

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2226,
HOUSE BILL NO. 1824,
HOUSE BILL NO. 1832 &
HOUSE BILL NO. 1990
95TH GENERAL ASSEMBLY

5205L.05T

2010

AN ACT

To repeal sections 208.215, 214.160, 214.270, 214.276, 214.277, 214.283, 214.290, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.387, 214.392, 214.400, 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 324.1100, 324.1110, 324.1112, 324.1114, 324.1124, 324.1126, 324.1128, 324.1132, 324.1134, 324.1136, 324.1140, 327.031, 327.041, 327.351, 327.411, 332.011, 334.100, 334.506, 334.613, 334.735, 335.081, 337.528, 337.600, 337.603, 337.615, 337.618, 337.643, 337.700, 337.703, 337.706, 337.715, 337.718, 337.727, 337.739, 338.333, 338.335, 338.337, 344.010, 344.020, 383.130, and 383.133, RSMo, and section 324.1102 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1102 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, section 324.1106 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1106 as

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 **bold-face** type in the above bill is proposed language.

enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, section 324.1118 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1118 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, and to enact in lieu thereof eighty-one new sections relating to the regulation of certain professions, with penalty provisions for certain sections.

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

Section A. Sections 208.215, 214.160, 214.270, 214.276, 214.277, 214.283, 214.290,
2 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363,
3 214.365, 214.367, 214.387, 214.392, 214.400, 214.410, 214.500, 214.504, 214.508, 214.512,
4 214.516, 214.550, 324.1100, 324.1110, 324.1112, 324.1114, 324.1124, 324.1126, 324.1128,
5 324.1132, 324.1134, 324.1136, 324.1140, 327.031, 327.041, 327.351, 327.411, 332.011,
6 334.100, 334.506, 334.613, 334.735, 335.081, 337.528, 337.600, 337.603, 337.615, 337.618,
7 337.643, 337.700, 337.703, 337.706, 337.715, 337.718, 337.727, 337.739, 338.333, 338.335,
8 338.337, 344.010, 344.020, 383.130, and 383.133, RSMo, and section 324.1102 as enacted by
9 conference committee substitute for senate substitute for senate committee substitute for house
10 committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session,
11 section 324.1102 as enacted by conference committee substitute no. 2 for house committee
12 substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly,
13 first regular session, section 324.1106 as enacted by conference committee substitute for senate
14 substitute for senate committee substitute for house committee substitute for house bill no. 780,
15 ninety-fourth general assembly, first regular session, section 324.1106 as enacted by conference
16 committee substitute no. 2 for house committee substitute for senate committee substitute for
17 senate bill no. 308, ninety-fourth general assembly, first regular session, section 324.1118 as
18 enacted by conference committee substitute for senate substitute for senate committee substitute
19 for house committee substitute for house bill no. 780, ninety-fourth general assembly, first
20 regular session, section 324.1118 as enacted by conference committee substitute no. 2 for house
21 committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general
22 assembly, first regular session, are repealed and eighty-one new sections enacted in lieu thereof,
23 to be known as sections 23.156, 208.215, 214.160, 214.270, 214.276, 214.277, 214.282,
24 214.283, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360,
25 214.363, 214.365, 214.367, 214.387, 214.389, 214.392, 214.400, 214.410, 214.500, 214.504,

26 214.508, 214.512, 214.516, 214.550, 324.1100, 324.1102, 324.1103, 324.1106, 324.1110,
27 324.1112, 324.1114, 324.1118, 324.1124, 324.1126, 324.1128, 324.1132, 324.1134, 324.1136,
28 324.1140, 324.1147, 327.031, 327.041, 327.351, 327.411, 332.011, 332.098, 334.100, 334.506,
29 334.613, 334.735, 335.075, 335.081, 337.528, 337.600, 337.603, 337.615, 337.618, 337.643,
30 337.700, 337.703, 337.705, 337.706, 337.715, 337.718, 337.727, 337.739, 338.333, 338.335,
31 338.337, 344.010, 344.020, 383.130, 383.133, and 1, to read as follows:

**23.156. 1. Every employee of the oversight division of the joint committee on
2 legislative research shall, before entering upon his or her duties, take and file in the offices
3 of the secretary of the senate and the chief clerk of the house of representatives an oath:**

4 **(1) To support the constitution of the state, to faithfully demean himself or herself
5 in office;**

6 **(2) To not disclose to any unauthorized person any information furnished by any
7 state department, state agency, political subdivision, or instrumentality of the state; and**

8 **(3) To not accept as presents or emoluments any pay, directly or indirectly, for the
9 discharge of any act in the line of his or her duty other than the remuneration fixed and
10 accorded to the employee by law.**

