 339.710, 339.760, 339.780, 339.800, 343.010, 343.030,
5 343.040, 343.050, 343.060, 343.070, 343.080, 343.090, 343.100,
6 343.250, 436.200, 436.205, 436.209, 436.212, and 621.045, RSMo,
7 are repealed and one hundred nine new sections enacted in lieu
8 thereof, to be known as sections 209.323, 324.077, 324.200,
9 324.203, 324.205, 324.210, 324.215, 324.216, 324.409, 324.1200,
10 324.1203, 324.1206, 324.1209, 324.1212, 324.1215, 324.1218,
11 324.1221, 324.1224, 324.1227, 324.1230, 324.1233, 324.1236,
12 324.1239, 324.1242, 324.1245, 324.1248, 324.1251, 324.1254,
13 324.1257, 327.172, 327.401, 327.411, 328.075, 328.080, 329.050,
14 329.070, 332.069, 332.071, 332.171, 332.181, 332.261, 332.321,
15 332.327, 334.400, 334.402, 334.404, 334.406, 334.408, 334.410,
16 334.412, 334.414, 334.416, 334.418, 334.420, 334.422, 334.424,
17 334.426, 334.428, 334.430, 334.702, 334.704, 334.706, 334.708,
18 334.710, 334.712, 334.715, 334.717, 337.030, 337.600, 337.604,
19 337.633, 339.010, 339.020, 339.030, 339.040, 339.060, 339.100,
20 339.105, 339.120, 339.130, 339.150, 339.160, 339.170, 339.180,
21 339.710, 339.760, 339.780, 339.800, 343.350, 343.353, 343.356,
22 343.359, 343.362, 343.365, 343.368, 343.371, 343.374, 343.377,
23 343.380, 343.383, 343.386, 343.389, 343.392, 343.395, 343.398,
24 343.401, 343.404, 343.410, and 621.045, to read as follows:

25 209.323. 1. Applications for licensure as an interpreter

1 shall be submitted to the division on forms prescribed by the
2 division and furnished to the applicant. The application shall
3 contain the applicant's statements showing the applicant's
4 education, certification by either the National Registry of
5 Interpreters for the Deaf, National Association of the Deaf or
6 Missouri Interpreter Certification System and such other
7 information as the division may require. Each application shall
8 contain a statement that it is made under oath or affirmation and
9 that the information contained in the application is true and
10 correct to the best knowledge and belief of the applicant,
11 subject to the penalties, as provided in sections 209.319 to
12 209.339, for the making of a false affidavit or declaration.
13 Each application shall be accompanied by the required application
14 fee. The application fee must be submitted in a manner as
15 required by the committee and shall not be refundable. The
16 applicant must be eighteen years of age or older.

17 2. Each license issued pursuant to the provisions of
18 sections 209.319 to 209.339 shall expire on the renewal date.
19 The division shall mail a renewal notice to the last known
20 address of each licensee prior to the [registration] license
21 renewal date. The license will expire and renewal may be denied
22 upon failure of the licensee to provide the division with the
23 information required for [registration] renewal, including but
24 not limited to satisfactory evidence of current certification
25 issued by the Missouri commission for the deaf and hard of

1 hearing, or failure to pay the required [registration] renewal
2 fee within sixty days of the [registration] license renewal date.
3 The license may be reinstated within two years after the
4 [registration] license date, if the applicant applies for
5 reinstatement [and], pays the required [registration] license fee
6 plus a delinquency fee as established by the committee, and
7 provides evidence of current certification issued by the Missouri
8 commission for the deaf.

9 3. Except as provided in section 209.321, the committee
10 with assistance from the division shall issue or renew a license
11 to each person who files an application and fee as required by
12 the provisions of sections 209.319 to 209.339 and who furnishes
13 satisfactory evidence to the committee that he or she has
14 complied with the provisions of subsection 1 or 2 of this
15 section.

16 4. The committee may issue a new license to replace any
17 license which is lost, destroyed or mutilated upon payment of a
18 fee as provided by the committee.

19 324.077. The division, in collaboration with the board, may
20 issue a limited permit, upon the payment of applicable fees and
21 completion of the required application, to a person who
22 [sufficiently] provides satisfactory proof of eligibility to
23 [set] sit for the [first available] examination [upon completion
24 of all other necessary requirements for certification by the
25 certifying entity. The limited permit shall allow the person to

1 practice occupational therapy under the supervision of a person
2 currently licensed pursuant to sections 324.050 to 324.089. A
3 limited permit shall only be effective up to but not to exceed
4 the time the results of the second available examination are
5 received by the board unless the person successfully passes the
6 examination in which instance the limited permit shall remain
7 valid for an additional sixty days] administered by the
8 certifying entity in accordance with the rules promulgated by the
9 board.

10 324.200. 1. Sections 324.200 to 324.225 shall be known and
11 may be cited as the "Dietitian Practice Act".

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

14 (1) ["Committee", the state committee of dietitians;

15 (2) "Dietitian", a health care professional engaged in the
16 practice of medical nutrition therapy;

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

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

22 (5) "Licensed dietitian", a person who is licensed pursuant
23 to the provisions of sections 324.200 to 324.225 to engage in the
24 practice of medical nutrition therapy;

25 (6) "Medical nutrition therapy", specific medical nutrition

1 therapies and treatment modalities based on clinical scientific
2 research and practice that are used to treat illness, conditions
3 and injuries and are referred by a person licensed in this state
4 to prescribe medical nutrition therapies and modalities. Medical
5 nutrition therapy includes clinical nutrition assessment, diet
6 modification and intensive intervention and administration of
7 specialized nutrition therapies.] "Commission on Accreditation
8 for Dietetics Education (CADE)", the American Dietetic
9 Association's accrediting agency for education programs preparing
10 students for professions as registered dietitians;

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

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

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

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

1 (c) Providing nutrition counseling or education in health
2 and disease;

3 (d) Developing, implementing, and managing nutrition care
4 systems;

5 (e) Evaluating, making changes in, and maintaining
6 appropriate standards of quality and safety in food and in
7 nutrition services;

8 (f) Engaged in medical nutritional therapy as defined in
9 subsection 8 of this section;

10 (4) "Dietitian", one engaged in dietetic practice as
11 defined in subsection 3 of this section;

12 (5) "Director", the director of the division of
13 professional registration in the department of economic
14 development;

15 (6) "Division", the division of professional registration
16 of economic development;

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

20 (8) "Medical nutrition therapy", nutritional diagnostic,
21 therapy, and counseling services which are furnished by a
22 registered dietitian;

23 (9) "Registered dietitian", a person who:

24 (a) Has completed a minimum of a baccalaureate degree
25 granted by a United States regionally accredited college or

1 university or foreign equivalent;

2 (b) Completed the academic requirements of a didactic
3 program in dietetics, as approved by CADE;

4 (c) Successfully completed the registration examination for
5 dietitians; and

6 (d) Accrued seventy-five hours of approved continuing
7 professional units every five years;

8 as determined by the committee on dietetic registration.

9 324.203. 1. There is hereby [established] created within
10 the division of professional registration, a committee to be
11 known as the "State Committee of Dietitians" [which shall guide,
12 advise and make recommendations to the division and fulfill other
13 responsibilities designated by sections 324.200 to 324.225. The
14 committee shall approve the examination required by section
15 324.210 and shall assist the division in carrying out the
16 provisions of sections 324.200 to 324.225]. The committee shall
17 assist the division in administering and enforcing the provisions
18 of sections 324.200 to 324.225, adopt, publish, and enforce such
19 rules and regulations within the scope and purview of the
20 provisions of sections 324.200 to 324.225 as may be considered to
21 be necessary or proper for the effective administration and
22 interpretation of the provisions of sections 324.200 to 324.225,
23 and for the conduct of its business and management of its
24 internal affairs.

1 2. The committee shall approve the examination required by
2 section 324.210.

3 3. The committee shall consist of six members including one
4 public member, appointed by the governor with the advice and
5 consent of the senate. Each member of the committee shall be a
6 citizen of the United States and a resident of this state, and,
7 except as provided in this section and except for the first
8 members appointed, shall be licensed as a dietitian by this
9 state. Beginning with the first appointments made after August
10 28, 1998, two members shall be appointed for four years, two
11 members shall be appointed for three years and two members shall
12 be appointed for two years. Thereafter, all members shall be
13 appointed to serve four-year terms. No person shall be eligible
14 for reappointment who has served as a member of the committee for
15 a total of eight years. The membership of the committee shall
16 reflect the differences in levels of education and work
17 experience with consideration being given to race, gender, and
18 ethnic origins. No more than three members shall be from the
19 same political party. The membership shall be representative of
20 the various geographic regions of the state.

21 [3.] 4. A vacancy in the office of a member shall be filled
22 by appointment by the governor for the remainder of the unexpired
23 term.

24 [4.] 5. Each member of the committee shall receive as
25 compensation an amount set by the division not to exceed fifty

1 dollars, and shall be reimbursed for necessary and actual
2 expenses incurred in the performance of the member's official
3 duties. The director, in collaboration with the department of
4 economic development, shall establish by rule, guidelines for
5 payment. All staff for the committee shall be provided by the
6 division.

7 [5.] 6. The committee shall hold an annual meeting at which
8 it shall elect from its membership a chairperson and secretary.
9 The committee may hold such additional meetings as may be
10 required in the performance of its duties, provided that notice
11 of every meeting shall be given to each member at least three
12 days prior to the date of the meeting. A quorum of the committee
13 shall consist of a majority of its members.

14 [6.] 7. The governor may remove a committee member for
15 misconduct, incompetency, neglect of the member's official
16 duties, or for cause.

17 [7.] 8. The public member shall be at the time of the
18 person's appointment a citizen of the United States; a resident
19 of this state for a period of one year and a registered voter; a
20 person who is not and never was a member of any profession
21 licensed or regulated by sections 324.200 to 324.225, or the
22 spouse of such a person; and a person who does not have and never
23 has had a material financial interest in either the providing of
24 the professional services regulated by sections 324.200 to
25 324.225, or an activity or organization directly related to any

1 profession licensed or regulated by sections 324.200 to 324.225.

2 The duties of the public member shall not include the
3 determination of the technical requirements to be met for
4 licensure or whether any person meets such technical requirements
5 or of the technical competence or technical judgment of a
6 licensee or a candidate for licensure.

7 324.205. 1. [After July 1, 2000, no person may use the
8 title licensed dietitian or L.D. in this state unless the person
9 is licensed pursuant to the provisions of sections 324.200 to
10 324.225.

11 2. Any person who violates the provisions of subsection 1
12 of this section is guilty of an infraction.] Any person who holds
13 a license to practice dietetics in this state may use the title
14 "Dietitian" or the abbreviation "L.D.". No other person may use
15 the title "Dietitian" or the abbreviation "L.D.". No other
16 person shall assume any title or use any title or use any
17 abbreviation or any other words, letters, signs, or devices to
18 indicate that the person using the same is a licensed dietitian.

19 2. No person shall practice or offer to practice dietetics
20 in this state for compensation or use any title, sign,
21 abbreviation, card, or device to indicate that such person is
22 practicing dietetics unless he or she has been duly licensed
23 pursuant to the provisions of sections 324.200 to 324.225.

24 3. Any person who violates the provisions of subsection 1
25 of this section is guilty of a class A misdemeanor.

1 324.210. 1. An applicant for licensure as a dietitian
2 shall be at least twenty-one years of age.

3 2. Each applicant shall furnish evidence to the committee
4 that:

5 (1) The applicant has completed a didactic program in
6 dietetics which is approved or accredited by the commission on
7 [accreditation/approval for dietetic education] accreditation for
8 dietetics education and a minimum of a baccalaureate degree from
9 an acceptable educational institution accredited by a regional
10 accrediting body or accredited by an accrediting body which has
11 been approved by the United States Department of Education.
12 Applicants who have obtained their education outside of the
13 United States and its territories must have their academic
14 degrees validated as equivalent to the baccalaureate or master's
15 degree conferred by a regionally accredited college or university
16 in the United States. Validation of a foreign degree does not
17 eliminate the need for a verification statement of completion of
18 a didactic program in dietetics;

19 (2) The applicant has completed a supervised practice
20 requirement from an institution that is certified by a nationally
21 recognized professional organization as having a dietetics
22 specialty or who meets criteria for dietetics education
23 established by the committee. The committee may specify those
24 professional organization certifications which are to be
25 recognized and may set standards for education training and

1 experience required for those without such specialty
2 certification to become dietitians.

3 3. The applicant shall successfully pass an examination as
4 determined by the committee. The committee may waive the
5 examination requirement and grant licensure to an applicant for a
6 license as a dietitian who presents satisfactory evidence to the
7 committee of current registration as a dietitian with the
8 commission on dietetic registration.

9 4. Prior to July 1, 2000, a person may apply for licensure
10 without examination and shall be exempt from the academic
11 requirements of this section if the committee is satisfied that
12 the applicant has a bachelor's degree in a program approved by
13 the committee and has work experience approved by the committee.

14 5. The committee may determine the type of documentation
15 needed to verify that an applicant meets the qualifications
16 provided in subsection 3 of this section.

17 324.215. 1. The committee shall issue a license to each
18 candidate who files an application and pays the fee as required
19 by the provisions of sections 324.200 to 324.225 and who
20 furnishes evidence satisfactory to the committee that the
21 candidate has complied with the provisions of section 324.210 or
22 with the provisions of subsection 2 of this section.

23 2. The committee may issue a license to any dietitian who
24 has a valid current license to practice dietetics or medical
25 nutrition therapy in any jurisdiction, provided that such person

1 is licensed in a jurisdiction whose requirements for licensure
2 are substantially equal to, or greater than, the requirements for
3 licensure of dietitians in Missouri at the time the applicant
4 applies for licensure.

5 3. The committee may not allow any person to sit for the
6 examination for licensure as a dietitian in this state who has
7 failed the examination as approved by the committee three times,
8 until the applicant submits evidence of satisfactory completion
9 of additional course work or experience and has been approved by
10 the committee for reexamination.

11 324.216. 1. A licensed dietitian may choose not to renew
12 his or her license and thereby allow such license to lapse, or
13 may ask to be put on inactive status, provided such person does
14 not practice dietetics during such period that the license is
15 lapsed or the practitioner is on inactive status. If a person
16 with a lapsed license desires to resume the practice of
17 dietetics, the person shall apply for licensure pursuant to the
18 licensing requirements in effect at the time the person applies
19 to resume the practice of dietetics and pay the required fee as
20 established by the committee. If the person desires to maintain
21 such license on an inactive status and in order to avoid lapsing
22 of such license, the person shall pay the required fee as
23 established by the committee for maintaining an inactive license.
24 An inactive license shall be renewed biennially. An inactive
25 license may be reactivated by the committee as provided by rule.

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

5 324.409. 1. To be a registered commercial interior
6 designer, a person:

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

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

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

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

25 (2) [Within twenty-four months of August 28, 1998, a person

1 may qualify for registration by providing substantial evidence to
2 the council that the applicant:

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

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

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

21 (3)] May qualify who is currently registered pursuant to
22 sections 327.091 to 327.171, RSMo, and section 327.401, RSMo,
23 pertaining to the practice of architecture and registered with
24 the council. Such applicant shall give authorization to the
25 council in order to verify current registration with sections

1 327.091 to 327.171, RSMo, and section 327.401, RSMo, pertaining
2 to the practice of architecture.

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

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

12 324.1200. Sections 324.1200 to 324.1257 may be cited as the
13 "Uniform Athlete Agents Act".

14 324.1203. As used in sections 324.1200 to 324.1257, the
15 following terms shall mean:

16 (1) "Agency contract", an agreement in which a student-
17 athlete authorizes a person to negotiate or solicit on behalf of
18 the student-athlete a professional-sports-services contract or an
19 endorsement contract;

20 (2) "Athlete agent", an individual who enters into an
21 agency contract with a student-athlete or, directly or
22 indirectly, recruits or solicits a student-athlete to enter into
23 an agency contract. The term does not include a spouse, parent,
24 sibling, grandparent, or guardian of the student-athlete or an
25 individual acting solely on behalf of a professional sports team

1 or professional sports organization. The term includes an
2 individual who represents to the public that the individual is an
3 athlete agent;

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

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

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

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

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

21 (8) "Intercollegiate sport", a sport played at the
22 collegiate level for which eligibility requirements for
23 participation by a student-athlete are established by a national
24 association for the promotion or regulation of collegiate
25 athletics;

1 (9) "Person", an individual, corporation, business trust,
2 estate, trust, partnership, limited liability company,
3 association, joint venture, government; governmental subdivision,
4 agency, or instrumentality; public corporation, or any other
5 legal or commercial entity;

6 (10) "Professional-sports-services contract", an agreement
7 under which an individual is employed or agrees to render
8 services as a player on a professional sports team, with a
9 professional sports organization, or as a professional athlete;

10 (11) "Record", information that is inscribed on a tangible
11 medium or that is stored in an electronic or other medium and is
12 retrievable in perceivable form;

13 (12) "Registration", registration as an athlete agent
14 pursuant to sections 324.1200 to 324.1257;

15 (13) "State", a state of the United States, the District of
16 Columbia, Puerto Rico, the United States Virgin Islands, or any
17 territory or insular possession subject to the jurisdiction of
18 the United States;

19 (14) "Student-athlete", an individual who engages in, is
20 eligible to engage in, or may be eligible in the future to engage
21 in, any intercollegiate sport. If an individual is permanently
22 ineligible to participate in a particular intercollegiate sport,
23 the individual is not a student-athlete for purposes of that
24 sport.

25 324.1206. 1. The director of the division of professional

1 registration shall administer the provisions of sections 324.1200
2 to 324.1257.

3 2. By engaging in the business of an athlete agent in this
4 state, a nonresident individual appoints the director as the
5 individual's agent to accept service of process in any civil
6 action related to the individual's business as an athlete agent
7 in this state.

8 3. The director may subpoena witnesses, issue subpoenas
9 duces tecum and require production of documents and records.
10 Subpoenas, including subpoenas duces tecum, shall be served by a
11 person authorized to serve subpoenas of courts of record. In
12 lieu of requiring attendance of a person to produce original
13 documents in response to a subpoena duces tecum, the board may
14 require sworn copies of such documents to be filed with it or
15 delivered to its designated representative.

16 4. The director may enforce its subpoenas, including
17 subpoena duces tecum, by applying to a circuit court of Cole
18 County, the county of the investigation, hearing or proceeding,
19 or any county where the person resides or may be found, for an
20 order upon any person who shall fail to obey a subpoena to show
21 cause why such subpoena should not be enforced, which such order
22 and a copy of the application therefore shall be served upon the
23 person in the same manner as a summons in a civil action, and if
24 the circuit court shall, after a hearing, determine that the
25 subpoena should be sustained and enforced, such court shall

1 proceed to enforce the subpoena in the same manner as though the
2 subpoena had been issued in a civil case in the circuit court.

3 324.1209. 1. Except as otherwise provided in subsection 2
4 of this section, an individual may not act as an athlete agent in
5 this state before being issued a certificate of registration
6 pursuant to section 324.1215 or 324.1221.

7 2. An individual with a temporary license pursuant to
8 section 324.1221, may act as an athlete agent before being issued
9 a certificate of registration for all purposes except signing an
10 agency contract if:

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

13 (2) Within seven days after an initial act as an athlete
14 agent, the individual submits an application to register as an
15 athlete agent in this state.

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

19 324.1212. 1. An applicant for registration shall submit an
20 application for registration to the director in a form prescribed
21 by the director. The application must be in the name of an
22 individual and signed by the applicant under penalty of perjury
23 and must state or contain:

24 (1) The name of the applicant and the address of the
25 applicant's principal place of business;

1 (2) The name of the applicant's business or employer, if
2 applicable;

3 (3) Any business or occupation engaged in by the applicant
4 for the five years next preceding the date of submission of the
5 application;

6 (4) A description of the applicant's:

7 (a) Formal training as an athlete agent;

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

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

11 (5) The names and addresses of three individuals not
12 related to the applicant who are willing to serve as references;

13 (6) The name, sport, and last known team for each
14 individual for whom the applicant provided services as an athlete
15 agent during the five years next preceding the date of submission
16 of the application;

17 (7) The names and addresses of all persons who are:

18 (a) With respect to the athlete agent's business if it is
19 not a corporation, the partners, officers, associates, or profit-
20 sharers; and

21 (b) With respect to a corporation employing the athlete
22 agent, the officers, directors, and any shareholder of the
23 corporation with a five percent or greater interest;

24 (8) Whether the applicant or any other person named
25 pursuant to subdivision (7) of this subsection has been convicted

1 of a crime that, if committed in this state, would be a felony or
2 other crime involving moral turpitude, and identify the crime;

3 (9) Whether there has been any administrative or judicial
4 determination that the applicant or any other person named
5 pursuant to subdivision (7) of this subsection has made a false,
6 misleading, deceptive, or fraudulent representation;

7 (10) Any instance in which the prior conduct of the
8 applicant or any other person named pursuant to subdivision (7)
9 of this subsection resulted in the imposition of a sanction,
10 suspension, or declaration of ineligibility to participate in an
11 interscholastic or intercollegiate athletic event on a student-
12 athlete or educational institution;

13 (11) Any sanction, suspension, or disciplinary action taken
14 against the applicant or any other person named pursuant to
15 subdivision (7) of this subsection arising out of occupational or
16 professional conduct; and

17 (12) Whether there has been any denial of an application
18 for, suspension or revocation of, or refusal to renew, the
19 registration or licensure of the applicant or any other person
20 named pursuant to subdivision (7) of this subsection as an
21 athlete agent in any state.

22 324.1215. 1. Except as otherwise provided in subsection 2
23 of this section, the director shall issue a certificate of
24 registration to an individual who complies with subsection 1 of
25 section 324.1212.

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

7 (1) Been convicted of a crime that, if committed in this
8 state, would be a felony or other crime involving moral
9 turpitude;

10 (2) Made a materially false, misleading, deceptive, or
11 fraudulent representation as an athlete agent or in the
12 application;

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

15 (4) Engaged in conduct prohibited by section 324.1239;

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

19 (6) Engaged in conduct or failed to engage in conduct the
20 consequence of which was that a sanction, suspension, or
21 declaration of ineligibility to participate in an interscholastic
22 or intercollegiate athletic event was imposed on a student-
23 athlete or educational institution; or

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

1 4. In making a determination pursuant to subsection 3 of
2 this section, the director shall consider:

3 (1) How recently the conduct occurred;

4 (2) The nature of the conduct and the context in which it
5 occurred; and

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

7 5. An athlete agent may apply to renew a registration by
8 submitting an application for renewal in a form prescribed by the
9 director. The application for renewal must be signed by the
10 applicant under penalty of perjury under section 575.040, RSMo,
11 and must contain current information on all matters required in
12 an original registration.

13 6. A certificate of registration or a renewal of a
14 registration is valid for two years.

15 324.1218. 1. The director may revoke, suspend, or refuse
16 to renew any certificate of registration required pursuant to
17 this chapter for one or any combination of causes stated in
18 subsection 2 of this section. The director shall notify the
19 applicant in writing of the reasons for the refusal and shall
20 advise the applicant of the applicant's right to file a complaint
21 with the administrative hearing commission as provided by chapter
22 621, RSMo.

23 2. The director may cause a complaint to be filed with the
24 administrative hearing commission as provided by chapter 621,
25 RSMo, against any holder of any certificate of registration

1 required by this chapter or any person who has failed to renew or
2 has surrendered the person's certificate of registration for any
3 one or any combination of the following causes:

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

12 (2) Use of fraud, deception, misrepresentation, or bribery
13 in securing any certificate of registration pursuant to this
14 chapter;

15 (3) Misconduct, fraud, misrepresentation, dishonesty,
16 unethical conduct, or unprofessional conduct in the performance
17 of the functions regulated by this chapter, including, but not
18 limited to, the following:

19 (a) Obtaining or attempting to obtain any fee, charge
20 tuition, or other compensation by fraud, deception, or
21 misrepresentation;

22 (b) Attempting, directly or indirectly, by way of
23 intimidation, coercion, or deception, to obtain consultation;

24 (c) Failure to comply with any subpoena or subpoena duces
25 tecum from the director;

1 (d) Failing to inform the director of the athlete agent's
2 current residence and business address;

3 (4) Violation of, or attempting to violate, directly or
4 indirectly, or assisting or enabling any person to violate any
5 provision of this chapter, or of any lawful rule or regulation
6 adopted pursuant to this chapter;

7 (5) Impersonation of any person holding a certificate of
8 registration or allowing any person to use his or her certificate
9 of registration;

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

12 (7) Knowingly making, or causing to be made, or aiding, or
13 abetting in the making of, a false statement in any birth or
14 other certificate or document executed in connection with the
15 transaction;

16 (8) Soliciting patronage in person or by agents or
17 representatives, or by any other means or manner, under the
18 person's own name or under the name of another person or concern,
19 actual or pretended, in such a manner as to confuse, deceive, or
20 mislead the public;

21 (9) A pattern of personal use or consumption of any
22 controlled substance unless it is prescribed, dispensed or
23 administered by a physician who is authorized by law to do so;

24 3. After the filing of such complaint before the
25 administrative hearing commission, the proceedings shall be

1 conducted in accordance with the provisions of chapter 621, RSMo.
2 Upon a finding by the administrative hearing commission that the
3 grounds, provided in subsection 2 of this section, for
4 disciplinary action are met, the director may, singly or in
5 combination, warn, censure or place the person named in the
6 complaint on probation on such terms and conditions as the
7 director deems appropriate for a period not to exceed six months,
8 or may suspend the person's certificate of registration period
9 not to exceed one year, or restrict or limit the person's
10 certificate of registration for an indefinite period of time, or
11 revoke the person's certificate of registration.

12 4. In any order of revocation, the director may provide
13 that the person may not apply for reinstatement of the person's
14 certificate of registration for a period of time ranging from two
15 to seven years following the date of the order of revocation.
16 All stay orders shall toll this time period.

17 324.1221. The director may issue a temporary certificate of
18 registration while an application for registration or renewal is
19 pending.

20 324.1224. 1. An application for registration or renewal of
21 registration shall be accompanied by a fee which shall be
22 determined by the director and established by rule. All fees
23 payable pursuant to the provisions of this section shall be
24 collected by the division of professional registration and
25 transmitted to the department of revenue for deposit in the state

1 treasury to the credit of the fund to be known as the "Athlete
2 Agent Fund" which is hereby established. The provisions of
3 section 33.080, RSMo, to the contrary notwithstanding, money in
4 the athlete agent fund shall not be transferred and placed to the
5 credit of general revenue until the amount in the athlete agent
6 fund at the end of the biennium exceeds two times the amount of
7 the appropriations from such fund for the preceding fiscal year
8 or, if the director allows renewal of registration less
9 frequently than yearly, then three times the appropriations from
10 such fund for the preceding fiscal year; provided that no amount
11 from such fund may be transferred to the credit of general
12 revenue earlier than two years following the effective date of
13 this section. The amount, if any, which may be transferred to
14 the credit of general revenue after two years following the
15 effective date of this section is that amount in the athlete
16 agent fund which exceeds the appropriate multiple of the
17 appropriations from such fund for the preceding fiscal year.

18 2. The director may promulgate rules to authorize and file
19 "athlete agent" documents as that term is defined in section
20 536.010, RSMo, that is created under the authority delegated in
21 this section shall become effective only if it complies with and
22 is subject to all of the provisions of chapter 536, RSMo, and, if
23 applicable, section 536.028, RSMo. This section and chapter 536,
24 RSMo, are nonseverable and if any of the powers vested with the
25 general assembly pursuant to chapter 536, RSMo, to review, to

1 delay the effective date, or to disapprove and annul a rule are
2 subsequently held unconstitutional, then the grant of rulemaking
3 authority and any rule proposed or adopted after August 28, 2003,
4 shall be invalid and void.

5 324.1227. 1. An agency contract must be in a record,
6 signed by the parties.

7 2. An agency contract must state or contain:

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

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

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

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

21 (5) The duration of the contract; and

22 (6) The date of execution.

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

1 "WARNING TO STUDENT-ATHLETE

2 IF YOU SIGN THIS CONTRACT:

3 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE

4 AS A STUDENT-ATHLETE IN YOUR SPORT;

5 (2) BOTH YOU AND YOUR ATHLETE AGENT ARE

6 REQUIRED TO TELL YOUR ATHLETIC DIRECTOR, IF YOU HAVE

7 AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING

8 INTO AN AGENCY CONTRACT; AND

9 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14

10 DAYS AFTER SIGNING IT. CANCELLATION OF THE CONTRACT

11 MAY NOT REINSTATE YOUR ELIGIBILITY."

12 4. An agency contract that does not conform to this section
13 is voidable by the student-athlete.

14 5. The athlete agent shall give a copy of the signed agency
15 contract to the student-athlete at the time of signing.

16 324.1230. 1. Within seventy-two hours after entering into
17 an agency contract or before the next scheduled athletic event in
18 which the student-athlete may participate, whichever occurs
19 first, the athlete agent shall give notice in writing of the
20 existence of the contract to the athletic director of the
21 educational institution at which the student-athlete is enrolled
22 or the athlete agent has reasonable grounds to believe the
23 student-athlete intends to enroll.

24 2. Within seventy-two hours after entering into an agency
25 contract or before the next athletic event in which the student-

1 athlete may participate, whichever occurs first, the student-
2 athlete shall in writing inform the athletic director of the
3 educational institution at which the student-athlete is enrolled
4 that he or she has entered into an agency contract.

5 324.1233. 1. A student-athlete may cancel an agency
6 contract by giving notice in writing to the athlete agent of the
7 cancellation within fourteen days after the contract is signed.

8 2. A student-athlete may not waive the right to cancel an
9 agency contract.

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

15 324.1236. 1. An athlete agent shall retain the following
16 records for a period of five years:

17 (1) The name and address of each individual represented by
18 the athlete agent;

19 (2) Any agency contract entered into by the athlete agent;
20 and

21 (3) Any direct costs incurred by the athlete agent in the
22 recruitment or solicitation of a student-athlete.

23 2. Records required by subsection 1 of this section to be
24 retained are open to inspection by the director during normal
25 business hours.

1 324.1239. 1. An athlete agent may not do any of the
2 following with the intent to induce a student-athlete to enter
3 into an agency contract:

4 (1) Give any materially false or misleading information or
5 make a materially false promise or representation;

6 (2) Furnish anything of value to a student-athlete before
7 the student-athlete enters into the agency contract; or

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

10 2. An athlete agent may not intentionally:

11 (1) Initiate contact with a student-athlete unless
12 registered pursuant to sections 324.1200 to 324.1257;

13 (2) Refuse or willfully fail to retain or permit inspection
14 of the records required by section 436.251;

15 (3) Violate section 324.1209 by failing to register;

16 (4) Provide materially false or misleading information in
17 an application for registration or renewal of registration;

18 (5) Predate or postdate an agency contract; or

19 (6) Fail to notify a student-athlete prior to the student
20 athlete's signing an agency contract for a particular sport that
21 the signing by the student-athlete may make the student-athlete
22 ineligible to participate as a student-athlete in that sport.

23 324.1242. The commission of any act prohibited by section
24 324.1239 by an athlete agent is a class B misdemeanor.

25 324.1245. 1. An educational institution has a right of

1 action against an athlete agent or a former student-athlete for
2 damages caused by a violation of sections 324.1200 to 324.1257.
3 In an action under this section, the court may award to the
4 prevailing party costs and reasonable attorney's fees.

5 2. Damages of an educational institution under subsection 1
6 of this section include losses and expenses incurred because, as
7 a result of the activities of an athlete agent or former student-
8 athlete, the educational institution was injured by a violation
9 of sections 324.1200 to 324.1257 or was penalized, disqualified,
10 or suspended from participation in athletics by a national
11 association for the promotion and regulation of athletics, by an
12 athletic conference, or by reasonable self-imposed disciplinary
13 action taken to mitigate sanctions.

14 3. A right of action under this section does not accrue
15 until the educational institution discovers or by the exercise of
16 reasonable diligence would have discovered the violation by the
17 athlete agent or former student-athlete.

18 4. Any liability of the athlete agent or the former
19 student-athlete under this section is several and not joint.

20 5. Sections 324.1200 to 324.1257 do not restrict rights,
21 remedies, or defenses of any person under law or equity.

22 324.1248. Any person who violates any provisions of
23 sections 324.1200 to 324.1257 is guilty of a misdemeanor and,
24 upon conviction thereof, shall be punished as for a class A
25 misdemeanor.

1 324.1251. In applying and construing sections 324.1200 to
2 324.1257, consideration must be given to the need to promote
3 uniformity of the law with respect to the subject matter of
4 sections 324.1200 to 324.1257 among states that enact it.

5 324.1254. If any provision of sections 324.1200 to 324.1257
6 or its application to any person or circumstance is held invalid,
7 the invalidity does not affect other provisions or applications
8 of sections 324.1200 to 324.1257 which can be given effect
9 without the invalid provision or application, and to this end the
10 provisions of sections 324.1200 to 324.1257 are severable.

11 324.1257. Any moneys collected by the director pursuant to
12 section 324.1248 shall immediately be transferred to the
13 department of revenue for deposit in the state treasury to the
14 credit of general revenue.

15 327.172. 1. An architect licensed in this state may apply
16 to the board for inactive license status on a form furnished by
17 the board. Upon receipt of the completed inactive status
18 application form and the board's determination that the licensee
19 meets the requirements established by rule, the board shall
20 declare the licensee inactive and shall place the licensee on an
21 inactive status list. A person whose license is inactive shall
22 not offer or practice architecture within this state, but may
23 continue to use the title architect.

24 2. If a licensee is granted inactive status, the licensee
25 may return to active status by notifying the board in advance of

1 such intention, by paying appropriate fees as determined by the
2 board, and by meeting all established requirements of the board
3 including the demonstration of current knowledge, competency, and
4 skill in the practice of architecture as a condition of
5 reinstatement.

6 3. In the event an inactive licensee does not maintain a
7 current license in any state for a five-year period immediately
8 prior to requesting reinstatement, such person may be required to
9 take an examination as the board deems necessary to determine
10 such person's qualifications. Such examination shall cover areas
11 designed to demonstrate the proficiency in current methods of
12 architecture.

13 327.401. 1. The right to practice as an architect [or to
14 practice as a], professional engineer [or to practice as a],
15 professional land surveyor, or landscape architect shall be
16 deemed a personal right, based upon the qualifications of the
17 individual, evidenced by such individual's professional license
18 and shall not be transferable; but any architect [or], any
19 professional engineer [or], any professional land surveyor, or
20 any landscape architect may practice his or her profession
21 through the medium of, or as a member or as an employee of, a
22 partnership or corporation if the plans, specifications,
23 estimates, plats, reports, surveys or other like documents or
24 instruments of the partnership or corporation are signed and
25 stamped with the personal seal of the architect, professional

1 engineer [or], professional land surveyor, or landscape architect
2 by whom or under whose immediate personal supervision the same
3 were prepared and provided that the architect [or], professional
4 engineer [or], professional land surveyor, or landscape architect
5 who affixes his or her signature and personal seal to any such
6 plans, specifications, estimates, plats, reports or other
7 documents or instruments shall be personally and professionally
8 responsible therefor.

9 2. Any domestic corporation formed under the corporation
10 law of this state, or any foreign corporation, now or hereafter
11 organized and having as one of its purposes the practicing of
12 architecture [or], professional engineering [or], professional
13 land surveying, or landscape architecture and any existing
14 corporation which amends its charter to propose to practice
15 architecture [or], professional engineering [or], professional
16 land surveying, or landscape architecture shall obtain a
17 certificate of authority for each profession named in the
18 articles of incorporation or articles of organization from the
19 board which shall be renewed in accordance with the provisions of
20 section 327.171 or 327.261 or 327.351, as the case may be, and
21 from and after the date of such certificate of authority and
22 while the authority or a renewal thereof is in effect, may offer
23 and render architectural [or], professional engineering [or],
24 professional land surveying, or landscape architectural services
25 in this state if:

1 (1) At all times during the authorization or any renewal
2 thereof the directors of the corporation shall have assigned
3 responsibility for the proper conduct of all its architectural
4 [or], professional engineering [or], professional land surveying,
5 or any landscape architectural activities in this state to an
6 architect licensed and authorized to practice architecture in
7 this state or to a professional engineer licensed and authorized
8 to practice engineering in this state or to a professional land
9 surveyor licensed and authorized to practice professional land
10 surveying in this state, or to a landscape architect licensed and
11 authorized to practice landscape architecture in this state, as
12 the case may be; and

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

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

23 327.411. 1. Each architect and each professional engineer
24 and each professional land surveyor and each landscape architect
25 shall have a personal seal in a form prescribed by the board, and

1 he or she shall affix the seal to all final documents including,
2 but not limited to, plans, specifications, estimates, plats,
3 reports, surveys, proposals and other documents or instruments
4 prepared by the licensee, or under such licensee's immediate
5 personal supervision, and such licensee shall be held personally
6 responsible for the contents of all such documents sealed by such
7 licensee.

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

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

1 specifications, estimates, reports, or other documents or
2 instruments relating to or intended to be used for any part or
3 parts of the architectural [or], engineering project [or],
4 survey, or landscape architect.

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

8 328.075. 1. Any person desiring to practice as an
9 apprentice for barbering in this state shall apply to the board,
10 be licensed with the board, and shall pay the appropriate fees
11 prior to beginning their apprenticeship. Barber apprentices
12 shall be of good moral character and have an educational
13 equivalent to the successful completion of the tenth grade and
14 shall be at least sixteen years of age.

15 2. Any person desiring to act as an apprentice supervisor
16 for barbering in this state shall first possess a certificate of
17 registration to practice the occupation of barbering, apply to
18 the board, complete an eight-hour apprentice supervision
19 instruction course certified by the board, and be issued a
20 license as barber apprentice supervisor prior to supervising
21 barber apprentices. Barber apprentice supervisors shall
22 supervise no more than two apprentices at one time.

23 328.080. 1. Any person desiring to practice barbering in
24 this state shall make application for a certificate to the board
25 and shall pay the required barber examination fee. He or she

1 shall be present at the next regular meeting of the board for the
2 examination of applicants.

3 2. The board shall examine the applicant and, upon
4 successful completion of the examination and payment of the
5 required registration fee, shall issue to him or her a
6 certificate of registration authorizing him or her to practice
7 the trade in this state and enter his name in the register herein
8 provided for, if it finds that he or she:

9 (1) Is [seventeen years of age or older and of] at least
10 sixteen years of age, applicants shall be a person of good moral
11 character, and have an education equivalent to the successful
12 completion of the tenth grade;

13 (2) Is free of contagious or infectious diseases;

14 (3) Has studied for at least one thousand hours in a period
15 of not less than six months in a properly appointed and conducted
16 barber school under the direct supervision of a licensed
17 instructor; or, if the applicant is an apprentice, the applicant
18 shall have served and completed no less than two thousand hours
19 under the direct supervision of a licensed barber apprentice
20 supervisor;

21 (4) Is possessed of requisite skill in the trade of
22 barbering to properly perform the duties thereof, including the
23 preparation of tools, shaving, haircutting and all the duties and
24 services incident thereto; and

25 (5) Has sufficient knowledge of the common diseases of the

1 face and skin to avoid the aggravation and spread thereof in the
2 practice of barbering.

3 3. The board shall be the judge of whether the barber
4 school or college is properly appointed and conducted under
5 proper instruction to give sufficient training in the trade.

6 4. The sufficiency of the qualifications of applicants
7 shall be determined by the board.

8 5. For the purposes of meeting the minimum requirements for
9 examination, the apprentice training shall be recognized by the
10 board for a period not to exceed five years.

11 329.050. 1. Applicants for examination or licensure
12 pursuant to this chapter shall possess the following
13 qualifications:

14 (1) They must be persons of good moral character, have an
15 education equivalent to the successful completion of the tenth
16 grade and be at least seventeen years of age;

17 (2) If the applicants are apprentices, they shall have
18 served and completed, as an apprentice under the supervision of a
19 licensed cosmetologist, the time and studies required by the
20 board which shall be no less than three thousand hours for
21 cosmetologists, and no less than [seven hundred eighty] eight
22 hundred hours for manicurists and no less than fifteen hundred
23 hours for esthetics. However, when the classified occupation of
24 manicurist is apprenticed in conjunction with the classified
25 occupation of cosmetologist, the apprentices shall be required to

1 successfully complete the apprenticeship of no less than a total
2 of three thousand hours;

3 (3) If the applicants are students, they shall have had the
4 required time in a licensed school of no less than one thousand
5 five hundred hours training or the credit hours determined by the
6 formula in Subpart A of Part 668 of Section 668.8 of Title 34 of
7 the Code of Federal Regulations, as amended, for the
8 classification of cosmetologist, with the exception of public
9 vocational technical schools in which a student shall complete no
10 less than one thousand two hundred twenty hours training. All
11 students shall complete no less than four hundred hours or the
12 credit hours determined by the formula in Subpart A of Part 668
13 of Section 668.8 of Title 34 of the Code of Federal Regulations,
14 as amended, for the classification of manicurist. All students
15 shall complete no less than seven hundred fifty hours or the
16 credit hours determined by the formula in Subpart A of Part 668
17 of Section 668.8 of Title 34 of the Code of Federal Regulations,
18 as amended, for the classification of esthetician. However, when
19 the classified occupation of manicurist is taken in conjunction
20 with the classified occupation of cosmetologist, the student
21 shall not be required to serve the extra four hundred hours or
22 the credit hours determined by the formula in Subpart A of Part
23 668 of Section 668.8 of Title 34 of the Code of Federal
24 Regulations, as amended, otherwise required to include manicuring
25 of nails; and

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

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

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

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

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

22 329.070. 1. Apprentices or students shall be licensed with
23 the board and shall pay a student fee or an apprentice fee prior
24 to beginning their course, and shall be of good moral character
25 and have an education equivalent to the successful completion of

1 the tenth grade.

2 2. An apprentice or student shall not be enrolled in a
3 course of study that shall exceed [~~eight~~] twelve hours per day or
4 that is less than three hours per day. The course of study shall
5 be no more than [~~forty-eight~~] seventy-two hours per week and no
6 less than fifteen hours per week.

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

11 332.069. 1. Any person not registered as a licensed
12 dentist in Missouri shall not engage in the practice of
13 dentistry, as defined in section 332.171, across state lines,
14 except as provided in this section.

15 2. For the purposes of this chapter, the "practice of
16 dentistry across state lines" shall mean:

17 (1) The rendering of a written or otherwise documented
18 dental opinion concerning the diagnosis or treatment of a patient
19 within this state by a dentist located outside this state as a
20 result of transmission of individual patient data by electronic,
21 telephonic or other means from within this state or any other
22 state to such dentist or dentist's agent; or

23 (2) The rendering of treatment to a patient within this
24 state by a dentist located outside this state as a result of
25 transmission of individual patient data by electronic, telephonic

1 or other means from within this state or any other state to such
2 dentist or dentist's agent.

3 3. A dentist located outside of this state shall not be
4 required to obtain a license when:

5 (1) Consultation is requested by a duly licensed dentist in
6 this state who retains the ultimate authority and responsibility
7 for the diagnosis or treatment in the care of the patient located
8 within this state; and

9 (2) The consultation request is not due to a contractual
10 agreement to authorize or request consultations from a person or
11 entity not licensed to practice dentistry in Missouri; or

12 (3) Evaluating a patient or rendering an oral, written or
13 otherwise documented dental opinion when providing testimony or
14 records for the purpose of any civil or criminal action before
15 any judicial or administrative proceeding of this state or other
16 forum in this state.

17 332.071. A person or other entity "practices dentistry"
18 within the meaning of this chapter who:

19 (1) Undertakes to do or perform dental work or dental
20 services or dental operations or oral surgery, by any means or
21 methods, including the use of lasers, gratuitously or for a
22 salary or fee or other reward, paid directly or indirectly to the
23 person or to any other person or entity;

24 (2) Diagnoses or professes to diagnose, prescribes for or
25 professes to prescribe for, treats or professes to treat, any

1 disease, pain, deformity, deficiency, injury or physical
2 condition of human teeth or adjacent structures or treats or
3 professes to treat any disease or disorder or lesions of the oral
4 regions;

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

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

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

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

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

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

18 (9) Uses or permits to be used for the person's benefit or
19 for the benefit of any other person or other entity the following
20 titles or words in connection with the person's name: "Doctor",
21 "Dentist", "Dr.", "D.D.S.", or "D.M.D.", or any other letters,
22 titles, degrees or descriptive matter which directly or
23 indirectly indicate or imply that the person is willing or able
24 to perform any type of dental service for any person or persons,
25 or uses or permits the use of for the person's benefit or for the

1 benefit of any other person or other entity any card, directory,
2 poster, sign or any other means by which the person indicates or
3 implies or represents that the person is willing or able to
4 perform any type of dental services or operation for any person;

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

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

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

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

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

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

14 332.171. 1. The board shall upon application [and without
15 examination] issue a specialist's [certificate] license to any
16 [registered and] currently licensed dentist in Missouri who has
17 been certified in any specialty by an [American] examining board
18 recognized by the American Dental Association[; but any]. Any
19 such application shall be accompanied by the required [specialty]
20 fee.

21 2. Any [registered and] currently licensed dentist in
22 Missouri who has completed a dental speciality program accredited
23 by the Council on Dental Accreditation but is not eligible [to
24 apply] for speciality licensure under subsection 1 [above] of
25 this section, may apply to the board for [certification]

1 speciality licensure in one of the [special] specialty areas
2 [approved] recognized by the American Dental Association [for
3 specialty practice]. Each such application shall be accompanied
4 by the required [specialty] fee. The board shall establish by
5 rule the minimum requirements for specialty [certification]
6 licensure under this subsection. The board shall issue a
7 specialty licensure to an applicant pursuant to this subsection
8 so long as the applicant meets the requirements of this
9 subsection.

10 3. [An examination committee, appointed by the board,
11 consisting of three dentists who have been certified by an
12 American board approved by the American Dental Association as
13 having met the standards set by that association for the
14 specialty for which application is made, shall examine each
15 applicant for a specialty at the time and place fixed by the
16 board in a manner to thoroughly test his qualifications in the
17 specialty applied for, and report to the board as to whether the
18 applicant is qualified in the specialty.

19 4. In the event any applicant fails to pass the examination
20 and is reported by the examining committee as not qualified, he
21 may upon application to the board be reexamined by the committee
22 at such time and place as the board may specify, but any such
23 applicant shall pay a reexamination fee equivalent to the
24 specialty fee.] The board shall grant a license in one of the
25 specialty areas recognized by the American Dental Association to

1 a dentist who has been so certified or licensed and is practicing
2 in another state, province, or territory if the applicant meets
3 the following requirements and the application is accompanied by
4 the required fee:

5 (1) The applicant currently holds a Missouri license to
6 practice dentistry or obtains one through the provisions of such
7 license pursuant to sections 332.131 and 332.181 or section
8 332.211.

9 (2) The applicant meets the educational requirements for
10 specialty licensure required of original applicants for specialty
11 licensure in the state of Missouri as required in subsection 1 or
12 2 of this section.

13 (3) The applicant meets such other minimum requirements as
14 may be established by rule of the board for specialty licensure
15 under this subsection.

16 4. The board may establish a committee for each American
17 Dental Association recognized specialty applied for to be
18 comprised of at least two dentists appointed by the board who
19 hold Missouri specialty licenses in the recognized specialty and
20 who are current diplomats of an American specialty board
21 recognized by the American Dental Association. Each committee
22 shall assist the board in evaluating an applicant for specialty
23 licensure in the recognized specialty for which that committee
24 was established and assume such other duties as shall be
25 established by rule of the board.

1 5. Each member of [each examining] a specialty committee
2 appointed by the board as provided in this section shall receive
3 [as] compensation in an amount set by the board, not to exceed
4 fifty dollars[,] for each day spent in the performance of his or
5 her duties on the committee, and each member shall be reimbursed
6 for all actual and necessary expenses incurred in the performance
7 of his or her duties.

8 6. [The board shall issue to each applicant who has been
9 recommended as qualified by the examining committee, as provided
10 in subsection 3 of this section, a certificate of registration to
11 practice dentistry in the specialty in which he has been so
12 recommended.] All speciality licenses shall be subject to
13 discipline for cause as set forth in section 332.321 and each
14 specialty license holder shall renew his or her specialty license
15 or licenses as provided in section 332.181 and shall pay the
16 required renewal fee.

17 7. [The board may also grant without examination a
18 certificate of registration and a license in one of the specialty
19 areas recognized by the American Dental Association to a dentist
20 who has been so certified and/or licensed in another state, if
21 the applicant meets the following requirements:

22 (1) Applicant must either currently hold a Missouri license
23 to practice dentistry or obtain one through the provisions of
24 sections 332.131 and 332.181, or through the provisions of
25 section 332.211;

1 (2) Applicant must have taken and passed an examination
2 equivalent to that given in Missouri and have been granted a
3 specialty license in another state. It is the obligation of the
4 applicant to provide proper documentation which must include the
5 content and grades received in each portion of the examination
6 and be certified by the state which administered the examination.
7 Determination as to whether an examination taken in another state
8 is equivalent to that given in Missouri will be made by the
9 current Missouri specialty examining committee in the appropriate
10 specialty area;

11 (3) Applicant must have met the same educational
12 requirements for certification and licensure under this
13 subsection as required of original applicants in the state of
14 Missouri, as established by rule by the board.

15 8. All such certificates shall be subject to revocation and
16 suspension for the causes set forth in section 332.321 and each
17 certificate holder shall renew his regular license as provided in
18 section 332.181 and shall pay the regular renewal fee provided
19 therefor and shall also renew his specialty license and shall pay
20 a specialty renewal fee.] The board shall issue to each applicant
21 who has been recommended as qualified by the speciality
22 committee, as provided in subsection 4 of this section, a license
23 to practice dentistry in the specialty in which he or she has
24 been so recommended.

25 332.181. 1. No person shall engage in the practice of

1 dentistry in Missouri without having first secured a license as
2 provided for in this chapter.

3 2. Any person desiring a license to practice dentistry in
4 Missouri shall pay the required fee and make application to the
5 board on a form prescribed by the board pursuant to section
6 332.141. An application for licensure shall be active for one
7 year after the date it is received by the board. The application
8 becomes void if not completed within such one-year period.

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

15 4. Effective with the licensing period beginning on
16 December 1, 2002, a license shall be renewed every two years.
17 [The board shall not renew the license of any dentist unless the
18 licensee provides satisfactory evidence that he or she has
19 completed fifty hours of continuing education within a two-year
20 period.] To renew a license, each dentist shall submit
21 satisfactory evidence of completion of fifty hours of continuing
22 education during the two-year period immediately preceding the
23 renewal period. Each dentist shall maintain documentation of
24 completion of the required continuing education hours as provided
25 by rule. Failure to obtain the required continuing education

1 hours, submit satisfactory evidence, or maintain documentation is
2 a violation of section 332.321 and may subject the licensee to
3 discipline. As provided by rule, the board may waive or extend
4 the time requirements for completion of continuing education [up
5 to six months] for reasons related to health, military service,
6 foreign residency or for other good cause. All requests for
7 waivers or extensions of time shall be made in writing and
8 submitted to the board before the renewal date. [The board may
9 waive the requirements for continuing education for retired or
10 disabled dentists or for other good cause.]

11 5. Any licensed dentist who fails to renew his or her
12 license on or before the renewal date may apply to the board for
13 renewal of his or her license within four years subsequent to the
14 date of the license expiration[, provided that any such applicant
15 shall pay a reinstatement fee for the license] upon payment of
16 the reinstatement fee and presentation of satisfactory evidence
17 that he or she has completed the continuing education
18 requirements the same as if the license had remained active. The
19 license of any dentist who fails to renew within four years of
20 the time his or her license has expired shall be void. The
21 dentist may reapply for a license, provided that, unless
22 application is made pursuant to section 332.211, he or she shall
23 pay the same fees and be examined in the same manner as an
24 original applicant for licensure as a dentist.

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

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

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

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

4 2. Any person desiring a license to practice dental hygiene
5 in Missouri shall pay the required fee and make application to
6 the board on a form prescribed by the board pursuant to section
7 332.241. An application for licensure shall be active for one
8 year after the date it is received by the board. The application
9 becomes void if not completed within such one-year period.

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

15 4. Effective with the licensing period beginning on
16 December 1, 2002, a license shall be renewed every two years.
17 [The board shall not renew the license of any hygienist unless
18 the licensee provides satisfactory evidence that he or she has
19 completed thirty hours of continuing education within a two-year
20 period.] To renew a license, each dental hygienist shall submit
21 satisfactory evidence of completion of thirty hours of continuing
22 education during the two-year period immediately preceding the
23 renewal period. Each dental hygienist shall maintain
24 documentation of completion of the required continuing education
25 hours as provided by rule. Failure to obtain the required

1 continuing education hours, submit satisfactory evidence, or
2 maintain documentation is a violation of section 332.321, and may
3 subject the licensee to discipline. As provided by rule, the
4 board may waive or extend the time requirements for completion of
5 the continuing education [up to six months] for reasons related
6 to health, military service, foreign residency or for other good
7 cause. All requests for waivers or extensions of time shall be
8 made in writing and submitted to the board before the renewal
9 date. [The board may waive the requirements for continuing
10 education for retired or disabled hygienists or for other good
11 cause.]

12 5. Any licensed dental hygienist who fails to renew his or
13 her license on or before the renewal date may apply to the board
14 for renewal of his or her license within four years subsequent to
15 the date of the license expiration[, provided that any such
16 applicant shall pay a reinstatement fee for the license] upon
17 payment of the reinstatement fee and presentation of satisfactory
18 evidence that he or she has completed the continuing education
19 requirements the same as if the license had remained active. The
20 license of any dental hygienist who fails to renew within four
21 years of the time his or her license has expired shall be void.
22 The dental hygienist may reapply for a license; provided that,
23 unless application is made pursuant to section 332.281, he or she
24 shall pay the same fees and be examined in the same manner as an
25 original applicant for licensure as a dental hygienist.

1 [6. The license of any dental hygienist who fails to renew
2 within four years of the time that his or her license expired
3 shall be void. The dental hygienist may apply for a new license,
4 provided that, unless application is made pursuant to section
5 332.281, he or she shall pay the same fees and be examined in the
6 same manner as an original applicant for licensure as a dental
7 hygienist. A currently licensed dental hygienist in Missouri may
8 apply to the board to be placed on an inactive list of dental
9 hygienists, and during the time his or her name remains on the
10 inactive list, he or she shall not practice as a dental
11 hygienist. If a dental hygienist wishes to be removed from the
12 inactive list, unless he or she applies pursuant to section
13 332.281, he or she shall apply for a current license and pay the
14 license fees for the years between the date of the entry of his
15 or her name on the inactive list and the date of issuance of his
16 or her current license. If the dental hygienist has been on the
17 inactive list for more than four years, he or she shall be
18 examined in the same manner as an original applicant for
19 licensure as a dental hygienist.

20 7. A currently licensed dental hygienist in Missouri who
21 does not practice in this state or who does not reside in this
22 state may apply to the board to be placed on an out-of-state
23 registration list of dental hygienists. Any dental hygienist
24 applying to be so licensed shall accompany his or her application
25 with a fee not greater than the license fee for a licensee who

1 practices in this state or resides in this state. The required
2 fee shall be established by the board, by rule, as with other
3 licensing fees.]

4 332.321. 1. The board may refuse to issue or renew a
5 permit or license required pursuant to this chapter for one or
6 any combination of causes stated in subsection 2 of this section
7 or the board may, as a condition to issuing or renewing any such
8 permit or license, require a person to submit himself or herself
9 for identification, intervention, treatment or rehabilitation by
10 the well-being committee as provided in section 332.327. The
11 board shall notify the applicant in writing of the reasons for
12 the refusal and shall advise the applicant of his or her right to
13 file a complaint with the administrative hearing commission as
14 provided by chapter 621, RSMo.

15 2. The board may cause a complaint to be filed with the
16 administrative hearing commission as provided by chapter 621,
17 RSMo, against any holder of any permit or license required by
18 this chapter or any person who has failed to renew or has
19 surrendered his or her permit or license for any one or any
20 combination of the following causes:

21 (1) Use of any controlled substance, as defined in chapter
22 195, RSMo, or alcoholic beverage to an extent that such use
23 impairs a person's ability to perform the work of any profession
24 licensed or regulated by this chapter;

25 (2) The person has been finally adjudicated and found

1 guilty, or entered a plea of guilty or nolo contendere, in a
2 criminal prosecution pursuant to the laws of any state or of the
3 United States, for any offense reasonably related to the
4 qualifications, functions or duties of any profession licensed or
5 regulated pursuant to this chapter, for any offense an essential
6 element of which is fraud, dishonesty or an act of violence, or
7 any offense involving moral turpitude, whether or not sentence is
8 imposed;

9 (3) Use of fraud, deception, misrepresentation or bribery
10 in securing any permit or license issued pursuant to this chapter
11 or in obtaining permission to take any examination given or
12 required pursuant to this chapter;

13 (4) Obtaining or attempting to obtain any fee, charge,
14 tuition or other compensation by fraud, deception or
15 misrepresentation; or increasing charges when a patient utilizes
16 a third-party payment program; or for repeated irregularities in
17 billing a third party for services rendered to a patient. For
18 the purposes of this subdivision, irregularities in billing shall
19 include:

20 (a) Reporting charges for the purpose of obtaining a total
21 payment in excess of that usually received by the dentist for the
22 services rendered;

23 (b) Reporting incorrect treatment dates for the purpose of
24 obtaining payment;

25 (c) Reporting charges for services not rendered;

1 (d) Incorrectly reporting services rendered for the purpose
2 of obtaining payment that is greater than that to which the
3 person is entitled;

4 (e) Abrogating the co-payment or deductible provisions of a
5 third-party payment contract. Provided, however, that this
6 paragraph shall not prohibit a discount, credit or reduction of
7 charges provided under an agreement between the licensee and an
8 insurance company, health service corporation or health
9 maintenance organization licensed pursuant to the laws of this
10 state; or governmental third-party payment program; or
11 self-insurance program organized, managed or funded by a business
12 entity for its own employees or labor organization for its
13 members;

14 (5) Incompetency, misconduct, gross negligence, fraud,
15 misrepresentation or dishonesty in the performance of, or
16 relating to one's ability to perform, the functions or duties of
17 any profession licensed or regulated by this chapter;

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

21 (7) Impersonation of any person holding a permit or license
22 or allowing any person to use his or her permit, license or
23 diploma from any school;

24 (8) Disciplinary action against the holder of a license or
25 other right to practice any profession regulated by this chapter

1 imposed by another state, province, territory, federal agency or
2 country upon grounds for which discipline is authorized in this
3 state;

4 (9) A person is finally adjudicated incapacitated or
5 disabled by a court of competent jurisdiction;

6 (10) Assisting or enabling any person to practice or offer
7 to practice, by lack of supervision or in any other manner, any
8 profession licensed or regulated by this chapter who is not
9 registered and currently eligible to practice pursuant to this
10 chapter;

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

13 (12) Failure to display a valid certificate, permit or
14 license if so required by this chapter or by any rule promulgated
15 hereunder;

16 (13) Violation of any professional trust or confidence;

17 (14) Use of any advertisement or solicitation that is
18 false, misleading or deceptive to the general public or persons
19 to whom the advertisement or solicitation is primarily directed.
20 False, misleading or deceptive advertisements or solicitations
21 shall include, but not be limited to:

22 (a) Promises of cure, relief from pain or other physical or
23 mental condition, or improved physical or mental health;

24 (b) Any misleading or deceptive statement offering or
25 promising a free service. Nothing herein shall be construed to

1 make it unlawful to offer a service for no charge if the offer is
2 announced as part of a full disclosure of routine fees including
3 consultation fees;

4 (c) Any misleading or deceptive claims of patient cure,
5 relief or improved condition; superiority in service, treatment
6 or materials; new or improved service, treatment or material; or
7 reduced costs or greater savings. Nothing herein shall be
8 construed to make it unlawful to use any such claim if it is
9 readily verifiable by existing documentation, data or other
10 substantial evidence. Any claim that exceeds or exaggerates the
11 scope of its supporting documentation, data or evidence is
12 misleading or deceptive;

13 (d) Any announced fee for a specified service where that
14 fee does not include the charges for necessary related or
15 incidental services, or where the actual fee charged for that
16 specified service may exceed the announced fee, but it shall not
17 be unlawful to announce only the maximum fee that can be charged
18 for the specified service, including all related or incidental
19 services, modified by the term "up to" if desired;

20 (e) Any announcement in any form including the term
21 "specialist" or the phrase "limited to the specialty of" unless
22 each person named in conjunction with the term or phrase, or
23 responsible for the announcement, holds a valid Missouri
24 certificate and license evidencing that the person is a
25 specialist in that area;

1 (f) Any announcement containing any of the terms denoting
2 recognized specialties, or other descriptive terms carrying the
3 same meaning, unless the announcement clearly designates by list
4 each dentist not licensed as a specialist in Missouri who is
5 sponsoring or named in the announcement, or employed by the
6 entity sponsoring the announcement, after the following clearly
7 legible or audible statement: "Notice: the following dentist(s)
8 in this practice is (are) not licensed in Missouri as specialists
9 in the advertised dental specialty(s) of";

10 (g) Any announcement containing any terms denoting or
11 implying specialty areas that are not recognized by the American
12 Dental Association;

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

15 (16) Failure or refusal to properly guard against
16 contagious, infectious or communicable diseases or the spread
17 thereof;

18 (17) Failing to maintain his or her office or offices,
19 laboratory, equipment and instruments in a safe and sanitary
20 condition;

21 (18) Accepting, tendering or paying "rebates" to or
22 "splitting fees" with any other person; provided, however, that
23 nothing herein shall be so construed as to make it unlawful for a
24 dentist practicing in a partnership or as a corporation organized
25 pursuant to the provisions of chapter 356, RSMo, to distribute

1 profits in accordance with his or her stated agreement;

2 (19) Administering, or causing or permitting to be
3 administered, nitrous oxide gas in any amount to himself or
4 herself, or to another unless as an adjunctive measure to patient
5 management;

6 (20) Being unable to practice as a dentist, specialist or
7 hygienist with reasonable skill and safety to patients by reasons
8 of professional incompetency, or because of illness, drunkenness,
9 excessive use of drugs, narcotics, chemicals, or as a result of
10 any mental or physical condition. In enforcing this subdivision
11 the board shall, after a hearing before the board, upon a finding
12 of probable cause, require the dentist or specialist or hygienist
13 to submit to a reexamination for the purpose of establishing his
14 or her competency to practice as a dentist, specialist or
15 hygienist, which reexamination shall be conducted in accordance
16 with rules adopted for this purpose by the board, including rules
17 to allow the examination of the dentist's, specialist's or
18 hygienist's professional competence by at least three dentists or
19 fellow specialists, or to submit to a mental or physical
20 examination or combination thereof by at least three physicians.
21 One examiner shall be selected by the dentist, specialist or
22 hygienist compelled to take examination, one selected by the
23 board, and one shall be selected by the two examiners so
24 selected. Notice of the physical or mental examination shall be
25 given by personal service or registered mail. Failure of the

1 dentist, specialist or hygienist to submit to the examination
2 when directed shall constitute an admission of the allegations
3 against him or her, unless the failure was due to circumstances
4 beyond his or her control. A dentist, specialist or hygienist
5 whose right to practice has been affected pursuant to this
6 subdivision shall, at reasonable intervals, be afforded an
7 opportunity to demonstrate that he or she can resume competent
8 practice with reasonable skill and safety to patients.

9 (a) In any proceeding pursuant to this subdivision, neither
10 the record of proceedings nor the orders entered by the board
11 shall be used against a dentist, specialist or hygienist in any
12 other proceeding. Proceedings pursuant to this subdivision shall
13 be conducted by the board without the filing of a complaint with
14 the administrative hearing commission;

15 (b) When the board finds any person unqualified because of
16 any of the grounds set forth in this subdivision, it may enter an
17 order imposing one or more of the following: denying his or her
18 application for a license; permanently withholding issuance of a
19 license; administering a public or private reprimand; placing on
20 probation, suspending or limiting or restricting his or her
21 license to practice as a dentist, specialist or hygienist for a
22 period of not more than five years; revoking his or her license
23 to practice as a dentist, specialist or hygienist; requiring him
24 or her to submit to the care, counseling or treatment of
25 physicians designated by the dentist, specialist or hygienist

1 compelled to be treated; or requiring such person to submit to
2 identification, intervention, treatment or rehabilitation by the
3 well-being committee as provided in section 332.327. For the
4 purpose of this subdivision, "license" includes the certificate
5 of registration, or license, or both, issued by the board.

6 3. After the filing of such complaint, the proceedings
7 shall be conducted in accordance with the provisions of chapter
8 621, RSMo. Upon a finding by the administrative hearing
9 commission that the grounds, provided in subsection 2, for
10 disciplinary action are met, the board may, singly or in
11 combination:

12 (1) Censure or place the person or firm named in the
13 complaint on probation on such terms and conditions as the board
14 deems appropriate for a period not to exceed five years; or

15 (2) Suspend the license, certificate or permit for a period
16 not to exceed three years; or

17 (3) Revoke the license, certificate, or permit. In any
18 order of revocation, the board may provide that the person shall
19 not apply for licensure for a period of not less than one year
20 following the date of the order of revocation; or

21 (4) Cause the person or firm named in the complaint to make
22 restitution to any patient, or any insurer or third-party payer
23 who shall have paid in whole or in part a claim or payment for
24 which they should be reimbursed, where restitution would be an
25 appropriate remedy, including the reasonable cost of follow-up

1 care to correct or complete a procedure performed or one that was
2 to be performed by the person or firm named in the complaint; or

3 (5) Request the attorney general to bring an action in the
4 circuit court of competent jurisdiction to recover a civil
5 penalty on behalf of the state in an amount to be assessed by the
6 court.

7 4. If the board concludes that a dentist or dental
8 hygienist has committed an act or is engaging in a course of
9 conduct that would be grounds for disciplinary action and
10 constitutes a clear and present danger to the public health and
11 safety, the board may file a complaint before the administrative
12 hearing commission requesting an expedited hearing and specifying
13 the conduct that gives rise to the danger and the nature of the
14 proposed restriction or suspension of the dentist's or dental
15 hygienist's license. Within fifteen days after service of the
16 complaint on the dentist or dental hygienist, the administrative
17 hearing commission shall conduct a preliminary hearing to
18 determine whether the alleged conduct of the dentist or the
19 dental hygienist appears to constitute a clear and present danger
20 to the public health and safety that justifies that the dentist's
21 or dental hygienist's license be immediately restricted or
22 suspended. The burden of proving that a dentist or dental
23 hygienist is a clear and present danger to the public health and
24 safety shall be upon the Missouri dental board. The
25 administrative hearing commission shall issue its decision

1 immediately after the hearing and shall either grant to the board
2 the authority to suspend or restrict the license or dismiss the
3 action.

4 5. If the administrative hearing commission grants
5 temporary authority to the board to restrict or suspend a
6 dentist's or dental hygienist's license, the dentist or dental
7 hygienist named in the complaint may request a full hearing
8 before the administrative hearing commission. A request for a
9 full hearing shall be made within thirty days after the
10 administrative hearing commission issues its decision. The
11 administrative hearing commission shall, if requested by the
12 dentist or dental hygienist named in the complaint, set a date to
13 hold a full hearing under the provisions of chapter 621, RSMo,
14 regarding the activities alleged in the initial complaint filed
15 by the board. The administrative hearing commission shall set
16 the date for full hearing within ninety days from the date its
17 decision was issued. Either party may request continuances,
18 which shall be granted by the administrative hearing commission
19 upon a showing of good cause by either party or consent of both
20 parties. If a request for a full hearing is not made within
21 thirty days, the authority to impose discipline shall become
22 final and the board shall set the matter for hearing in
23 accordance with section 621.110, RSMo.

24 6. If the administrative hearing commission dismisses
25 without prejudice the complaint filed by the board pursuant to

1 subsection 4 of this section or dismisses the action based on a
2 finding that the board did not meet its burden of proof
3 establishing a clear and present danger, such dismissal shall not
4 bar the board from initiating a subsequent action on the same
5 grounds in accordance with this chapter and chapters 536 and 621,
6 RSMo.

7 7. Notwithstanding any other provisions of section 332.071
8 or of this section, a currently licensed dentist in Missouri may
9 enter into an agreement with individuals and organizations to
10 provide dental health care, provided such agreement does not
11 permit or compel practices that violate any provision of this
12 chapter.

13 [5.] 8. At all proceedings for the enforcement of these or
14 any other provisions of this chapter the board shall, as it deems
15 necessary, select, in its discretion, either the attorney general
16 or one of the attorney general's assistants designated by the
17 attorney general or other legal counsel to appear and represent
18 the board at each stage of such proceeding or trial until its
19 conclusion.

20 [6.] 9. If at any time when any discipline has been imposed
21 pursuant to this section or pursuant to any provision of this
22 chapter, the licensee removes himself or herself from the state
23 of Missouri, ceases to be currently licensed pursuant to the
24 provisions of this chapter, or fails to keep the Missouri dental
25 board advised of his or her current place of business and

1 residence, the time of his or her absence, or unlicensed status,
2 or unknown whereabouts shall not be deemed or taken as any part
3 of the time of discipline so imposed.

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

1 committee.

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

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

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

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

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

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

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

4 5. In lieu of pursuing discipline against a dentist or
5 dental hygienist for violating one or more causes stated in
6 subsection 2 of section 332.321, the board may enter into a
7 diversion agreement with a dentist or dental hygienist to refer
8 the licensee to the dental well-being committee under such terms
9 and conditions as are agreed to by the board and licensee for a
10 period not to exceed five years. The board shall enter into no
11 more than two diversion agreements with any individual licensee.
12 If the licensee violates a term or condition of a diversion
13 agreement entered into pursuant to this section, the board may
14 elect to pursue discipline against the licensee pursuant to
15 chapter 621, RSMo, for the original conduct that resulted in the
16 diversion agreement, or for any subsequent violation of
17 subsection 2 of section 332.321. While the licensee participates
18 in the well-being committee, the time limitations of section
19 620.154, RSMo, shall toll pursuant to subsection 7 of section
20 620.154, RSMo. All records pertaining to diversion agreements
21 are confidential and may only be released pursuant to subdivision
22 (7) of subsection 14 of section 620.010, RSMo.

23 6. The board may disclose information and records to the
24 well-being committee to assist the committee in the
25 identification, intervention, treatment, and rehabilitation of

1 dentists or dental hygienists who may be impaired by reason of
2 illness, substance abuse, or as the result of any physical or
3 mental condition. The well-being committee shall keep all
4 information and records provided by the board confidential to the
5 extent the board is required to treat the information and records
6 as closed to the public pursuant to chapter 620, RSMo.

7 334.400. As used in sections 334.400 to 334.430, the
8 following terms shall mean:

9 (1) "Anesthesiologist", a physician who has completed a
10 residency in anesthesiology approved by the American Board of
11 Anesthesiology or the American Osteopathic Board of
12 Anesthesiology;

13 (2) "Anesthesiologist assistant", a person who meets each
14 of the following conditions:

15 (a) Has graduated from an anesthesiologist assistant
16 program accredited by the American Medical Association's
17 Committee on Allied Health Education and Accreditation or by its
18 successor agency;

19 (b) Has passed the certifying examination administered by
20 the National Commission on Certification of Anesthesiologist
21 Assistants;

22 (c) Has active certification by the National Commission on
23 Certification of Anesthesiologist Assistants; and

24 (d) Provides health care services delegated by a licensed
25 anesthesiologist;

1 (3) "Anesthesiologist assistant supervision agreement", a
2 written agreement, jointly agreed upon protocols or standing
3 order between a supervising anesthesiologist and an
4 anesthesiologist assistant, which provides for the delegation of
5 health care services from a supervising anesthesiologist to an
6 anesthesiologist assistant and the review of such services;

7 (4) "Applicant", any individual who seeks to become
8 licensed as an anesthesiologist assistant;

9 (5) "Continuing education", the offering of instruction or
10 information to license holders for the purpose of maintaining or
11 increasing skills necessary for the safe and competent practice
12 of anesthetic care;

13 (6) "Department", the department of economic development or
14 a designated agency thereof;

15 (7) "Immediately available", in the same physical location
16 or facility in which the services are provided;

17 (8) "Physician", an individual licensed pursuant to this
18 chapter, to practice medicine and surgery or osteopathic medicine
19 and surgery;

20 (9) "Supervision", control exercised over an
21 anesthesiologist assistant working within the same facility of
22 the supervising anesthesiologist.

23 334.402. 1. An anesthesiologist assistant may assist the
24 supervising anesthesiologist in developing and implementing an
25 anesthesia care plan for a patient. In providing assistance to

1 the supervising anesthesiologist, an anesthesiologist assistant
2 shall have the authority to:

3 (1) Obtain a comprehensive patient history, perform
4 relevant elements of a physical exam and present the history to
5 the supervising anesthesiologist;

6 (2) Pretest and calibrate anesthesia delivery systems and
7 obtain and interpret information from the systems and monitors,
8 in consultation with an anesthesiologist;

9 (3) Assist the supervising anesthesiologist with the
10 implementation of medically accepted monitoring techniques;

11 (4) Establish basic and advanced airway interventions,
12 including intubation of the trachea and performing ventilatory
13 support;

14 (5) Administer intermittent vasoactive drugs and start and
15 adjust vasoactive infusions;

16 (6) Administer anesthetic drugs, adjuvant drugs, and
17 accessory drugs;

18 (7) Assist the supervising anesthesiologist with the
19 performance of epidural anesthetic procedures, spinal anesthetic
20 procedures, and other regional anesthetic techniques;

21 (8) Administer blood, blood products, and supportive
22 fluids;

23 (9) Provide assistance to a cardiopulmonary resuscitation
24 team in response to a life-threatening situation;

25 (10) Participate in administrative, research, and clinical

1 teaching activities as authorized by the supervising
2 anesthesiologist; or

3 (11) Perform such other tasks not prohibited by law under
4 the supervision of a licensed anesthesiologist that an
5 anesthesiologist assistant has been trained and is proficient to
6 perform.

7 2. An anesthesiologist shall at all times accept and be
8 responsible for the oversight of the health care services
9 rendered by the anesthesiologist assistant.

10 3. Anesthesiologist assistants are prohibited from the
11 following:

12 (1) An anesthesiologist assistant shall not prescribe any
13 medications or controlled substances;

14 (2) An anesthesiologist assistant shall not administer any
15 drugs, medicines, devices, or therapies the supervising
16 anesthesiologist is not qualified or authorized to prescribe;

17 (3) An anesthesiologist assistant shall not practice or
18 attempt to practice without the supervision of a licensed
19 anesthesiologist or in any location where the supervising
20 anesthesiologist is not immediately available for consultation,
21 assistance, and intervention; and

22 (4) An anesthesiologist assistant shall not bill a patient
23 independently or directly for any services or procedures provided
24 by the anesthesiologist assistant.

25 4. An anesthesiologist assistant shall be clearly

1 identified as an anesthesiologist assistant and shall not use or
2 permit to be used in the anesthesiologist assistant's behalf the
3 terms "doctor", "Dr.", or "doc" or in any way be identified as a
4 physician or surgeon. An anesthesiologist assistant shall not
5 refer to a certificate of registration or authority, permit, or
6 license as "board-certified" or use any other terminology that
7 may imply that the anesthesiologist assistant is a physician or
8 surgeon.

9 5. A student in any anesthesiologist assistant training
10 program shall be identified as a student anesthesiologist
11 assistant or an anesthesiologist assistant student. Under no
12 circumstances shall such a student use or permit to be used on
13 the student's behalf, the terms "intern", "resident", or "fellow"
14 or be identified in any way as a physician or surgeon.

15 334.404. 1. Each person desiring a license pursuant to
16 sections 334.400 to 334.430 shall make application to the board
17 upon such forms and in such manner as may be prescribed by the
18 board and shall pay the required application fee as set by the
19 board. The application fee shall cover the cost of issuing the
20 license and shall not be refundable. Each application shall
21 contain a statement that it is made under oath or affirmation and
22 that its representations are true and correct to the best
23 knowledge and belief of the person signing the application,
24 subject to the penalties of making a false declaration or
25 affidavit. Such application shall include proof of certification

1 from the National Commission on Certification of Anesthesiologist
2 Assistants or its successor, date of the certification, any
3 identification numbers, and any other information necessary for
4 the board to verify the certification.

5 2. The board, upon approval of the application from an
6 applicant, shall issue a license to such applicant.

7 3. A license is valid for two years from the date it is
8 issued and may be renewed biennially by filing an application for
9 renewal with the board and paying the required renewal fee as set
10 by the board.

11 4. A blank form for application for renewal of licensure
12 shall be mailed to each person licensed in this state at his or
13 her last known office or residence address.

14 5. A new license to replace any license lost, destroyed, or
15 mutilated may be issued to any applicant, subject to rules and
16 regulations issued by the board upon the payment of a reasonable
17 fee.

18 334.406. Notwithstanding any of the provisions of sections
19 334.400 to 334.430, the board may issue a temporary license to
20 practice as an anesthesiologist assistant to an applicant that
21 has taken the examination and is awaiting the results. A
22 temporary license may be granted upon the payment of a temporary
23 license fee, the submission of all required documents, and the
24 applicant meeting the necessary qualifications, as defined by
25 board rule. The temporary license shall be valid until the

1 results of the examination are announced. The temporary license
2 may be renewed at the discretion of the board and upon payment of
3 the temporary license fee.

4 334.408. 1. Notwithstanding any law to the contrary, any
5 person licensed pursuant to sections 334.400 to 334.430 may apply
6 to the board for an inactive license status on a form furnished
7 by the board. Upon receipt of the completed inactive status
8 application form and a determination by the board that the
9 licensee meets the requirements defined by board rule, the board
10 shall declare the licensee inactive and shall place the licensee
11 on an inactive status list. A person that has an inactive
12 license or has discontinued the practice of an anesthesiologist
13 assistant because of retirement shall not practice as an
14 anesthesiologist assistant within this state.

15 2. During the period of inactive status, the licensee shall
16 not be required to comply with the board's minimum requirements
17 for continuing education.

18 3. If a licensee is granted inactive status, the licensee
19 may return to active status by notifying the board of the
20 intention to resume the practice of an anesthesiologist
21 assistant, paying the appropriate fees, and meeting all
22 established licensure requirements of the board, as a condition
23 of reinstatement.

24 4. Any licensee that allows the license to become inactive
25 for a period of five years or less may return the license to

1 active status by notifying the board in advance of such
2 intention, paying the appropriate fees, and meeting all
3 established licensure requirements of the board, excluding the
4 licensing examination, as a condition of reinstatement.

5 334.410. Any person licensed to practice as an
6 anesthesiologist assistant in this state who retires from such
7 practice shall file with the board an affidavit, on a form to be
8 furnished by the board, which states the date of retirement and
9 such other facts to verify the retirement as defined by board
10 rule. Registration with the board must be renewed pursuant to
11 section 334.414 for any person that wants to resume the practice
12 of an anesthesiologist assistant.

13 334.412. 1. Upon the applicant paying a fee equivalent to
14 the required licensing fee and furnishing the board with all
15 locations of previous practice and licensure in chronological
16 order, the board may, subject to the prescribed rules and
17 regulations, license, without examination or additional
18 certification, any qualified applicant that meets the
19 requirements of this state including any person that is licensed
20 in any state or territory of the United States or the District of
21 Columbia with the authority to practice in the same manner and to
22 the same extent as anesthesiologist assistant is authorized to
23 practice pursuant to sections 334.400 to 334.430. Pursuant to
24 sections 334.400 to 334.430, the board shall have the authority
25 to negotiate reciprocal compacts with licensing boards of other

1 states for the admission of licensed anesthesiologist assistants
2 from Missouri to practice in other states.

3 2. The board shall issue a license to any anesthesiologist
4 assistant, who is licensed in another jurisdiction and who has
5 had no violations, suspensions, or revocations of a license, to
6 practice as an anesthesiologist assistant in any jurisdiction,
7 provided that, such person is licensed in a jurisdiction whose
8 requirements are substantially equal to, or greater than, the
9 requirements for licensure of anesthesiologist assistants in
10 Missouri at the time the applicant applies for licensure.

11 334.414. 1. The board shall issue a certificate of
12 registration to any applicant that meets the qualifications for
13 an anesthesiologist assistant and that has paid the required
14 fees.

15 2. The board shall promulgate rules and regulations
16 pertaining to:

17 (1) Establishing application forms to be furnished to all
18 persons seeking registration pursuant sections 334.400 to
19 334.430;

20 (2) Accepting certification by the National Commission on
21 Certification of Anesthesiologist Assistants or its successor in
22 lieu of examinations for applicants for registration pursuant to
23 sections 334.400 to 334.430;

24 (3) Determining the form and design of the registration to
25 be issued pursuant to sections 334.400 to 334.430;

1 (4) Setting the amount of the fees for registration,
2 licensure, and renewal pursuant to sections 334.400 to 334.430.
3 The fees shall be set at a level to produce revenue which shall
4 not substantially exceed the cost and expense of administering
5 the provisions of sections 334.400 to 334.430;

6 (5) Keeping a record of all of its proceedings regarding
7 sections 334.400 to 334.430 and of all anesthesiologist
8 assistants registered in this state.

9 No rule or portion of a rule promulgated pursuant to the
10 authority of sections 334.400 to 334.430 shall become effective
11 unless it has been promulgated pursuant to chapter 536, RSMo.

12 3. The board shall have the authority to:

13 (1) Issue subpoenas to compel witnesses to testify or
14 produce evidence in proceedings to deny, suspend, or revoke
15 registration; and

16 (2) Establish guidelines for anesthesiologist assistants
17 pursuant to sections 334.400 to 334.430.

18 4. The board may refuse to issue, suspend, revoke, or renew
19 any certificate of registration or authority, permit, or license
20 required pursuant to sections 334.400 to 334.430 for one or any
21 combination of causes stated in subsection 5 of this section.
22 The board shall notify the applicant in writing of the reasons
23 for the refusal, suspension, or revocation and shall advise the
24 applicant of the right to file a complaint with the

1 administrative hearing commission as provided by chapter 621,
2 RSMo.

3 5. The board may cause a complaint to be filed with the
4 administrative hearing commission as provided by chapter 621,
5 RSMo, against any holder of any certificate of registration or
6 authority, permit, or license required pursuant to sections
7 334.400 to 334.430 or against any person who has failed to renew
8 or has surrendered a certificate of registration or authority,
9 permit, or license for any one or any combination of the
10 following causes:

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

15 (2) The person has been finally adjudicated and found
16 guilty, or entered a plea of guilty or nolo contendere, in a
17 criminal prosecution under the laws of any state or of the United
18 States, for any offense reasonably related to the qualifications,
19 functions or duties of an anesthesiologist assistant, for any
20 offense for which an essential element is fraud, dishonesty, or
21 an act of violence, or for any offense involving moral turpitude,
22 whether or not sentence is imposed;

23 (3) Use of fraud, deception, misrepresentation, or bribery
24 in securing any certificate of registration or authority, permit
25 or license issued pursuant to sections 334.400 to 334.430 or in

1 obtaining permission to take any examination given or required
2 pursuant to sections 334.400 to 334.430;

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

6 (5) Incompetency, misconduct, gross negligence, fraud,
7 misrepresentation, or dishonesty in the performance of the
8 functions and duties of an anesthesiologist assistant;

9 (6) Violation of, or assisting or enabling any person to
10 violate any provision of sections 334.400 to 334.430 or any
11 lawful rule or regulation adopted pursuant to sections 334.400 to
12 334.430;

13 (7) Impersonation of any person holding a certificate of
14 registration or authority, permit, or license or allowing any
15 person to use a certificate of registration or authority, permit,
16 license or diploma from any school;

17 (8) Disciplinary action against the holder of a license or
18 other right relating to the practice of an anesthesiologist
19 assistant granted by another state, territory, federal agency, or
20 country upon grounds for which revocation or suspension is
21 authorized in this state;

22 (9) Final adjudication of insanity or incompetency by a
23 court of competent jurisdiction;

24 (10) Assisting or enabling any person to practice or offer
25 to practice as an anesthesiologist assistant who is not

1 registered and currently eligible to practice pursuant to
2 sections 334.400 to 334.430;

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

6 (12) Violation of any professional trust or confidence;

7 (13) Violation of the ethical standards for an
8 anesthesiologist assistant as defined by board rule; or

9 (14) Violation of chapter 195, RSMo, or rules and
10 regulations of this state, any other state, or the federal
11 government.

12 6. After the filing of such complaint, the proceedings
13 shall be conducted in accordance with the provisions of chapter
14 621, RSMo. Upon a finding by the administrative hearing
15 commission that the grounds, provided in subsection 5 of this
16 section for disciplinary action are met, the board may, singly or
17 in combination, censure or place the person named in the
18 complaint on probation with such terms and conditions as the
19 board deems appropriate for a period not to exceed ten years, or
20 suspend his or her license for a period not to exceed seven
21 years, or revoke his or her license, certificate, or permit.

22 7. An individual whose license has been revoked shall wait
23 at least one year from the date of revocation to apply for
24 relicensure and shall not be eligible for a temporary license.
25 Relicensure shall be at the discretion of the board after

1 compliance with all requirements of sections 334.400 to 334.430.

2 8. Any person who violates any of the provisions of
3 sections 334.400 to 334.430 is guilty of class A misdemeanor.

4 334.416. 1. Every person licensed pursuant to sections
5 334.400 to 334.430 shall renew his or her certificate of
6 registration on or before the registration renewal date. The
7 application shall be made under oath on a form furnished by the
8 board. The application shall include, but not be limited to,
9 disclosure of the following:

10 (1) The applicant's full name and his or her office and
11 residence address;

12 (2) The date and number of his or her license;

13 (3) All final disciplinary actions taken against the
14 applicant by any professional medical or osteopathic association
15 or society, licensed hospital or medical staff of the hospital,
16 state, territory federal agency or country; and

17 (4) Information concerning the applicant's current physical
18 and mental fitness to practice as an anesthesiologist assistant.

19 2. A blank form for application for registration shall be
20 mailed to each person licensed in this state at his or her last
21 known office or residence address. The failure to receive the
22 application form does not relieve any person of the duty to
23 register and pay the fee required pursuant to sections 334.400 to
24 334.430 nor be exempt from the penalties provided pursuant to
25 sections 334.400 to 334.430 for failure to register.

1 3. If a person licensed, certified, or registered by the
2 board does not renew such license, certification, or registration
3 for two consecutive renewal periods, such license, certification,
4 or registration shall be deemed void.

5 4. An application for registration pursuant to sections
6 334.400 to 334.430 shall be accompanied with a registration fee
7 to be payable to the director of revenue. If the application is
8 filed and the fee paid after the registration renewal date, a
9 delinquent fee shall be paid. The delinquent fee may be waived
10 by the board based on extenuating circumstances as defined by
11 board rule.

12 334.418. 1. Except as provided in subsection 2 of this
13 section, no person shall practice as an anesthesiologist
14 assistant unless the person holds a current, valid certificate of
15 registration issued pursuant to sections 334.400 to 334.430 to
16 practice as an anesthesiologist assistant.

17 2. The provision of subsection 1 of this section shall not
18 apply to the following:

19 (1) A person participating in a training program leading
20 toward certification by the National Commission for Certification
21 of Anesthesiologist Assistants, as long as the person is
22 supervised by an anesthesiologist;

23 (2) An individual participating in a hospital residency
24 program in preparation to practice as an anesthesiologist; and

25 (3) Any person who is otherwise authorized by subsection 2

1 of section 334.428 to perform any of the activities that an
2 anesthesiologist assistant is authorized to perform.

3 334.420. The board shall not renew any certificate of
4 registration unless the anesthesiologist assistant has provided
5 satisfactory evidence that the board's minimum requirements for
6 continuing education have been met. At the discretion of the
7 board, compliance with the provision of this section may be
8 waived for an anesthesiologist assistant that has discontinued
9 the practice of an anesthesiologist assistant due to retirement.
10 The board's minimum requirements for continuing education shall
11 include, but are not limited to, the successful completion of the
12 examination for continued demonstration of qualifications once
13 every six years, as authorized by the National Commission for
14 Certification of Anesthesiologist Assistants (NCCAA) or its
15 successor.

16 334.422. 1. All fees payable pursuant to the provisions of
17 sections 334.400 to 334.430 shall be collected by the division of
18 professional registration, which shall transmit them to the
19 department of revenue for deposit in the state treasury to the
20 credit of the board of registration for the healing arts fund.

21 2. Upon appropriation by the general assembly, the money in
22 the fund shall be used to administer the provisions of sections
23 334.400 to 334.430.

24 334.424. 1. An anesthesiologist assistant shall practice
25 only under the direct supervision of an anesthesiologist who is

1 physically present or immediately available. A supervising
2 anesthesiologist shall be allowed to supervise up to four
3 anesthesiologist assistants consistent with federal rules or
4 regulations for reimbursement for anesthesia services.

5 2. Each anesthesiologist who agrees to act as the
6 supervising anesthesiologist of an anesthesiologist assistant
7 shall adopt a written practice protocol that is consistent with
8 sections 334.400 to 334.430 and delineates the services that the
9 anesthesiologist assistant is authorized to provide and the
10 manner in which the anesthesiologist will supervise the
11 anesthesiologist assistant. The provisions of the protocol shall
12 be based on relevant quality assurance standards, including
13 regular review by the supervising anesthesiologist of the medical
14 records of the patients cared for by the anesthesiologist
15 assistant.

16 3. The supervising anesthesiologist shall oversee the
17 anesthesiologist assistant in accordance with the terms of the
18 protocol and any rules and regulations as defined by the board
19 for the supervision of an anesthesiologist assistant. The board
20 may randomly audit or inspect any written practice protocol under
21 which an anesthesiologist assistant works.

22 334.426. Notwithstanding the provisions of sections 334.400
23 to 334.430, or the rules of the Missouri state board of
24 registration for the healing arts, the governing body of every
25 hospital shall have full authority to limit the functions and

1 activities that an anesthesiologist assistant performs in such
2 hospital.

3 334.428. 1. No person shall put forth to the public any
4 title or description that includes the words "licensed
5 anesthesiologist assistant" as defined in section 334.404 unless
6 the person is duly licensed pursuant to the provisions of
7 sections 334.400 to 334.430.

8 2. Nothing in sections 334.400 to 334.430 shall be
9 construed as prohibiting any individual regardless of whether the
10 individual is licensed pursuant to sections 334.400 to 334.430,
11 from providing the services of anesthesiologist assistant, so
12 long as those services are lawfully performed pursuant to the
13 individual's scope of practice as authorized by law, regulation,
14 and hospital or medical staff policies or credentialing
15 standards.

16 3. Notwithstanding the specified penalty in section
17 334.414, any person found guilty of violating any provision of
18 subsections 1 and 2 of this section shall be guilty of an
19 infraction and upon conviction thereof shall be punished as
20 provided by law. For purposes of this subsection, the maximum
21 fine for a violation of this section shall be two hundred
22 dollars.

23 334.430. 1. There is hereby established an "Advisory
24 Commission for Anesthesiologist Assistants" which shall guide,
25 advise and make recommendations to the board. The commission

1 shall be responsible for the ongoing examination of the scope of
2 practice and promoting the continuing role of anesthesiologist
3 assistants in the delivery of health care services. The
4 commission shall assist the board in carrying out the provisions
5 of sections 334.400 to 334.430.

6 2. The commission shall be appointed no later than July 1,
7 2005. The commission shall be composed of five members, to be
8 appointed by the governor, with the advice and consent of the
9 senate, as follows:

10 (1) One member of the board;

11 (2) One licensed anesthesiologist assistant;

12 (3) Two licensed, board-certified anesthesiologists; and

13 (4) One lay member.

14 3. Each licensed anesthesiologist assistant member shall be
15 a citizen of the United States and a resident of this state, and
16 shall be licensed as an anesthesiologist assistant by this state.
17 Each physician member shall be a United States citizen, a
18 resident of this state and have an active license to practice
19 medicine in this state. The lay member shall be a United States
20 citizen and a resident of this state.

21 4. The licensed anesthesiologist assistant member shall be
22 appointed to serve a three-year term. The anesthesiologist
23 members and lay member shall each be appointed to serve three-
24 year terms, except at the time the commission is created, when
25 one anesthesiologist member will be appointed for a first term of

1 two years while the second anesthesiologist member will be
2 appointed to a three year term. This will ensure that at least
3 one anesthesiologist member has at least one years experience as
4 a member of the commission. Neither the anesthesiologist
5 assistant member nor the physician members shall be appointed for
6 more than two consecutive three-year terms.

7 5. The president of the Missouri Society of
8 Anesthesiologists or its successor in office at the time shall,
9 at least ninety days prior to the expiration of a term of an
10 anesthesiologist assistant member or an anesthesiologist member
11 of the commission or as soon as feasible after such a vacancy on
12 the commission otherwise occurs, submit to the director of the
13 division of professional registration a list, not to exceed five
14 individuals per vacancy, of qualified and willing
15 anesthesiologists or anesthesiologist assistants, respectively,
16 to fill the vacancy in question, with the request and
17 recommendation that the governor appoint one of the persons so
18 listed. With the list so submitted, the president of the
19 Missouri Society of Anesthesiologists shall include in a letter
20 of transmittal a description of the method by which the names
21 were chosen by that association.

22 6. Until such time as eligible anesthesiologist assistant
23 candidates are identified, the anesthesiologist assistant seat
24 may remain vacant or may be filled by a qualified
25 anesthesiologist candidate, at the governor's discretion with the

1 advice and consent of the senate. This member may serve no more
2 than two consecutive three-year terms or until an eligible
3 anesthesiologist assistant candidate, selected by the governor
4 with the advice and consent of the senate, from a list provided
5 as outlined above is appointed.

6 7. Notwithstanding any other provision of law to the
7 contrary, any appointed member of the commission shall receive as
8 compensation an amount established by the director of the
9 division of professional registration not to exceed seventy
10 dollars per day for commission business plus actual and necessary
11 expenses. The director of the division of professional
12 registration shall establish by rule the guidelines for payment.
13 The board shall provide all staff for the commission.

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

21 9. No licensing activity or other statutory requirements
22 shall become effective until expenditures or personnel are
23 specifically appropriated for the purpose of conducting the
24 business as required to administer the provisions of sections
25 334.400 to 334.430 and the initial rules filed have become

1 effective.

2 334.702. As used in sections 334.700 to 334.725, unless the
3 context clearly requires otherwise, the following terms mean:

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

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

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

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

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

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

21 334.704. No person shall hold himself out as an athletic
22 trainer in this state unless he has been [registered] licensed as
23 such under the provisions of sections 334.700 to 334.725.

24 334.706. 1. The board shall register applicants who meet
25 the qualifications for athletic trainers, who file for

1 [registration] licensure, and who pay all fees required for this
2 [registration] licensure.

3 2. The board shall:

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

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

9 (3) Prescribe the form and design of the [registration]
10 licensure to be issued under sections 334.700 to 334.725;

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

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

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

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

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

24 (9) Adopt an official seal.

25 3. The board may:

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

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

6 (3) Establish guidelines for athletic trainers in sections
7 334.700 to 334.725.

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

12 334.708. 1. Any person seeking [registration] licensure
13 under sections 334.700 to 334.725 must be a resident or in the
14 process of establishing residency in this state and must meet at
15 least one set of the following qualifications:

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

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

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

1 334.700 to 334.725.

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

7 334.710. 1. All applications for initial [registration]
8 licensure under sections 334.700 to 334.725 shall be submitted on
9 forms prescribed by the board and shall be accompanied by an
10 initial [registration] licensure fee. All applications for
11 renewal of [registration] licensure issued under sections 334.700
12 to 334.725 shall be submitted on forms prescribed by the board
13 and shall be accompanied by a renewal fee.

14 2. All fees of any kind and character authorized to be
15 charged by the board shall be paid to the director of revenue and
16 shall be deposited by the state treasurer into the board for the
17 healing arts fund, to be disbursed only in payment for expenses
18 of maintaining the athletic trainer [registration] licensure
19 program and for the enforcement of the provisions of sections
20 334.700 to 334.725.

21 334.712. 1. Any person who meets the qualifications listed
22 in section 334.708, submits his application and fees in
23 accordance with section 334.710, and has not committed any act
24 listed in section 334.715 shall be issued [registration] a
25 license under sections 334.700 to 334.725.

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

7 334.715. 1. The board may refuse to [register] license any
8 applicant or may suspend, revoke, or refuse to renew the
9 [registration] license of any registrant for any one or any
10 combination of the causes provided in section 334.100, or if the
11 applicant or [registrant] licensee:

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

15 (2) Has been found guilty of unethical conduct as defined
16 in the ethical standards of the National Athletic Trainers
17 Association or the National Athletic Trainers Association Board
18 of Certification as adopted and published by the committee and
19 the board and filed with the secretary of state.

20 2. Upon receipt of a written application made in the form
21 and manner prescribed by the board, the board may reinstate any
22 [registration] license which has expired, been suspended or been
23 revoked or may issue any [registration] license which has been
24 denied; provided, that no application for reinstatement or
25 issuance of [registration] license shall be considered until at

1 least six months have elapsed from the date of denial,
2 expiration, suspension, or revocation when the [registration]
3 license to be reinstated or issued was denied issuance or renewal
4 or was suspended or revoked for one of the causes listed in
5 subsection 1 of this section.

6 334.717. 1. There is hereby created the "Missouri Athletic
7 Trainer Advisory Committee", to be composed of five members to be
8 appointed by the board.

9 2. The athletic trainer advisory committee shall:

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

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

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

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

20 3. Each athletic trainer advisory committee member shall:

21 (1) Be a citizen of the United States and a resident of the
22 state of Missouri for five years next preceding appointment; and

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

25 (3) One member shall be a physician duly licensed by the

1 Missouri state board for the healing arts; and

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

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

11 337.030. 1. Each psychologist licensed pursuant to the
12 provisions of sections 337.010 to 337.090, who has not filed with
13 the committee a verified statement that the psychologist has
14 retired from or terminated the psychologist's practice of
15 psychology in this state, shall register with the division on or
16 before the registration renewal date. The division shall require
17 a registration fee which shall be submitted together with proof
18 of compliance with the continuing education requirement as
19 provided in section 337.050 and any other information required
20 for such registration. Upon receipt of the required material and
21 of the registration fee, the division shall issue a renewal
22 certificate of registration. The division shall, when issuing an
23 initial license to an applicant who has met all of the
24 qualifications of sections 337.010 to 337.093 and has been
25 approved for licensure by the committee shall grant the

1 applicant, without payment of any further fee, a certificate of
2 registration valid until the next registration renewal date.

3 2. The division shall mail a renewal notice to the last
4 known address of each licensee prior to the registration renewal
5 date. Failure to provide the division with the proof of
6 compliance with the continuing education requirement and other
7 information required for registration, or to pay the registration
8 fee after such notice shall effect a revocation of the license
9 after a period of sixty days from the registration renewal date.
10 The license shall be restored if, within two years of the
11 registration renewal date, the applicant provides written
12 application and the payment of the registration fee and a
13 delinquency fee and proof of compliance with the requirements for
14 continuing education as provided in section 337.050.

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

18 4. The committee shall set the amount of the fees
19 authorized by sections 337.010 to 337.093 and required by rules
20 and regulations promulgated pursuant to section 536.021, RSMo.
21 The fees shall be set at a level to produce revenue which shall
22 not substantially exceed the cost and expense of administering
23 sections 337.010 to 337.090.

24 5. The committee may issue an inactive license to any
25 licensee who makes written application for such license on a form

1 provided by the board and remits the fee for an inactive license
2 established by the committee. An inactive license shall be
3 issued only to a person who has previously been issued a license
4 to practice psychology in the state of Missouri, who is no longer
5 regularly engaged in such practice, and who does not hold himself
6 or herself out to the public as being professionally engaged in
7 such practice in the state of Missouri. Each inactive license
8 shall be subject to all provisions of this chapter, except as
9 otherwise specifically provided. Each inactive license may be
10 renewed by the committee subject to all provisions of this
11 section and all other provisions of this chapter. The inactive
12 licensee shall not be required to submit evidence of completion
13 of continuing education as required by this chapter. An inactive
14 licensee may apply for a license to regularly engage in the
15 practice of psychology upon filing a written application on a
16 form provided by the committee, submitting the reactivation fee
17 established by the committee and submitting proof of current
18 competency as established by the committee.

19 337.600. As used in sections 337.600 to [337.639] 337.689,
20 the following terms mean:

21 (1) "Clinical social work", the application of methods,
22 principles, and techniques of case work, group work,
23 client-centered advocacy, community organization, administration,
24 planning, evaluation, consultation, research, psychotherapy and
25 counseling methods and techniques to persons, families and groups

1 in assessment, diagnosis, treatment, prevention and amelioration
2 of mental and emotional conditions;

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

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

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

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

16 (6) "Practice of clinical social work", rendering, offering
17 to render, or supervising those who render to individuals,
18 couples, groups, organizations, institutions, corporations, or
19 the general public any service involving the application of
20 methods, principles, and techniques of clinical social work;

21 (7) "Provisional licensed clinical social worker", any
22 person who is a graduate of an accredited school of social work
23 and meets all requirements of a licensed clinical social worker,
24 other than the supervised clinical social work experience
25 prescribed by subdivision (2) of subsection 1 of section 337.615,

1 and who is supervised by a person who is qualified to practice
2 clinical social work, as defined by rule[.];

3 (8) "Social worker", any individual that has:

4 (a) Received a baccalaureate or master's degree in social
5 work from an accredited social work program approved by the
6 council on social work education;

7 (b) Received a doctorate or Ph.D. in social work; or

8 (c) A current baccalaureate or clinical social worker
9 license as set forth in sections 337.600 to 337.689.

10 337.604. 1. No person shall hold himself or herself out to
11 be a "social worker" unless such person has:

12 (a) Received a baccalaureate or master's degree in social
13 work from an accredited social work program approved by the
14 council on social work education;

15 (b) Received a doctorate or Ph.D. in social work; or

16 (c) A current baccalaureate or clinical social worker
17 license as set forth in sections 337.600 to 337.689.

18 2. No government entities, public or private agencies or
19 organizations in the state shall use the title "social worker" or
20 any form of the title for volunteer or employment positions or
21 within contracts for services, documents, manuals, or reference
22 material effective January 1, 2004, unless the volunteers or
23 employees in those positions meet the criteria set forth in
24 subdivision (8) of section 337.600 or subsection 1 of section
25 337.604.

1 337.633. 1. Violation of any provision of sections 337.600
2 to [337.639] 337.689 shall be a class B misdemeanor.

3 2. All fees or other compensation received for services
4 which are rendered in violation of sections 337.600 to [337.639]
5 337.689 shall be refunded.

6 3. The department on behalf of the committee may sue in its
7 own name in any court in this state. The department shall
8 inquire as to any violations of sections 337.600 to [337.639]
9 337.689, may institute actions for penalties herein prescribed,
10 and shall enforce generally the provisions of sections 337.600 to
11 [337.639] 337.689.

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

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

22 (2) Engaging in any practice of business authorized by a
23 certificate of registration or authority, permit or license
24 issued pursuant to sections 337.600 to [337.639] 337.689 upon a
25 showing that the holder presents a substantial probability of

1 serious harm to the health, safety or welfare of any resident of
2 this state or client or patient of the licensee.

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

6 6. Any action brought pursuant to this section may be in
7 addition to or in lieu of any penalty provided by this act and
8 may be brought concurrently with other actions to enforce the
9 provisions of sections 337.600 to ~~[337.639]~~ 337.689.

10 339.010. 1. A "real estate broker" is any person,
11 partnership, association, or corporation, foreign or domestic
12 who, for another, and for a compensation or valuable
13 consideration, [as a whole or partial vocation,] does, or
14 attempts to do, any or all of the following:

15 (1) Sells, exchanges, purchases, rents, or leases real
16 estate;

17 (2) Offers to sell, exchange, purchase, rent or lease real
18 estate;

19 (3) Negotiates or offers or agrees to negotiate the sale,
20 exchange, purchase, rental or leasing of real estate;

21 (4) Lists or offers or agrees to list real estate for sale,
22 lease, rental or exchange;

23 (5) Buys, sells, offers to buy or sell or otherwise deals
24 in options on real estate or improvements thereon;

25 (6) Advertises or holds himself or herself out as a

1 licensed real estate broker while engaged in the business of
2 buying, selling, exchanging, renting, or leasing real estate;

3 (7) Assists or directs in the procuring of prospects,
4 calculated to result in the sale, exchange, leasing or rental of
5 real estate;

6 (8) Assists or directs in the negotiation of any
7 transaction calculated or intended to result in the sale,
8 exchange, leasing or rental of real estate;

9 (9) Engages in the business of charging to an unlicensed
10 person an advance fee in connection with any contract whereby the
11 real estate broker undertakes to promote the sale of that
12 person's real estate through its listing in a publication issued
13 for such purpose intended to be circulated to the general public;

14 (10) Performs any of the foregoing acts as an employee of,
15 or on behalf of, the owner of real estate, or interest therein,
16 or improvements affixed thereon, for compensation.

17 2. A "real estate salesperson" is any person, who for a
18 compensation or valuable consideration becomes associated, either
19 as an independent contractor or employee, either directly or
20 indirectly, with a real estate broker to do any of the things
21 above mentioned[, as a whole or partial vocation]. The
22 provisions of sections 339.010 to 339.180 and sections 339.710 to
23 339.860 shall not be construed to deny a real estate salesperson
24 who is compensated solely by commission the right to be
25 associated with a broker as an independent contractor.

1 3. The term "commission" as used in sections 339.010 to
2 339.180 and sections 339.710 to 339.860 means the Missouri real
3 estate commission.

4 4. "Real estate" for the purposes of sections 339.010 to
5 339.180 and sections 339.710 to 339.860 shall mean, and include,
6 leaseholds, as well as any other interest or estate in land,
7 whether corporeal, incorporeal, freehold or nonfreehold, and
8 [whether] the real estate is situated in this state [or
9 elsewhere].

10 5. The provisions of sections 339.010 to 339.180 and
11 sections 339.710 to 339.860 shall not apply to:

12 (1) Any person, partnership, association, or corporation
13 who as owner [or], lessor, or lessee shall perform any of the
14 acts described in subsection 1 of this section with reference to
15 property owned or leased by them, or to the regular employees
16 thereof, provided such owner [or], lessor, or lessee is not
17 engaged in the real estate business [as a vocation];

18 (2) Any licensed attorney-at-law;

19 (3) An auctioneer employed by the owner of the property;

20 (4) Any person acting as receiver, trustee in bankruptcy,
21 administrator, executor, or guardian or while acting under a
22 court order or under the authority of a will, trust instrument or
23 deed of trust or as a witness in any judicial proceeding or other
24 proceeding conducted by the state or any governmental subdivision
25 or agency;

1 (5) Any person employed or retained to manage real property
2 by, for, or on behalf of, the agent or the owner, of any real
3 estate shall be exempt from holding a license, if the person is
4 limited to one or more of the following activities:

5 (a) Delivery of a lease application, a lease, or any
6 amendment thereof, to any person;

7 (b) Receiving a lease application, lease, or amendment
8 thereof, a security deposit, rental payment, or any related
9 payment, for delivery to, and made payable to, a broker or owner;

10 (c) Showing a rental unit to any person, as long as the
11 employee is acting under the direct instructions of the broker or
12 owner, including the execution of leases or rental agreements;

13 (d) Conveying information prepared by a broker or owner
14 about a rental unit, a lease, an application for lease, or the
15 status of a security deposit, or the payment of rent, by any
16 person;

17 (e) Assisting in the performance of brokers' or owners'
18 functions, administrative, clerical or maintenance tasks;

19 (f) If the person described in this section is employed or
20 retained by, for, or on behalf of a real estate broker, the real
21 estate broker shall be subject to discipline under this chapter
22 for any conduct of the person that violates this chapter or the
23 regulations promulgated thereunder;

24 (6) Any officer or employee of a federal agency or the
25 state government or any political subdivision thereof performing

1 official duties;

2 (7) Railroads and other public utilities regulated by the
3 state of Missouri, or their subsidiaries or affiliated
4 corporations, or to the officers or regular employees thereof,
5 unless performance of any of the acts described in subsection 1
6 of this section is in connection with the sale, purchase, lease
7 or other disposition of real estate or investment therein
8 unrelated to the principal business activity of such railroad or
9 other public utility or affiliated or subsidiary corporation
10 thereof;

11 (8) Any bank, trust company, savings and loan association,
12 credit union, insurance company, mortgage banker, or farm loan
13 association organized under the laws of this state or of the
14 United States when engaged in the transaction of business on its
15 own behalf and not for others;

16 (9) Any newspaper [or], magazine [or], periodical [of
17 general circulation], or Internet site whereby the advertising of
18 real estate is incidental to [the] its operation [of that
19 publication] or to any form of communications regulated or
20 licensed by the Federal Communications Commission or any
21 successor agency or commission;

22 (10) Any developer selling Missouri land owned by the
23 developer [if such developer has on file with the commission a
24 certified copy of a currently effective statement of record on
25 file with the Office of Interstate Land Sales pursuant to

1 Sections 1704 through 1706 of Title 15 of the United States Code
2 or a current statement from the Office of Interstate Land Sales
3 of the United States Department of Housing and Urban Development
4 approving the documentation (together with a copy of such
5 documentation) submitted to that office with respect to real
6 estate falling within the scope of subsection 1702(a)(10) of
7 Title 15 of the United States Code];

8 (11) Any employee acting on behalf of a nonprofit
9 community, or regional economic development association, agency
10 or corporation which has as its principal purpose the general
11 promotion and economic advancement of the community at large,
12 provided that such entity:

13 (a) Does not offer such property for sale, lease, rental or
14 exchange on behalf of another person or entity;

15 (b) Does not list or offer or agree to list such property
16 for sale, lease, rental or exchange; or

17 (c) Receives no fee, commission or compensation, either
18 monetary or in kind, that is directly related to sale or disposal
19 of such properties. An economic developer's normal annual
20 compensation shall be excluded from consideration as commission
21 or compensation related to sale or disposal of such properties;
22 or

23 (12) Any neighborhood association, as that term is defined
24 in section 441.500, RSMo, that without compensation, either
25 monetary or in kind, provides to prospective purchasers or

1 lessors of property the asking price, location, and contact
2 information regarding properties in and near the association's
3 neighborhood, including any publication of such information in a
4 newsletter, [web] Internet site, or other medium.

5 339.020. It shall be unlawful for any person, partnership,
6 association, or corporation, foreign or domestic, to act as a
7 real estate broker or real estate salesperson, or to advertise or
8 assume to act as such without a license first procured from the
9 commission.

10 339.030. A corporation, partnership, or association shall
11 be granted a license when individual licenses have been issued to
12 every member, partner or officer of such partnership,
13 association, or corporation who actively participates in its
14 brokerage business and to every person who acts as a salesperson
15 for such partnership, association, or corporation and when the
16 required fee is paid.

17 339.040. 1. Licenses shall be granted only to persons who
18 present, and corporations, associations, or partnerships whose
19 officers, associates, or partners present, satisfactory proof to
20 the commission that they:

21 (1) Are persons of good moral character; and

22 (2) Bear a good reputation for honesty, integrity, and fair
23 dealing; and

24 (3) Are competent to transact the business of a broker or
25 salesperson in such a manner as to safeguard the interest of the

1 public.

2 2. In order to determine an applicant's qualifications to
3 receive a license under sections 339.010 to 339.180 and sections
4 339.710 to 339.860, the commission shall hold oral or written
5 examinations at such times and places as the commission may
6 determine.

7 3. Each applicant for a broker or salesperson license shall
8 be at least eighteen years of age and shall pay the broker
9 examination fee or the salesperson examination fee.

10 4. Each applicant for a broker license shall be required to
11 have satisfactorily completed the salesperson license examination
12 prescribed by the commission. For the purposes of this section
13 only, the commission may permit a person who is not associated
14 with a licensed broker to take the salesperson examination.

15 5. Each application for a broker license shall include a
16 certificate from the applicant's broker or brokers that the
17 applicant has been actively engaged in the real estate business
18 as a licensed salesperson for at least one year immediately
19 preceding the date of application, or, in lieu thereof, shall
20 include a certificate from a school accredited by the commission
21 under the provisions of section 339.045 that the applicant has,
22 within six months prior to the date of application, successfully
23 completed the prescribed broker curriculum or broker
24 correspondence course offered by such school, except that the
25 commission may waive all or part of the educational requirements

1 set forth in this subsection when an applicant presents proof of
2 other educational background or experience acceptable to the
3 commission.

4 6. Each application for a salesperson license shall include
5 a certificate from a school accredited by the commission under
6 the provisions of section 339.045 that the applicant has, within
7 six months prior to the date of application, successfully
8 completed the prescribed salesperson curriculum or salesperson
9 correspondence course offered by such school, except that the
10 commission may waive all or part of the educational requirements
11 set forth in this subsection when an applicant presents proof of
12 other educational background or experience acceptable to the
13 commission.

14 7. ~~【The commission shall require】~~ The commission may issue
15 a temporary work permit pending final review and printing of the
16 license to an applicant who appears to have satisfied the
17 requirements for licenses. The commission may, at its
18 discretion, withdraw the work permit at any time.

19 8. Every active broker, salesperson, officer ~~【or】~~, partner
20 ~~【to present upon license renewal】~~, or associate shall provide
21 upon request to the commission evidence that during the two years
22 preceding he or she has completed twelve hours of real estate
23 instruction in courses approved by the commission. The
24 commission may, by rule and regulation, provide for individual
25 waiver of this requirement.

1 [8.] 9. Each entity that provides continuing education
2 required under the provisions of subsection [7] 8 of this section
3 may make available [videotapes and audiotapes of] instruction
4 courses that the entity conducts through means of distance
5 delivery. The commission shall by rule set standards for [the
6 production of] such [taped] courses[, which may include the
7 requirement that individuals purchasing such tapes also purchase
8 an accompanying written study document. The commission shall
9 authorize individuals required to complete instruction under the
10 provisions of this subsection to fulfill such continuing
11 education requirements by utilizing such videotape and audiotape
12 courses]. The commission may by regulation require the
13 individual completing such [videotape or audiotape] distance
14 delivered course to complete an examination on the contents of
15 the course. Such examination shall be designed to ensure that
16 the licensee displays adequate knowledge of the subject matter of
17 the course, and shall be designed by the entity producing the
18 [taped] course and approved by the commission.

19 [9.] 10. In the event of the death or incapacity of a
20 licensed broker, or of one or more of the licensed partners [or],
21 officers, or associates of a real estate partnership [or],
22 corporation, or association whereby the affairs of the broker,
23 partnership, or corporation cannot be carried on, the commission
24 may issue, without examination or fee, to the legal
25 representative or representatives of the deceased or

1 incapacitated individual, or to another individual approved by
2 the commission, a temporary broker license which shall authorize
3 such individual to continue for a period to be designated by the
4 commission to transact business for the sole purpose of winding
5 up the affairs of the broker, partnership or corporation under
6 the supervision of the commission.

7 339.060. 1. The commission shall set the amount of the
8 fees which sections 339.010 to 339.180 and sections 339.710 to
9 339.860 authorize and require by rules and regulations
10 promulgated pursuant to section 536.021, RSMo. The fees shall be
11 set at a level to produce revenue which shall not substantially
12 exceed the cost and expense of administering sections 339.010 to
13 339.180 and sections 339.710 to 339.860.

14 2. Every license granted under sections 339.010 to 339.180
15 and sections 339.710 to 339.860 shall be renewed each licensing
16 period and the commission shall issue a new license upon receipt
17 of the [written] properly completed application of the applicant
18 and the required renewal fee.

19 339.100. 1. The commission may, upon its own motion, and
20 shall upon receipt of a written complaint filed by any person,
21 investigate any [business transaction] real estate-related
22 activity of a [person, partnership or corporation] licensee
23 licensed under sections 339.010 to 339.180 and sections 339.710
24 to 339.860 or an individual or entity acting as or representing
25 themselves as a real estate licensee. In conducting such

1 investigation, if the questioned activity or written complaint
2 involves an affiliated licensee, the commission may forward a
3 copy of the information received to the affiliated licensee's
4 designated broker. The commission shall have the power to hold
5 an investigatory hearing to determine whether there is a
6 probability [that the licensee has performed or attempted to
7 perform any act or practice declared unlawful pursuant to] of a
8 violation of sections 339.010 to 339.180 and sections 339.710 to
9 339.860. [In conducting such a hearing,] The commission shall
10 have the power to issue a subpoena to compel the production of
11 records and papers bearing on the complaint. The commission
12 shall have the power to issue a subpoena and to compel any person
13 in this state to come before the commission to offer testimony or
14 any material specified in the subpoena. Subpoenas and subpoenas
15 duces tecum issued pursuant to this section shall be served in
16 the same manner as subpoenas in a criminal case. The fees and
17 mileage of witnesses shall be the same as that allowed in the
18 circuit court in civil cases.

19 2. The commission may cause a complaint to be filed with
20 the administrative hearing commission as provided by [law when
21 the commission believes there is a probability that a licensee
22 has performed or attempted to perform any] the provisions of
23 chapter 621, RSMo, against any person or entity licensed under
24 this chapter or any licensee who has failed to renew or has
25 surrendered his or her individual or entity license for any one

1 or any combination of the following acts:

2 (1) Failure to maintain and deposit in a special account,
3 separate and apart from his or her personal or other business
4 accounts, all moneys belonging to others entrusted to him or her
5 while acting as a real estate broker[, or as escrow agent,] or as
6 the temporary custodian of the funds of others, until the
7 transaction involved is consummated or terminated, unless all
8 parties having an interest in the funds have agreed otherwise in
9 writing;

10 (2) Making substantial misrepresentations or false promises
11 or suppression, concealment or omission of material facts in the
12 conduct of his or her business or pursuing a flagrant and
13 continued course of misrepresentation through agents,
14 salespersons, advertising or otherwise in any transaction;

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

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

23 (5) Failure to timely deliver[, immediately at the time of
24 signing,] a duplicate original of any and all instruments to any
25 party or parties executing the same where the instruments have

1 been prepared by the licensee or under his or her supervision or
2 are within his or her control, including, but not limited to, the
3 instruments relating to the employment of the licensee or to any
4 matter pertaining to the consummation of a lease, listing
5 agreement or the purchase, sale, exchange or lease of property,
6 or any type of real estate transaction in which he or she may
7 participate as a licensee;

8 (6) Acting for more than one party in a transaction without
9 the knowledge of all parties for whom he or she acts, or
10 accepting a commission or valuable consideration for services
11 from more than one party in a real estate transaction without the
12 knowledge of all parties to the transaction;

13 (7) Paying a commission or valuable consideration to any
14 person for acts or services performed in violation of sections
15 339.010 to 339.180 and sections 339.710 to 339.860;

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

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

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

1 (11) Representing a real estate broker other than the
2 broker with whom associated without the express [knowledge and]
3 written consent of [that] the broker[, or] with whom associated;

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

8 [~~(12)~~] (13) Using prizes, money, gifts or other valuable
9 consideration as inducement to secure customers or clients to
10 purchase, lease, sell or list property when the awarding of such
11 prizes, money, gifts or other valuable consideration is
12 conditioned upon the purchase, lease, sale or listing; or
13 soliciting, selling or offering for sale real property by
14 offering free lots, or conducting lotteries or contests, or
15 offering prizes for the purpose of influencing a purchaser or
16 prospective purchaser of real property;

17 [~~(13)~~] (14) Placing a sign on or advertising any property
18 offering it for sale or rent without the written consent of the
19 owner or his or her duly authorized agent;

20 [~~(14)~~] (15) Violation of, or attempting to violate,
21 directly or indirectly, or assisting or enabling any person to
22 violate, any provision of sections 339.010 to 339.180 and
23 sections 339.710 to 339.860, or of any lawful rule adopted
24 pursuant to sections 339.010 to 339.180 and sections 339.710 to
25 339.860;

1 [(15)] (16) Committing any act which would otherwise be
2 grounds for the commission to refuse to issue a license under
3 section 339.040;

4 [(16)] (17) Failure to ~~[submit]~~ timely inform seller of all
5 written ~~[bona fide]~~ offers ~~[to a seller when such offers are~~
6 received prior to the seller accepting an offer in writing and
7 until the licensee has knowledge of such acceptance] unless
8 otherwise instructed in writing by the seller;

9 [(17)] (18) Been finally adjudicated and found guilty, or
10 entered a plea of guilty or nolo contendere, in a criminal
11 prosecution under the laws of this state or any other state or of
12 the United States, for any offense reasonably related to the
13 qualifications, functions or duties of any profession licensed or
14 regulated under this chapter, for any offense an essential
15 element of which is fraud, dishonesty or an act of violence, or
16 for any offense involving moral turpitude, whether or not
17 sentence is imposed;

18 [(18)] (19) Any other conduct which constitutes
19 untrustworthy, improper or fraudulent business dealings, ~~[or]~~
20 demonstrates bad faith or ~~[gross]~~ incompetence, misconduct, or
21 gross negligence;

22 [(19)] (20) Disciplinary action against the holder of a
23 license or other right to practice any profession regulated under
24 sections 339.010 to 339.180 and sections 339.710 to 339.860
25 granted by another state, territory, federal agency, or country

1 upon grounds for which revocation, suspension, or probation is
2 authorized in this state;

3 [(20)] (21) Been found by a court of competent jurisdiction
4 of having used any controlled substance, as defined in chapter
5 195, RSMo, to the extent that such use impairs a person's ability
6 to perform the work of any profession licensed or regulated by
7 sections 339.010 to 339.180 and sections 339.710 to 339.860;

8 [(21)] (22) Been finally adjudged insane or incompetent by
9 a court of competent jurisdiction;

10 [(22)] (23) Assisting or enabling any person to practice or
11 offer to practice any profession licensed or regulated under
12 sections 339.010 to 339.180 and sections 339.710 to 339.860 who
13 is not registered and currently eligible to practice under
14 sections 339.010 to 339.180 and sections 339.710 to 339.860;

15 [(23)] (24) Use of any advertisement or solicitation which
16 is knowingly false, misleading or deceptive to the general public
17 or persons to whom the advertisement or solicitation is primarily
18 directed.

19 3. After the filing of such complaint, the proceedings will
20 be conducted in accordance with the provisions of law relating to
21 the administrative hearing commission. A finding of the
22 administrative hearing commissioner that the licensee has
23 performed or attempted to perform one or more of the foregoing
24 acts shall be grounds for the suspension or revocation of his
25 license by the commission, or the placing of the licensee on

1 probaton on such terms and conditions as the real estate
2 commission shall deem appropriate.

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

9 339.105. 1. Each broker who holds funds belonging to
10 another shall maintain such funds in a separate bank [checking]
11 account in a financial institution[, either a bank, savings and
12 loan association or a credit union in this state, or in an
13 adjoining state with written permission of the commission,] which
14 shall be designated an escrow or trust account [in which all
15 money not his own coming into his possession, including]. This
16 requirement includes funds in which he or she may have some
17 future interest or claim[,]. Such funds shall be deposited
18 promptly unless all parties having an interest in the funds have
19 agreed otherwise in writing. No broker shall commingle his or
20 her personal funds or other funds in this account with the
21 exception that a broker may deposit and keep a sum not to exceed
22 [five hundred] one thousand dollars in the account from his or
23 her personal funds, which sum shall be specifically identified
24 and deposited to cover service charges related to the account.
25 [The commission may, by written waiver issued for good cause as

1 defined by rule and regulation, relieve a broker from the
2 obligation to maintain a separate escrow or trust account.]

3 2. [Before issuance of a broker license,] Each broker shall
4 notify the commission of his or her intent not to maintain an
5 escrow account, or the name of the financial institution in which
6 each escrow or trust account is maintained, the name and number
7 of each such account, and shall file written authorization
8 directed to each financial institution to allow the commission or
9 its authorized representative to examine each such account; such
10 notification and authorization shall be submitted on forms
11 provided therefor by the commission [but shall not be required in
12 any case where maintenance of an escrow or trust account has been
13 waived pursuant to subsection 1 of this section]. A broker shall
14 notify the commission within [fifteen] ten business days of any
15 change of his or her intent to maintain an escrow account, the
16 financial institution [or], account numbers, or change in account
17 status.

18 3. In conjunction with each escrow or trust account a
19 broker shall maintain [at his usual place of business,] books,
20 records, contracts and other necessary documents so that the
21 adequacy of said account may be determined at any time. The
22 account and other records shall be [open] provided to [inspection
23 by] the commission and its duly authorized agents for inspection
24 at all times during regular business hours at the broker's usual
25 place of business.

1 4. Whenever the ownership of any escrow moneys received by
2 a broker pursuant to this section is in dispute by the parties to
3 a real estate sales transaction, the broker shall report and
4 deliver the moneys to the state treasurer within three hundred
5 sixty-five days of the date of the initial projected closing date
6 in compliance with sections 447.500 to 447.595, RSMo. The
7 parties to a real estate sales transaction may agree in writing
8 that the funds are not in dispute and shall notify the broker who
9 is holding the funds.

10 5. A broker shall not be entitled to any [part of the
11 earnest] money or other money paid to him or her in connection
12 with any real estate sales transaction as part or all of his or
13 her commission or fee until the transaction has been consummated
14 or terminated, unless agreed in writing by all parties to the
15 transaction.

16 [5.] 6. When, through investigations or otherwise, the
17 commission has reasonable cause to believe that a licensee has
18 acted, is acting or is about to act in violation of this section,
19 the commission may, through the attorney general or any [of his]
20 assistants designated by [him] the attorney general, proceed in
21 the name of the commission to institute suit to enjoin any act or
22 acts in violation of this section.

23 [6.] 7. Any such suit shall be commenced in either the
24 county in which the defendant resides or in the county in which
25 the defendant has acted, is acting or is about to act in

1 violation of this section.

2 [7.] 8. In such proceeding, the court shall have power to
3 issue such temporary restraining or injunction orders, without
4 bond, which are necessary to protect the public interest. Any
5 action brought under this section shall be in addition to and not
6 in lieu of any other provisions of this chapter. In such action,
7 the commission or the state need not allege or prove that there
8 is no adequate remedy at law or that any individual has suffered
9 any economic injury as a result of the activity sought to be
10 enjoined.

11 339.120. 1. There is hereby created the "Missouri Real
12 Estate Commission", to consist of seven persons, citizens of the
13 United States and residents of this state for at least one year
14 prior to their appointment, for the purpose of carrying out and
15 enforcing the provisions of sections 339.010 to 339.180 and
16 sections 339.710 to 339.860. The commission shall be appointed
17 by the governor with the advice and consent of the senate. All
18 members, except one voting public member, of the commission must
19 have had at least ten years' experience as a real estate broker
20 prior to their appointment. The terms of the members of the
21 commission shall be for five years, and until their successors
22 are appointed and qualified. Members to fill vacancies shall be
23 appointed by the governor for the unexpired term. The president
24 of the Missouri Association of Realtors in office at the time
25 shall, at least ninety days prior to the expiration of the term

1 of the board member, other than the public member, or as soon as
2 feasible after the vacancy on the board otherwise occurs, submit
3 to the director of the division of professional registration a
4 list of five Realtors qualified and willing to fill the vacancy
5 in question, with the request and recommendation that the
6 governor appoint one of the five persons so listed, and with the
7 list so submitted, the president of the Missouri Association of
8 Realtors shall include in his or her letter of transmittal a
9 description of the method by which the names were chosen by that
10 association. The commission shall organize annually by selecting
11 from its members a chairman. The commission may do all things
12 necessary and convenient for carrying into effect the provisions
13 of sections 339.010 to 339.180 and sections 339.710 to 339.860,
14 and may promulgate necessary rules compatible with the provisions
15 of sections 339.010 to 339.180 and sections 339.710 to 339.860.
16 Each member of the commission shall receive as compensation an
17 amount set by the commission not to exceed [fifty] seventy-five
18 dollars for each day devoted to the affairs of the commission,
19 and shall be entitled to reimbursement of his or her expenses
20 necessarily incurred in the discharge of his or her official
21 duties. The governor may remove any commissioner for cause.

22 2. The public member shall be at the time of his or her
23 appointment a citizen of the United States; a resident of this
24 state for a period of one year and a registered voter; a person
25 who is not and never was a member of any profession licensed or

1 regulated pursuant to sections 339.010 to 339.180 and sections
2 339.710 to 339.860 or the spouse of such person; and a person who
3 does not have and never has had a material, financial interest in
4 either the providing of the professional services regulated by
5 sections 339.010 to 339.180 and sections 339.710 to 339.860, or
6 an activity or organization directly related to any profession
7 licensed or regulated pursuant to sections 339.010 to 339.180 and
8 sections 339.710 to 339.860. All members, including public
9 members, shall be chosen from lists submitted by the director of
10 the division of professional registration. The duties of the
11 public member shall not include the determination of the
12 technical requirements to be met for licensure or whether any
13 person meets such technical requirements or of the technical
14 competence or technical judgment of a licensee or a candidate for
15 licensure.

16 3. The commission shall employ such board personnel, as
17 defined in subdivision (4) of subsection 15 of section 620.010,
18 RSMo, as it shall deem necessary to discharge the duties imposed
19 by the provisions of sections 339.010 to 339.180 and sections
20 339.710 to 339.860.

21 4. Any rule or portion of a rule, as that term is defined
22 in section 536.010, RSMo, that is created under the authority
23 delegated in sections 339.010 to 339.180 and sections 339.710 to
24 339.860 shall become effective only if it complies with and is
25 subject to all of the provisions of chapter 536, RSMo, and, if

1 applicable, section 536.028, RSMo. All rulemaking authority
2 delegated prior to August 28, 1999, is of no force and effect and
3 repealed. Nothing in this section shall be interpreted to repeal
4 or affect the validity of any rule filed or adopted prior to
5 August 28, 1999, if it fully complied with all applicable
6 provisions of law. This section and chapter 536, RSMo, are
7 nonseverable and if any of the powers vested with the general
8 assembly pursuant to chapter 536, RSMo, to review, to delay the
9 effective date or to disapprove and annul a rule are subsequently
10 held unconstitutional, then the grant of rulemaking authority and
11 any rule proposed or adopted after August 28, 1999, shall be
12 invalid and void.

13 339.130. The commission may sue and be sued in its official
14 name, and shall have a seal which shall be affixed to [all
15 licenses,] certified copies of records and papers on file, and to
16 such other instruments as the commission may direct, and all
17 courts shall take judicial notice of such seal. Copies of
18 records and proceedings of the commission, and of all papers on
19 file in its office, certified under the said seal shall be
20 received as evidence in all courts of record. The office of the
21 commission shall be at Jefferson City.

22 339.150. 1. No real estate broker shall knowingly employ
23 or engage any person to perform any service to the broker for
24 which licensure as a real estate broker or a real estate sales
25 person is required pursuant to sections 339.010 to 339.180 and

1 sections 339.710 to 339.860, unless such a person is a licensed
2 real estate salesperson or a licensed real estate broker as
3 required by section 339.020, or a person regularly engaged in the
4 real estate brokerage business outside of the state of Missouri.
5 Any such action shall be unlawful as provided by section 339.100
6 and shall be grounds for investigation, complaint, proceedings
7 and discipline as provided by section 339.100.

8 2. No real estate licensee shall pay any part of a fee,
9 commission or other compensation received by the licensee to any
10 person for any service rendered by such person to the licensee in
11 buying, selling, exchanging, leasing, renting or negotiating a
12 loan upon any real estate, unless such a person is a licensed
13 real estate salesperson regularly associated with such a broker,
14 or a licensed real estate broker, or a person regularly engaged
15 in the real estate brokerage business outside of the state of
16 Missouri.

17 3. Notwithstanding the provisions of subsections 1 and 2 of
18 this section, any real estate broker who shall refuse to pay any
19 person for services rendered by such person to the broker, with
20 the consent, knowledge and acquiescence of the broker that such
21 person was not licensed as required by section 339.020, in
22 buying, selling, exchanging, leasing, renting or negotiating a
23 loan upon any real estate for which services a license is
24 required, and who is employed or engaged by such broker to
25 perform such services, shall be liable to such person for the

1 reasonable value of the same or similar services rendered to the
2 broker, regardless of whether or not the person possesses or
3 holds any particular license, permit or certification at the time
4 the service was performed. Any such person may bring a civil
5 action for the reasonable value of his services rendered to a
6 broker notwithstanding the provisions of section 339.160.

7 339.160. No person, partnership, corporation, or
8 association engaged within this state in the business or acting
9 in the capacity of a real estate broker or real estate
10 salesperson shall bring or maintain an action in any court in
11 this state for the recovery of compensation for services rendered
12 in the buying, selling, exchanging, leasing, renting or
13 negotiating a loan upon any real estate without alleging and
14 proving that such person, partnership, corporation, or
15 association was a licensed real estate broker or salesperson at
16 the time when the alleged cause of action arose.

17 339.170. Any person or corporation knowingly violating any
18 provision of sections 339.010 to 339.180 and sections 339.710 to
19 339.860 shall be guilty of a class B misdemeanor. Any officer or
20 agent of a corporation, or member or agent of a partnership or
21 association, who shall knowingly and personally participate in or
22 be an accessory to any violation of sections 339.010 to 339.180
23 and sections 339.710 to 339.860, shall be guilty of a class B
24 misdemeanor. This section shall not be construed to release any
25 person from civil liability or criminal prosecution under any

1 other law of this state. The commission may cause complaint to
2 be filed for violation of section 339.020 in any court of
3 competent jurisdiction, and perform such other acts as may be
4 necessary to enforce the provisions hereof.

5 339.180. 1. It shall be unlawful for any person or
6 entity not licensed under this chapter to perform any act for
7 which a real estate [broker or salesperson] license is required.
8 Upon application by the [board] commission, and the necessary
9 burden having been met, a court of general jurisdiction may grant
10 an injunction, restraining order or other order as may be
11 appropriate to enjoin a person or entity from:

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

18 (2) Engaging in any practice or business authorized by a
19 [certificate of registration or authority,] permit or license
20 issued pursuant to this chapter upon a showing that the holder
21 presents a substantial probability of serious danger to the
22 health, safety or welfare of any [resident of this state or
23 client or patient of the licensee] person with, or who is
24 considering obtaining, a legal interest in real property in this
25 state.

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

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

8 339.710. For purposes of sections 339.710 to 339.860, the
9 following terms mean:

10 (1) "Adverse material fact", a fact related to the
11 [physical condition of the] property not reasonably ascertainable
12 or known to a party which negatively affects the value of the
13 property. Adverse material facts may include matters pertaining
14 to:

15 (a) Environmental hazards affecting the property;

16 (b) Physical condition of the property which adversely
17 affects the value of the property;

18 (c) Material defects in the property;

19 (d) Material defects in the title to the property;

20 (e) Material limitation of the party's ability to perform
21 under the terms of the contract;

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

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

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

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

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

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

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

21 (7) "Commercial real estate", any real estate other than
22 real estate containing one to four residential units, real estate
23 on which no buildings or structures are located, or real estate
24 classified as agricultural and horticultural property for
25 assessment purposes pursuant to section 137.016, RSMo.

1 Commercial real estate does not include single family residential
2 units including condominiums, townhouses, or homes in a
3 subdivision when that real estate is sold, leased, or otherwise
4 conveyed on a unit-by-unit basis even though the units may be
5 part of a larger building or parcel of real estate containing
6 more than four units;

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

8 (9) "Confidential information", information obtained by the
9 licensee from the client and designated as confidential by the
10 client, information made confidential by sections 339.710 to
11 339.860 or any other statute or regulation, or written
12 instructions from the client unless the information is made
13 public or becomes public by the words or conduct of the client to
14 whom the information pertains or by a source other than the
15 licensee;

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

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

23 (12) "Designated broker", any individual licensed as a
24 broker who is operating pursuant to the definition of "real
25 estate broker" as defined in section 339.010, or any individual

1 licensed as a broker who is appointed by a partnership,
2 association, limited liability corporation, or a corporation
3 engaged in the real estate brokerage business to be responsible
4 for the acts of the partnership, association, limited liability
5 corporation, or corporation. Every real estate partnership,
6 association, or limited liability corporation, or corporation
7 shall appoint a designated broker;

8 (13) "Designated transaction broker", a licensee named by a
9 designated broker or deemed appointed by a designated broker as
10 the transaction broker for a client pursuant to section 339.820;

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

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

19 (16) "Licensee", a real estate broker or salesperson as
20 defined in section 339.010;

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

24 (18) "Ministerial acts", those acts that a licensee may
25 perform for a person or entity that are informative in nature and

1 do not rise to the level which requires the creation of a
2 brokerage relationship. Examples of these acts include, but are
3 not limited to:

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

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

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

10 (d) Setting an appointment to view property;

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

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

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

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

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

21 (19) "Residential real estate", all real property improved
22 by a structure that is used or intended to be used primarily for
23 residential living by human occupants and that contains not more
24 than four dwelling units or that contains single dwelling units
25 owned as a condominium or in a cooperative housing association,

1 and vacant land classified as residential property. The term
2 "cooperative housing association" means an association, whether
3 incorporated or unincorporated, organized for the purpose of
4 owning and operating residential real property in Missouri, the
5 shareholders or members of which, by reason of their ownership of
6 a stock or membership certificate, a proprietary lease, or other
7 evidence of membership, are entitled to occupy a dwelling unit
8 pursuant to the terms of a proprietary lease or occupancy
9 agreement;

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

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

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

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

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

22 (21) "Subagent", a designated broker, together with the
23 broker's affiliated licensees, engaged by another designated
24 broker, together with the broker's affiliated or appointed
25 affiliated licensees, to act as a limited agent for a client, or

1 a designated broker's unappointed affiliated licensees engaged by
2 the designated broker, together with the broker's appointed
3 affiliated licensees, to act as a limited agent for a client. A
4 subagent owes the same obligations and responsibilities to the
5 client pursuant to sections 339.730 to 339.740 as does the
6 client's designated broker;

7 (22) "Transaction broker", any licensee acting pursuant to
8 sections 339.710 to 339.860, who:

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

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

16 (c) Assists another party to the same transaction either
17 solely or through licensee affiliates.

18 Such licensee shall be deemed to be a transaction broker and not
19 a dual agent, provided that, notice of assumption of transaction
20 broker status is provided to the buyer and seller immediately
21 upon such default to transaction broker status, to be confirmed
22 in writing prior to execution of the contract.

23 339.760. [1.] Every designated broker who has affiliated
24 licensees shall adopt a written policy which identifies and

1 describes the relationships in which the designated broker and
2 affiliated licensees may engage with any seller, landlord, buyer,
3 or tenant as part of any real estate brokerage activities.

4 [2. A designated broker shall not be required to offer or
5 engage in more than one of the brokerage relationships enumerated
6 in section 339.720.]

7 339.780. 1. All written agreements for brokerage services
8 on behalf of a seller, landlord, buyer, or tenant shall be
9 entered into by the designated broker on behalf of that broker
10 and affiliated licensees, except that the designated broker may
11 authorize affiliated licensees in writing to enter into the
12 written agreements on behalf of the designated broker.

13 2. Before engaging in any of the activities enumerated in
14 section 339.010, a designated broker intending to establish a
15 limited agency relationship with a seller or landlord shall enter
16 into a written agency agreement with the party to be represented.
17 The agreement shall include a licensee's duties and
18 responsibilities specified in section 339.730 and the terms of
19 compensation and shall specify whether an offer of subagency may
20 be made to any other designated broker.

21 3. Before or while engaging in any acts enumerated in
22 section 339.010, except ministerial acts defined in section
23 339.710, a designated broker acting as a single agent for a buyer
24 or tenant shall enter into a written agency agreement with the
25 buyer or tenant. The agreement shall include a licensee's duties

1 and responsibilities specified in section 339.740 and the terms
2 of compensation [and shall specify whether an offer of subagency
3 may be made to any other designated broker].

4 4. Before engaging in any of the activities enumerated in
5 section 339.010, a designated broker intending to act as a dual
6 agent shall enter into a written agreement with the seller and
7 buyer or landlord and tenant permitting the designated broker to
8 serve as a dual agent. The agreement shall include a licensee's
9 duties and responsibilities specified in section 339.750 and the
10 terms of compensation.

11 5. Before engaging in any of the activities enumerated in
12 section 339.010, a designated broker intending to act as a
13 subagent shall enter into a written agreement with the designated
14 broker for the client. If a designated broker has made a
15 unilateral offer of subagency, another designated broker can
16 enter into the subagency relationship by the act of disclosing to
17 the customer that he or she is a subagent of the client. If a
18 designated broker has made an appointment pursuant to section
19 339.820, an affiliated licensee that has been excluded by such
20 appointment may enter into the subagency relationship by the act
21 of disclosing to the customer that he or she is a subagent of the
22 client.

23 6. A designated broker who intends to act as a transaction
24 broker and who expects to receive compensation from the party he
25 or she assists shall enter into a written transaction brokerage

1 agreement with such party or parties contracting for the broker's
2 service. The transaction brokerage agreement shall include a
3 licensee's duties and responsibilities specified in section
4 339.755 and the terms of compensation.

5 7. Nothing contained in this section shall prohibit the
6 public from entering into written contracts with any broker which
7 contain duties, obligations, or responsibilities which are in
8 addition to those specified in this section.

9 339.800. 1. In any real estate transaction, the designated
10 broker's compensation may be paid by the seller, the landlord,
11 the buyer, the tenant, or a third party or by sharing the
12 compensation between designated brokers.

13 2. Payment of compensation by itself shall not establish an
14 agency relationship or transaction brokerage relationship between
15 the party who paid the compensation and the designated broker or
16 any affiliated licensee.

17 3. A seller or landlord may agree that a designated broker
18 may share with another designated broker the compensation paid by
19 the seller or landlord.

20 4. A buyer or tenant may agree that a designated broker may
21 share with another designated broker the compensation paid by the
22 buyer or tenant.

23 5. A designated broker may be compensated by more than one
24 party for services in a transaction with the knowledge of all the
25 parties at or before the time of entering into a written contract

1 to buy, sell, or lease.

2 6. Nothing contained in this section shall relieve the
3 licensee from the requirement of obtaining a written agreement
4 for brokerage services or other written agreement addressing
5 compensation.

6 343.350. As used in sections 343.350 to 343.410, the
7 following terms shall mean:

8 (1) "Apprentice auctioneer", any person less than eighteen
9 years of age who acts as a bid caller under the direct
10 supervision of a licensed auctioneer, or any person eighteen
11 years of age or older who chooses not to complete an accredited
12 auction school, but works a mandatory twelve auctions as a bid
13 caller under the supervision of a licensed auctioneer prior to
14 receiving a state license;

15 (2) "Auction", the sale or lease of goods, real or
16 personal, by means of exchange between an auctioneer or
17 apprentice auctioneer and prospective purchasers or lessees,
18 which consists of a series of invitations for offers made by the
19 auctioneer or apprentice auctioneer and offers by prospective
20 purchasers or lessees for the purpose of obtaining an acceptable
21 offer for the sale or lease of goods via in-person exchange,
22 mail, telecommunications, or the Internet, but shall not include
23 any transaction taking place in an online marketplace;

24 (3) "Auctioneer", as used in section 150.380, RSMo, and
25 sections 343.350 to 343.410 is a person who sells goods,

1 merchandise, or property of any kind, at public or private
2 auction, for another person, and who receives any commission or
3 compensation of any kind for conducting such sale; but not
4 including a person who conducts such a sale by or under the
5 jurisdiction of any court, or pursuant to any judicial judgment
6 or order, or any sale of real estate, and not including any owner
7 of any goods, merchandise or property of any kind, if such owner
8 conducts the sale;

9 (4) "Board", the state board of auctioneers;

10 (5) "Goods", any chattels, merchandise, real or personal
11 property, or commodities of any form or type which may be
12 lawfully kept or offered for sale;

13 (6) "Online marketplace", any website or similar online
14 service that enables third parties to auction or otherwise
15 advertise, offer to sell, or offer to purchase goods or services
16 other than real property, but that does not examine, set the
17 prices of, or take custody of the goods or services offered for
18 sale;

19 (7) "Subaccount", the auctioneers education, research, and
20 recovery fund which is a subaccount of the state board of
21 auctioneers fund established in section 343.401.

22 343.353. It is unlawful for any person in this state to
23 engage in the occupation of auctioneering unless such person has
24 first obtained a license pursuant to sections 343.350 to 343.410.
25 Any person who violates the provisions of this section is guilty

1 of a class C misdemeanor.

2 343.356. There is hereby created within the division of
3 professional registration the "State Board of Auctioneers" for
4 the purpose of licensing all persons engaged in the practice of
5 auctioneering. The board shall have control and supervision of
6 the licensed occupations and enforcement of the terms and
7 provisions of sections 343.350 to 343.410.

8 343.359. 1. The board shall be composed of five members,
9 including one voting public member, appointed by the governor
10 with the advice and consent of the senate.

11 2. All members shall be citizens and residents of this
12 state and qualified voters of this state for at least one year
13 preceding their appointments. Auctioneer members shall be
14 licensed pursuant to the laws of this state and shall have been
15 actively engaged in the lawful practice of auctioneering for a
16 period of at least five years, and after January 1, 2004,
17 licensed as auctioneers pursuant to sections 343.350 to 343.410.
18 The public member shall be a person who is not and never was a
19 member of any profession licensed or regulated pursuant to
20 sections 343.350 to 343.410 or the spouse of such person, and who
21 does not have and never has had a material financial interest in
22 the providing of the professional services regulated by sections
23 343.350 to 343.410, or an activity or organization directly
24 related to any profession licensed or regulated pursuant to
25 sections 343.350 to 343.410. All members, including the public

1 member, shall be chosen from lists submitted by the director of
2 the division of professional registration. The duties of the
3 public member shall not include the determination of the
4 technical requirements to be met for licensure or whether any
5 person meets such technical requirements, or the technical
6 competence or technical judgment of a licensee or a candidate for
7 licensure.

8 3. At no time shall there be more than three members of the
9 same political party on the board.

10 4. Each member shall be appointed by the governor for a
11 five-year term, except that of the members first appointed, one
12 shall be appointed for a term of one year, one for a term of two
13 years, one for a term of three years, one for a term of four
14 years, and one for a term of five years.

15 343.362. The governor shall designate one of the members as
16 the first chairperson and thereafter the senior member shall
17 serve as chairperson. Vacancies in the board shall be filled for
18 the unexpired term in the same manner as the original
19 appointments are made. The governor may remove any member for
20 cause.

21 343.365. 1. The board shall administer and enforce the
22 provisions of sections 343.350 to 343.410, prescribe the duties
23 of its officers and employees, and adopt, publish and enforce
24 such rules and regulations within the scope and purview of
25 sections 343.350 to 343.410 as may be considered by the board to

1 be necessary or proper for the effective administration and
2 interpretation of sections 343.350 to 343.410, and for the
3 conduct of its business and management of its internal affairs.

4 The board shall:

5 (1) Conduct examinations of applicants for licensure to
6 practice the professions pursuant to sections 343.350 to 343.410
7 and issue licenses;

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

12 (3) Determine the sufficiency of the qualifications of
13 applicants;

14 (4) Hire and retain staff and support personnel, including
15 counsel, as are necessary for conducting board business;

16 (5) Publish annually a list of names of all auctioneers and
17 apprentice auctioneers licensed pursuant to sections 343.350 to
18 343.410. The list shall also contain the names of all persons
19 whose license has been suspended or revoked within the preceding
20 year, as well as any other information relevant to the
21 enforcement of the provisions of sections 343.350 to 343.410 that
22 the board may deem of interest to the public;

23 (6) Administer the state board of auctioneers fund pursuant
24 to section 343.410; and

25 (7) Administer the subaccount of the state board of

1 auctioneers fund pursuant to chapter 413, RSMo, and chapter 416,
2 RSMo.

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

6 343.368. At all meetings of the board, two members shall be
7 necessary to constitute a quorum for the transaction of business,
8 but no official action may be taken unless a majority of the
9 whole board may vote.

10 343.371. 1. Applicants for examination or licensure
11 pursuant to sections 343.350 to 343.410 shall possess the
12 following qualifications:

13 (1) The applicant shall be a person of good moral
14 character, have an education equivalent to the successful
15 completion of the twelfth grade or general educational
16 development certificate, and be at least eighteen years of age,
17 excluding apprentice auctioneers; and

18 (2) The applicant shall have a valid diploma from an
19 auction school that is approved by the board, or proof of
20 completion of an apprenticeship.

21 2. The sufficiency of the qualifications of applicants
22 shall be determined by the board, but the board may delegate such
23 authority to its executive director subject to such provisions as
24 the board may adopt.

25 3. For the purpose of meeting the minimum requirements for

1 examination, training completed by a student or apprentice shall
2 be recognized by the board for a period of no more than one year
3 from the date it is received.

4 343.374. 1. Every person desiring to sit for the
5 examination for any of the occupations provided for in sections
6 343.350 to 343.410 shall file with the board a written
7 application on a form supplied to the applicant, and submit proof
8 of age and education qualifications along with the required fees.
9 Each application shall contain a statement that it is made under
10 oath or affirmation and that its representations are true and
11 correct to the best knowledge and belief of the person signing
12 the same, subject to the penalties of making a false affidavit or
13 declaration.

14 2. If the board finds that the applicant has submitted the
15 credentials required for admission to the examination and has
16 paid the required fees, the board shall admit such applicant to
17 examination for licensure.

18 3. The examination of applicants for licenses to practice
19 pursuant to sections 343.350 to 343.410 shall be conducted by the
20 state board of auctioneers and shall include questions on ethics,
21 reading, writing, spelling, a general knowledge of the statutes
22 of Missouri relating to deeds, mortgages, contracts of sale,
23 agency, lease, auctions, brokerage, elementary arithmetic,
24 mathematics, the provisions of sections 343.350 to 343.410, and
25 other subject matters determined by the board to be appropriate

1 to license classifications, except as otherwise provided in this
2 section.

3 343.377. 1. Any person who is licensed as an auctioneer by
4 any county in this state on August 28, 2003, may apply for an
5 auctioneer license without taking the examination as set forth in
6 this section. To apply for such license, an applicant shall:

7 (1) Submit an application;

8 (2) Tender with such application the appropriate license
9 fee; and

10 (3) Tender with the application the subaccount fee.

11 2. Upon verification of the information contained in the
12 application and upon the individual being found to be otherwise
13 qualified, the board shall issue the applicant a license without
14 examination.

15 343.380. 1. After January 1, 2005, no person shall
16 practice as or hold himself or herself out as an auctioneer
17 unless such person has obtained a license pursuant to the
18 provisions of sections 343.350 to 343.410, provided that any
19 person who sells real property at auction shall also be licensed
20 pursuant to section 339.010, RSMo. Any person who violates this
21 subsection shall be guilty of a class C misdemeanor and shall be
22 disqualified from exercising the rights or pursuing the business
23 of an auctioneer for a period of one year.

24 2. Beginning with the renewal of a license expiring on or
25 after January 1, 2006, the board may require as a condition

1 precedent to the renewal of any license that all licensees
2 complete six hours of continuing auction education approved by
3 the board.

4 343.383. 1. All licenses granted pursuant to sections
5 343.350 to 343.410 shall be for a term of two years.

6 2. No examination shall be required for the renewal of any
7 license unless such license has been revoked. In such case, the
8 applicant shall take and pass the written examination offered by
9 the board before a new license may be issued.

10 3. Licensees shall have a sixty-day grace period beyond a
11 renewal date to renew a license. If a license is not renewed by
12 the end of the grace period, it is revoked and a new license may
13 only be issued pursuant to the provisions of sections 343.350 to
14 343.410.

15 4. The penalty for late renewals shall be two times the sum
16 of a normal license renewal fee.

17 343.386. 1. Notice in writing shall be given to the board
18 by each licensee of any change of business location within thirty
19 days after any change in location, whereupon the board shall
20 issue a new license for the unexpired period.

21 2. A change of business location shall automatically cancel
22 the license previously issued.

23 3. Changing a business location and the issuance of a new
24 license shall entitle the board to collect a fee of fifteen
25 dollars.

1 343.389. 1. If an applicant passes the examination to the
2 satisfaction of the board and has paid the fees required and
3 complied with the requirements of sections 343.350 to 343.410,
4 the board shall issue a license.

5 2. The board shall prepare and deliver to each licensee a
6 license and pocket card. The license and pocket card of the
7 apprentice auctioneer shall contain the name and address of their
8 supervising auctioneer.

9 3. All licensees shall carry their pocket cards with them
10 when performing auctioneering tasks, to be shown upon request.

11 4. A duplicate license or replacement for a lost license or
12 pocket card shall be replaced upon request by the licensee and
13 payment of a fee of fifteen dollars.

14 343.392. 1. The license requirements of sections 343.350
15 to 343.410 shall not apply to any of the following types of
16 auctions:

17 (1) Auctions of goods by an individual who personally owns
18 such goods and who did not acquire such goods for the purpose of
19 resale. Such exemption applies only to individuals, and not
20 partnerships, corporations or other business entities;

21 (2) Auctions conducted for any charitable, religious or
22 civic organization which has tax exempt status and for which the
23 auctioneer receives no compensation;

24 (3) Auctions conducted at any livestock market as defined
25 in section 277.020, RSMo;

1 (4) Auctions conducted at any wholesale motor vehicle
2 auction or public motor vehicle auction as defined in section
3 301.550, RSMo; or

4 (5) An auction conducted by an operator of a self-service
5 storage facility to enforce a lien on personal property stored by
6 an occupant.

7 2. Any properly enrolled student in a regularly scheduled
8 term of an auction school approved by the state board of
9 auctioneers is exempt from having a license while participating
10 in an auction school approved auction.

11 343.395. The board shall dispense with the examination of
12 an applicant, as provided in sections 343.350 to 343.410, and
13 shall grant a license provided that the applicant has complied
14 with the requirements of another state, territory of the United
15 States, or District of Columbia wherein the requirements for
16 licensure are substantially equal to those in force in this state
17 at the time the application of the license is filed if such
18 state, territory, or the District of Columbia has a reciprocity
19 provision for persons licensed in this state, upon due proof that
20 the applicant at the time of making the application holds a
21 current license in the other state, territory of the United
22 States, or District of Columbia, and upon the payment of a fee
23 equal to the licensing fees required to accompany an application
24 for a renewal of a license. A licensee who is currently under
25 disciplinary action with another auctioneering board shall not be

1 licensed by reciprocity.

2 343.398. 1. The board may refuse to issue any license
3 pursuant to sections 343.350 to 343.410 for one or any
4 combination of causes stated in subsection 2 of this section.
5 The board shall notify the applicant in writing of the reasons
6 for the refusal and shall advise the applicant of the applicant's
7 right to file a complaint with the administrative hearing
8 commission as provided by chapter 621, RSMo.

9 2. The board may cause a complaint to be filed with the
10 administrative hearing commission as provided by chapter 621,
11 RSMo, against any holder of a license or licenses required by
12 sections 343.350 to 343.410 or any person who has failed to renew
13 or has surrendered the person's license or licenses for any one
14 or any combination of the following causes:

15 (1) Use or illegal possession of any controlled substance,
16 as defined in chapter 195, RSMo, or use of an alcoholic beverage
17 to an extent that such use impairs a person's ability to perform
18 the work of any profession licensed or regulated by sections
19 343.350 to 343.410;

20 (2) A final adjudication and finding of guilt, or an
21 entered plea of guilty or nolo contendere in a criminal
22 prosecution under the laws of any state or of the United States
23 for any offense reasonably related to the qualifications,
24 functions or duties of any profession licensed or regulated
25 pursuant to the provisions of sections 343.350 to 343.410, for

1 any offense an essential element of which is fraud, dishonesty,
2 or an act of violence, or for any offense involving moral
3 turpitude, whether or not sentence is imposed;

4 (3) Use of fraud, deception, misrepresentation, or bribery
5 in securing any license issued pursuant to sections 343.350 to
6 343.410 or in obtaining permission to take any examination given
7 or required pursuant to sections 343.350 to 343.410;

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

10 (5) Incompetence, misconduct, gross negligence, fraud,
11 misrepresentation, or dishonesty in the performance of the
12 functions or duties of any profession licensed or regulated by
13 sections 343.350 to 343.410;

14 (6) Violation of, or assisting or enabling any person to
15 violate, any provision of sections 343.350 to 343.410, or of any
16 lawful rule or regulation adopted pursuant to sections 343.350 to
17 343.410;

18 (7) Impersonation of any person holding a license or
19 licenses or allowing any person to use his or her license or
20 licenses;

21 (8) Disciplinary action against the holder of a license or
22 other right to practice any profession regulated by sections
23 343.350 to 343.410 granted by another state, territory, federal
24 agency, or country upon grounds for which revocation or
25 suspension is authorized in this state;

1 (9) A final adjudication of insanity or incompetence by a
2 court of competent jurisdiction;

3 (10) Assisting or enabling any person to practice or offer
4 to practice any profession licensed or regulated by sections
5 343.350 to 343.410 who is not licensed and is currently
6 ineligible to practice pursuant to sections 343.350 to 343.410;

7 (11) Issuance of a license based upon a material mistake of
8 fact;

9 (12) Failure to display a valid license if so required by
10 sections 343.350 to 343.410 or any rule promulgated pursuant to
11 the provisions of sections 343.350 to 343.410;

12 (13) Violation of any professional trust or confidence;

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

16 3. After the filing of such complaint, the proceedings
17 shall be conducted in accordance with the provisions of chapter
18 621, RSMo. Upon a finding by the administrative hearing
19 commission that the grounds for disciplinary action are met, the
20 board may, singly or in combination, censure or place the person
21 named in the complaint on probation on such terms and conditions
22 as the board deems appropriate for a period not to exceed two
23 years, or may suspend for a period not to exceed five years or
24 revoke the license, certificate or permit.

25 4. The board, acting upon its own knowledge or written or

1 verified complaint filed by any person, may discipline a person
2 as provided in this section or may bring an action to enjoin any
3 person, firm, or corporation from engaging in an occupation
4 regulated by the provisions of sections 343.350 to 343.410 if
5 such person, firm, or corporation without being licensed to do so
6 by the board engages in or practices an occupation licensed
7 pursuant to the provisions of sections 343.350 to 343.410. The
8 action shall be brought in the county in which such person
9 resides, or in the case of a firm or corporation, where the firm
10 or corporation maintains its principal office; and unless it
11 appears that such person, firm, or corporation so engaging or
12 practicing such occupation is licensed, the injunction shall be
13 issued and such person, firm, or corporation shall be enjoined
14 from engaging in such activities throughout the state.

15 5. Any licensee who has had his or her license revoked
16 shall not be issued another license for a period of one year from
17 the date of revocation.

18 6. Revocation of an auctioneer's license shall
19 automatically suspend every apprentice auctioneer's license
20 granted to any person by virtue of his or her employment by the
21 auctioneer whose license has been revoked. The apprentice
22 auctioneer may retain his or her license by transferring to the
23 employment of another auctioneer within thirty days, notice of
24 which shall immediately be given to the board.

25 343.401. 1. The board shall set the amount of the fees

1 which sections 343.350 to 343.410 authorize and require by rules
2 and regulations promulgated pursuant to section 536.021, RSMo.
3 The fees shall be set at a level to produce revenue which shall
4 not substantially exceed the cost and expense of administering
5 sections 343.350 to 343.410. All fees provided for in sections
6 343.350 to 343.410 shall be payable to the director of the
7 division of professional registration in the department of
8 economic development who shall keep a record of the account
9 showing the total payments received and shall immediately
10 thereafter transmit them to the department of revenue for deposit
11 in the state treasury to the credit of a fund to be known as the
12 "State Board of Auctioneers Fund", which is hereby created. All
13 the salaries and expenses for the operation of the board shall be
14 appropriated and paid from such fund.

15 2. The provisions of section 33.080, RSMo, to the contrary
16 notwithstanding, moneys in this fund shall not be transferred and
17 placed to the credit of general revenue until the amount in the
18 fund at the end of the biennium exceeds two times the amount of
19 the appropriation from the board's funds for the preceding fiscal
20 year.

21 343.404. In addition to the examination and license renewal
22 fees required by sections 343.350 to 343.410, the board shall
23 collect a fee of fifty dollars each year from each licensee at
24 the time of license application or renewal. These funds shall be
25 deposited by the director of revenue into a subaccount of the

1 state board of auctioneers fund pursuant to section 343.401 and
2 used according to the provisions of section 343.410.

3 343.410. 1. When a licensee has been found guilty of
4 violating any one or more of the provisions of sections 343.350
5 to 343.410, and upon the entry of a final decision by the
6 administrative hearing commission pursuant to chapter 621, RSMo,
7 or if appealed, a court order, and upon certification to the
8 board, the aggrieved party or parties shall be paid such amount
9 or amounts in the aggregate not to exceed twenty thousand dollars
10 by the board from the subaccount and the auctioneer's license
11 held by the licensee against whom the claim was made by the
12 aggrieved party shall be suspended until such time as the
13 licensee has reimbursed the subaccount for all amounts paid to
14 the aggrieved party due to the violation of the licensee.

15 2. When, upon the final order of the court, the board
16 provides any sum to the aggrieved party from the subaccount, the
17 board shall be subrogated to all of the rights of the aggrieved
18 party to the extent of payment and the aggrieved party shall, to
19 the extent of the payment, assign his or her right, title, and
20 interest to the board.

21 3. All the claims for monetary damage or relief from the
22 subaccount shall be made in writing on a proof of loss form
23 submitted to the board within six months of the act of the
24 auctioneer giving rise to the loss. Failure to file such claims
25 within the six-month period shall bar the claim. Additional

1 evidence shall be submitted by the claimant if required by the
2 board.

3 4. The board, in its discretion, may use all subaccount
4 funds in excess of two hundred thousand dollars for the following
5 purposes:

6 (1) To carry out the advancement of education and research
7 in the auctioneering profession for the benefit of those licensed
8 pursuant to the provisions of sections 343.350 to 343.410 and for
9 the improvement of efficiency of the industry;

10 (2) To underwrite educational seminars, training centers,
11 and other forms of educational projects for the use and benefit
12 generally of licensees;

13 (3) To sponsor, contract for, and underwrite any other
14 educational and research projects of a similar nature having to
15 do with the advancement of the auctioneers profession in this
16 state.

17 621.045. 1. The administrative hearing commission shall
18 conduct hearings and make findings of fact and conclusions of law
19 in those cases when, under the law, a license issued by any of
20 the following agencies may be revoked or suspended or when the
21 licensee may be placed on probation or when an agency refuses to
22 permit an applicant to be examined upon his qualifications or
23 refuses to issue or renew a license of an applicant who has
24 passed an examination for licensure or who possesses the
25 qualifications for licensure without examination:

1 Missouri State Board of Accountancy
2 Missouri Board of Registration for Architects, Professional
3 Engineers [and], Land Surveyors and Landscape Architects
4 Board of Barber Examiners
5 Board of Cosmetology
6 Board of Chiropody and Podiatry
7 Board of Chiropractic Examiners
8 Missouri Dental Board
9 Board of Embalmers and Funeral Directors
10 Board of Registration for the Healing Arts
11 Board of Nursing
12 Missouri Board of Occupational Therapy
13 Board of Optometry
14 Board of Pharmacy
15 Missouri Real Estate Commission
16 Missouri Veterinary Medical Board
17 Supervisor of Liquor Control
18 Department of Health and Senior Services
19 Department of Insurance
20 Department of Mental Health

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

25 3. Notwithstanding any other provision of this section to

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

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

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

16 (3) If no contested case has been filed against the
17 licensee, advise the licensee that the licensee may, either at
18 the time the settlement agreement is signed by all parties, or
19 within fifteen days thereafter, submit the agreement to the
20 administrative hearing commission for determination that the
21 facts agreed to by the parties to the settlement constitute
22 grounds for denying or disciplining the license of the licensee;
23 and

24 (4) In any contact pursuant to this subsection by the
25 agency or its counsel with a licensee who is not represented by

1 counsel, advise the licensee that the licensee has the right to
2 consult an attorney at the licensee's own expense.

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

15 5. As to a matter settled prior to August 28, 1995, by
16 consent agreement or agreed settlement, any party to a consent
17 agreement or agreed settlement, other than a state agency, after
18 having received written notice at their last known address known
19 to the agency from the respective licensing agency of a person's
20 rights under this section, shall have six months to file an
21 action in the circuit court of Cole County contesting the
22 authority of any agency described in subsection 1 of this section
23 to enter into such consent agreement or agreed settlement. Any
24 consent agreement or agreed settlement which is not invalidated
25 by the court pursuant to this subsection shall be given full

1 force and effect by all courts and agencies.

2
3 [332.341. 1. Any person or other
4 entity who believes that a registered and
5 licensed dentist or a registered and licensed
6 dental hygienist has so acted or failed to
7 act that his certificate of registration or
8 license or both should, under the provisions
9 of this chapter, be suspended or revoked, or
10 who believes that any applicant for a
11 certificate of registration or license to
12 practice dentistry or to practice as a dental
13 hygienist is not entitled thereto under the
14 provisions of this chapter, may file a
15 complaint with the secretary-treasurer of the
16 board.

17 2. If the complaint so filed does not
18 contain statements of fact which if true
19 would authorize, under the provisions of this
20 chapter, suspension or revocation of the
21 accused's certificate or license, or does not
22 contain statements of fact which if true
23 would authorize, under the provisions of this
24 chapter, the refusal to issue a certificate
25 or license to an applicant, the board shall
26 either forthwith dismiss the charge or the
27 charges or, within its discretion, cause an
28 investigation to be made of the charges
29 contained in the complaint; after which
30 investigation the board shall either dismiss
31 the charge or charges or proceed against the
32 accused by written complaint as hereinafter
33 provided.

34 3. If the complaint so filed contains
35 statements of fact which if true would
36 authorize, under the provisions of this
37 chapter, the revocation or suspension of an
38 accused's certificate or license, or both,
39 the board shall cause an investigation to be
40 made of the charge or charges contained in
41 the complaint and unless the investigation
42 discloses the falsity of the facts upon which
43 the charge or charges in the complaint are
44 based, the board shall file with and in the
45 administrative hearing commission a written
46 complaint against the accused setting forth
47 the cause or causes for which his certificate
48 of registration or license or both should be
49 suspended or revoked. Thereafter the board

1 shall be governed by and shall proceed in
2 accordance with the provisions of chapter
3 621, RSMo.

4 4. If the charges contained in the
5 complaint filed with the board (after the
6 investigation as aforesaid), if true, would
7 constitute a cause or causes for which, under
8 the provisions of this chapter, an accused's
9 license should not be issued or renewed or a
10 cause or causes for which under the
11 provisions of this chapter a certificate of
12 registration should not be issued, the board
13 shall cause an investigation to be made of
14 the charge or charges and unless the
15 investigation discloses the falsity of the
16 facts upon which the charge or charges
17 contained in the complaint are based, the
18 board shall refuse to permit an applicant to
19 be examined upon his qualifications for
20 licensure or shall refuse to issue a
21 certificate or license or to renew a license,
22 as the case may require.

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

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

35
36 [339.600. 1. As used in sections
37 339.600 to 339.610, the following terms mean:

38 (1) "Commission", the Missouri real
39 estate commission;

40 (2) "Escrow agent", any person,
41 partnership, association or corporation,
42 foreign or domestic, who performs any of the
43 following functions: closings or settlements
44 or any function related thereto in sales,
45 exchanges or other transfers of real
46 property.

47 2. A person or entity who meets the
48 definition of escrow agent as provided in
49 subsection 1 of this section is exempt from
50 the provisions of sections 339.600 to 339.610

1 if such person is:

2 (1) A person or entity doing business
3 under the laws of this state or the United
4 States as a bank, trust company, savings and
5 loan association, credit union, commercial or
6 consumer finance company, industrial loan
7 company, insurance company or title insurance
8 company or title insurance agency;

9 (2) An attorney at law;

10 (3) A person or entity licensed
11 pursuant to this chapter rendering services
12 in the performance of his or her duties as a
13 real estate broker or salesperson;

14 (4) A mortgage loan company which is
15 subject to licensing, supervision or auditing
16 by the Federal National Mortgage Association
17 or the Federal Home Loan Mortgage Corporation
18 or the United States Veterans' Administration
19 or the Government National Mortgage
20 Association or the United States Department
21 of Housing and Urban Development or a
22 successor of any of such agencies or
23 entities, as an approved seller or servicer;
24 or

25 (5) The United States, the state of
26 Missouri or any state, any political
27 subdivision of this state or any agency,
28 division or corporate instrumentality
29 thereof.]
30

31 [339.603. 1. It is unlawful for any
32 person, partnership, association or
33 corporation, foreign or domestic, to act as
34 an escrow agent, or to advertise or attempt
35 to act as such without being properly
36 registered with the commission.

37 2. Upon application by the commission
38 and upon proof by a preponderance of the
39 evidence, a court of general jurisdiction may
40 grant an injunction, restraining order or
41 other order as may be appropriate to enjoin a
42 person from unlawfully engaging or attempting
43 to engage in the activities identified in
44 sections 339.600 to 339.610.]

45 [339.605. 1. A person, partnership,
46 association or corporation, incorporated
47 pursuant to the laws of Missouri, may be
48 registered as an escrow agent pursuant to
49 sections 339.600 to 339.610, if such person,

1 partners of the partnership, members of the
2 association or officers of the corporation
3 are at least eighteen years of age, of good
4 moral character and are competent to transact
5 the business of an escrow agent in such
6 manner as to safeguard the interest of the
7 public. The commission shall require proof
8 that such persons meet the qualifications as
9 provided in this subsection.

10 2. A corporation, partnership or
11 association may be registered if every
12 partner of the partnership, every member of
13 the association, or every officer of the
14 corporation who actively participates in its
15 escrow business has been registered and the
16 corporation, partnership or association has
17 paid all the required fees.

18 3. Applications for registration shall
19 be submitted in writing on forms furnished by
20 the commission and accompanied by such
21 information and recommendations as the
22 commission may require.

23 4. The commission may refuse to
24 register any person, partnership, association
25 or corporation if the person, partner, member
26 or a direct or indirect controlling
27 stockholder has been found guilty of, or
28 pleaded guilty to, stealing, forgery,
29 embezzlement, obtaining money under false
30 pretenses, extortion, criminal conspiracy to
31 defraud or any similar offense.]

32 [339.606. The commission may promulgate
33 rules and regulations and perform all duties
34 necessary for carrying out the provisions of
35 sections 339.600 to 339.610. The commission
36 shall set the amount of the fees which are
37 authorized pursuant to sections 339.600 to
38 339.610 by rules and regulations promulgated
39 pursuant to section 536.021, RSMo. The fees
40 shall be set at a level to produce revenue
41 which shall not substantially exceed the cost
42 and expense of administering sections 339.600
43 to 339.610.]

44 [339.607. Each registration granted
45 pursuant to sections 339.600 to 339.610 shall
46 be renewed every two years and the commission
47 shall issue a new registration upon receipt
48 of a proper renewal application and the

1 required renewal fee.]

2

3 [339.608. The fees collected pursuant
4 to the provisions of sections 339.600 to
5 339.610 shall be collected by the Missouri
6 real estate commission and shall be sent to
7 the director of the department of revenue for
8 deposit in the state treasury in the "Escrow
9 Agent Administration Fund" which is hereby
10 created. The commission shall administer the
11 fund and shall use the moneys in the fund
12 solely for the administration and enforcement
13 of sections 339.600 to 339.610.
14 Notwithstanding the provisions of section
15 33.080, RSMo, to the contrary, any unexpended
16 balance in the fund at the end of the
17 biennium shall not be transferred to the
18 general revenue fund, but shall remain in the
19 escrow agent administration fund.]

20 [339.610. Any funds received by an
21 escrow agent from any person that are to be
22 used for third-party expenses shall be
23 deposited no later than five banking days
24 after receipt in an escrow account in any
25 federally insured bank, savings and loan
26 association or credit union. The funds in
27 such escrow account shall be expended for the
28 intended use by the escrow agent within
29 ninety days after the obligations of the
30 third party have been completed.]

31 [339.612. The commission or its
32 designated agent may inspect and audit the
33 escrow accounts or accounting records of any
34 escrow agent at any time during normal
35 business hours to determine if escrow funds
36 are being expended and disbursed in a timely
37 fashion and for the intended use. If the
38 commission determines that such escrow funds
39 have been used for any purpose other than the
40 intended purposes, the escrow agent is liable
41 to the intended payee of the funds for any
42 misappropriated funds and the Missouri real
43 estate commission shall cause legal
44 proceedings to be held in any court of
45 competent jurisdiction to enforce the
46 provisions of this section and sections
47 339.610, 339.614, and 339.617. The
48 commission's authority to instigate legal

1 proceedings to enforce the provisions of this
2 section is in addition to the authority to
3 file a complaint with the administrative
4 hearing commission.]

5 [339.614. The records of any inspection
6 or audit made pursuant to the authority in
7 section 339.612 shall be made available to
8 the escrow agent and the parties to the
9 transaction but shall not be considered open
10 to the public unless public money is directly
11 involved or a court of competent jurisdiction
12 orders that such records be opened.]

13 [339.617. 1. The commission may, upon
14 its own motion or upon a written complaint
15 filed by any person, investigate any business
16 transaction, regulated by the provisions of
17 sections 339.600 to 339.610, of any person,
18 partnership, association or corporation
19 registered pursuant to the provisions of
20 sections 339.600 to 339.610. The commission
21 may use all investigatory and subpoena powers
22 provided in section 339.100 in investigating
23 such business transaction. The commission
24 may file a complaint with the administrative
25 hearing commission and the proceedings shall
26 be conducted as provided in chapter 621,
27 RSMo. If the administrative hearing
28 commission finds that the escrow agent is not
29 in compliance with sections 339.610 to
30 339.617 or is operating in an unsafe or
31 unsound manner, the commission may cancel the
32 registration of such escrow agent. If the
33 registration of any escrow agent is canceled
34 pursuant to this subsection, such escrow
35 agent may not accept any referral of business
36 which is regulated by the provisions of
37 sections 339.600 to 339.610.

38 2. No real estate licensee may
39 knowingly refer escrow or real estate closing
40 business to any escrow agent which does not
41 hold a current registration pursuant to
42 sections 339.600 to 339.610.]

43 [343.010. 1. No person shall exercise
44 the trade or business of a public auctioneer
45 by selling any goods, property or real
46 estate, without a license.

47 2. "Auctioneer", as used in section

1 150.380, RSMo, and sections 343.010, 343.070
2 to 343.105 is one who sells goods,
3 merchandise, or property of any kind, at
4 public or private auction, for another
5 person, and who receives any commission or
6 compensation of any kind for conducting such
7 sale; but not including one who conducts such
8 a sale by or under the jurisdiction of any
9 court, or pursuant to any judicial judgment
10 or order, or any foreclosure sale of real
11 estate, and not including any owner of any
12 goods, merchandise or property of any kind,
13 who himself conducts such sale.]

14 [343.030. The clerks of the respective
15 county commissions shall issue, at each term,
16 as many blank auction licenses for ten days,
17 and for one, three, six and twelve months,
18 respectively, as requested.]

19 [343.040. The licenses shall be under
20 the seals of the respective county
21 commissions, signed by the clerk, and shall
22 authorize the persons to whom granted to
23 exercise the trade and business of
24 auctioneers, by selling any property, real or
25 personal, by auction within the county for
26 the period of time specified in such
27 license.]

28 [343.050. The clerk shall deliver the
29 blank licenses so issued to the collector of
30 the counties, respectively, and charge them
31 with the amount thereof, in a book to be kept
32 for that purpose.]

33 [343.060. The county commission shall,
34 at every term, settle with the collector for
35 all blank licenses delivered to him and not
36 before accounted for, and give him credit for
37 all blank licenses returned, and charge him
38 with all not returned; and, as soon as may
39 be, the clerk shall, under the direction of
40 the county commission, certify to the state
41 auditor the amount with which each collector
42 stands charged, who shall charge such
43 collector therewith.]

44 [343.070. Each collector shall grant to
45 any person, upon application and upon

1 compliance with the requirements of this
2 chapter, an auction license for ten days, or
3 for one, three, six or twelve months, and for
4 that purpose fill up and countersign one of
5 the blank licenses received from the clerk.]

6 [343.080. 1. There shall be levied
7 upon every license, to be paid to the county
8 clerk before the delivery thereof, a fee as
9 follows:

10 (1) On each license for one month, ten
11 dollars;

12 (2) On each license for three months,
13 twenty dollars;

14 (3) On each license for six months,
15 thirty dollars;

16 (4) On each license for twelve months,
17 fifty dollars.

18 2. An auctioneer license issued in any
19 county of this state shall be valid in each
20 county of this state during the period for
21 which it is issued.

22 3. All fees imposed by this section
23 shall be paid into the county general revenue
24 fund.]

25 [343.090. In each case of a license
26 delivered, there shall be paid to the county
27 clerk two dollars as an issuance fee to the
28 clerk. The fee shall be paid into the
29 county's general revenue fund.]

30
31 [343.100. No person shall be permitted
32 to sell goods or property of any kind at
33 auction unless he shall have resided in this
34 state six months next preceding the time of
35 making application for license. Except that
36 any nonresident individual may be granted a
37 license to engage in auctioneering in this
38 state upon application and payment of the
39 appropriate fees set out in this chapter.]

40 [343.250. Every person who shall
41 violate any of the provisions of this chapter
42 is guilty of a misdemeanor, and, upon
43 conviction, shall be punished by a fine of
44 not less than twenty nor more than five
45 hundred dollars, and shall be disqualified
46 from exercising the rights or pursuing the
47 business of an auctioneer for a period of one

1 year from the date of his conviction. After
2 January 1, 1979, every person who shall
3 violate any of the provisions of this chapter
4 is guilty of a class C misdemeanor and shall
5 be disqualified from exercising the rights or
6 pursuing the business of an auctioneer for a
7 period of one year from the date of his
8 conviction.]
9

10 [436.200. As used in this act the
11 following terms shall mean:

12 (1) "Agent contract", any contract or
13 agreement pursuant to which a student athlete
14 authorizes an athlete agent to represent him
15 in the marketing of his athletic ability or
16 reputation in a sport;

17 (2) "Athlete agent", a person that, for
18 compensation, directly or indirectly recruits
19 or solicits a student athlete to enter into
20 an agent contract, financial services
21 contract or professional sports services
22 contract;

23 (3) "Financial services contract", any
24 contract or agreement pursuant to which a
25 student athlete authorizes an athlete agent
26 to provide financial services for the student
27 athlete, including but not limited to the
28 making and execution of investment and other
29 financial decisions by the athlete agent on
30 behalf of the student athlete;

31 (4) "Person", an individual, company,
32 corporation, association, partnership or
33 other entity;

34 (5) "Professional sports services
35 contract", any contract or agreement pursuant
36 to which a student athlete authorizes an
37 athlete agent to obtain employment for the
38 student athlete with a professional sports
39 team or as a professional athlete;

40 (6) "Student athlete", any athlete who
41 practices for or otherwise participates in
42 intercollegiate athletics at any college or
43 university located within this state.]
44

45 [436.205. 1. Each athlete agent must
46 register biennially with the secretary of
47 state on forms to be provided by the
48 secretary of state and, at the same time, pay
49 to the secretary of state a registration fee
50 of five hundred dollars for which the

1 secretary of state shall issue a registration
2 certificate entitling the holder to operate
3 as an athlete agent for a period of two
4 years.

5 2. When the business address of any
6 athlete agent operating in this state is
7 changed, the athlete agent must notify the
8 secretary of state within thirty days after
9 the change of address.

10 3. It is unlawful for any person to
11 operate as an athlete agent unless he is
12 registered as provided in this section.
13 Failure of the athlete agent to register is a
14 class B misdemeanor.

15 4. The secretary of state may suspend
16 or revoke the registration of any athlete
17 agent for failing to comply with the
18 provisions of this section. The suspension
19 or revocation of any registration may be
20 reviewed by a court of competent
21 jurisdiction.]

22 [436.209. 1. A student athlete who is
23 subject to the rules and regulations of the
24 National Collegiate Athletic Association, the
25 National Association for Intercollegiate
26 Athletics, or the National Junior College
27 Athletic Association, and who enters into an
28 agent contract, financial services contract
29 or professional sports services contract with
30 an athlete agent must provide written
31 notification to the athletic director or the
32 president of the college or university in
33 which he is enrolled that he has entered into
34 such a contract. Written notification must
35 be given prior to practicing for or
36 participating in any athletic event on behalf
37 of any college or university or within
38 seventy-two hours after entering into the
39 contract, whichever occurs first. Failure of
40 the student athlete to provide this
41 notification is an infraction.

42 2. An athlete agent who enters into an
43 agent contract, financial services contract
44 or professional sports services contract with
45 a student athlete who is subject to the rules
46 and regulations of the National Collegiate
47 Athletic Association, the National
48 Association for Intercollegiate Athletics, or
49 the National Junior College Athletic

1 Association must provide written notification
2 to the athletic director or the president of
3 the college or university in which the
4 student athlete is enrolled that the student
5 athlete has entered into such a contract.
6 Written notification of such a contract must
7 be given prior to the student athlete's
8 practicing for or participating in any
9 athletic event on behalf of any college or
10 university or within seventy-two hours after
11 entering into said contract, whichever occurs
12 first. Failure of the athlete agent to
13 provide this notification is a class B
14 misdemeanor.

15 3. An agent contract, financial
16 services contract or professional sports
17 services contract between a student athlete
18 and an athlete agent must have a notice
19 printed near the space for the student
20 athlete's signature which must contain the
21 following statement in ten-point boldfaced
22 type: "WARNING: IF YOU AS A STUDENT ATHLETE
23 SIGN THIS CONTRACT, YOU MAY LOSE YOUR
24 ELIGIBILITY TO COMPETE IN INTERCOLLEGIATE
25 ATHLETICS. PURSUANT TO MISSOURI LAW, YOU
26 MUST NOTIFY THE ATHLETIC DIRECTOR OR
27 PRESIDENT OF YOUR COLLEGE OR UNIVERSITY IN
28 WRITING PRIOR TO PRACTICING FOR OR
29 PARTICIPATING IN ANY ATHLETIC EVENT ON BEHALF
30 OF ANY COLLEGE OR UNIVERSITY OR WITHIN
31 SEVENTY-TWO HOURS AFTER ENTERING INTO THIS
32 CONTRACT, WHICHEVER OCCURS FIRST. FAILURE TO
33 PROVIDE THIS NOTICE IS A CRIMINAL OFFENSE."

34 4. An agent contract, financial
35 services contract or professional sports
36 services contract entered into between a
37 student athlete and an athlete agent which
38 fails to provide the notification required by
39 this section is null, void and unenforceable.

40 5. Any student athlete or athlete agent
41 who enters into an agent contract, financial
42 services contract or professional sports
43 services contract and fails to provide the
44 notification required by this section, is
45 liable to the college or university in which
46 the student athlete is enrolled for damages
47 that result from the student athlete's
48 subsequent ineligibility. In addition to any
49 damages awarded pursuant to this section,

1 additional damages may be assessed in an
2 amount equal to three times the value of the
3 athletic scholarship furnished by the
4 institution to the student athlete during the
5 student athlete's period of eligibility.

6 6. Within ten days after the date on
7 which the contractual relationship between
8 the athlete agent and the student athlete
9 arises or after notification of such
10 contractual relationship is received by the
11 athletic director or president of the college
12 or university in which the student is
13 enrolled, whichever occurs later, the student
14 athlete shall have the right to rescind the
15 contract or any contractual relationship with
16 the athlete agent by giving notice in writing
17 of his intent to rescind. The student
18 athlete may not under any circumstances
19 effect a waiver of his right to rescind, and
20 any attempt to do so shall be null, void and
21 unenforceable.]

22 [436.212. 1. An athlete agent shall
23 not publish or cause to be published false or
24 misleading information or advertisements, nor
25 give any false information or make false
26 promises to a student athlete concerning
27 employment.

28 2. An athlete agent shall not accept as
29 a client a student athlete referred by an
30 employee of or a coach for a college or
31 university located within this state in
32 exchange for any consideration.

33 3. An athlete agent shall not enter
34 into any agreement, written or oral, by which
35 the athlete agent offers anything of value to
36 any employee of or a coach for a college or
37 university located within this state in
38 return for the referral of any student
39 athlete clients by that employee or coach.

40 4. An athlete agent shall not offer
41 anything of value to induce a student athlete
42 to enter into an agent contract, financial
43 services contract, professional sports
44 services contract or other agreement by which
45 the athlete agent will represent the student
46 athlete. Negotiations regarding the athlete
47 agent's fee shall not be considered an
48 inducement.

49 5. A person shall not conduct business

1 as an athlete agent if he is not registered
2 or if his registration is suspended or
3 revoked.
4 6. Violation of any provision of this
5 section is a class B misdemeanor.]

6 Section B. The repeal and reenactment of sections 339.010,
7 339.020, 339.030, 339.040, 339.060, 339.100, 339.105, 339.120,
8 339.130, 339.150, 339.160, 339.170, 339.180, 339.710, 339.760,
9 339.780, and 339.800, of section A of this act shall become
10 effective on January 1, 2004.