11 **2. For any violation of his or her oath of office or of any duty imposed upon him
12 or her by this section, any employee shall be guilty of a class A misdemeanor.**

208.215. 1. MO HealthNet is payer of last resort unless otherwise specified by law.
2 When any person, corporation, institution, public agency or private agency is liable, either
3 pursuant to contract or otherwise, to a participant receiving public assistance on account of
4 personal injury to or disability or disease or benefits arising from a health insurance plan to
5 which the participant may be entitled, payments made by the department of social services or
6 MO HealthNet division shall be a debt due the state and recoverable from the liable party or
7 participant for all payments made [in] **on** behalf of the participant and the debt due the state shall
8 not exceed the payments made from MO HealthNet benefits provided under sections 208.151
9 to 208.158 and section 208.162 and section 208.204 on behalf of the participant, minor or estate
10 for payments on account of the injury, disease, or disability or benefits arising from a health
11 insurance program to which the participant may be entitled. **Any health benefit plan as defined
12 in section 376.1350, third party administrator, administrative service organization, and
13 pharmacy benefits manager, shall process and pay all properly submitted medical
14 assistance subrogation claims or MO HealthNet subrogation claims using standard
15 electronic transactions or paper claim forms:**

16 **(1) For a period of three years from the date services were provided or rendered;
17 however, an entity:**

18 **(a) Shall not be required to reimburse for items or services which are not covered
19 under MO HealthNet;**

20 **(b) Shall not deny a claim submitted by the state solely on the basis of the date of**
21 **submission of the claim, the type or format of the claim form, failure to present proper**
22 **documentation of coverage at the point of sale, or failure to provide prior authorization;**

23 **(c) Shall not be required to reimburse for items or services for which a claim was**
24 **previously submitted to the health benefit plan, third party administrator, administrative**
25 **service organization, or pharmacy benefits manager by the health care provider or the**
26 **participant and the claim was properly denied by the health benefit plan, third party**
27 **administrator, administrative service organization, or pharmacy benefits manager for**
28 **procedural reasons, except for timely filing, type or format of the claim form, failure to**
29 **present proper documentation of coverage at the point of sale, or failure to obtain prior**
30 **authorization;**

31 **(d) Shall not be required to reimburse for items or services which are not covered**
32 **under or were not covered under the plan offered by the entity against which a claim for**
33 **subrogation has been filed; and**

34 **(e) Shall reimburse for items or services to the same extent that the entity would**
35 **have been liable as if it had been properly billed at the point of sale, and the amount due**
36 **is limited to what the entity would have paid as if it had been properly billed at the point**
37 **of sale; and**

38 **(2) If any action by the state to enforce its rights with respect to such claim is**
39 **commenced within six years of the state's submission of such claim.**

40 2. The department of social services, MO HealthNet division, or its contractor may
41 maintain an appropriate action to recover funds paid by the department of social services or MO
42 HealthNet division or its contractor that are due under this section in the name of the state of
43 Missouri against the person, corporation, institution, public agency, or private agency liable to
44 the participant, minor or estate.

45 3. Any participant, minor, guardian, conservator, personal representative, estate,
46 including persons entitled under section 537.080, RSMo, to bring an action for wrongful death
47 who pursues legal rights against a person, corporation, institution, public agency, or private
48 agency liable to that participant or minor for injuries, disease or disability or benefits arising
49 from a health insurance plan to which the participant may be entitled as outlined in subsection
50 1 of this section shall upon actual knowledge that the department of social services or MO
51 HealthNet division has paid MO HealthNet benefits as defined by this chapter promptly notify
52 the MO HealthNet division as to the pursuit of such legal rights.

53 4. Every applicant or participant by application assigns his right to the department of
54 social services or MO HealthNet division of any funds recovered or expected to be recovered to
55 the extent provided for in this section. All applicants and participants, including a person
56 authorized by the probate code, shall cooperate with the department of social services, MO

57 HealthNet division in identifying and providing information to assist the state in pursuing any
58 third party who may be liable to pay for care and services available under the state's plan for MO
59 HealthNet benefits as provided in sections 208.151 to 208.159 and sections 208.162 and
60 208.204. All applicants and participants shall cooperate with the agency in obtaining third-party
61 resources due to the applicant, participant, or child for whom assistance is claimed. Failure to
62 cooperate without good cause as determined by the department of social services, MO HealthNet
63 division in accordance with federally prescribed standards shall render the applicant or
64 participant ineligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections
65 208.162 and 208.204. A [recipient] **participant** who has notice or who has actual knowledge
66 of the department's rights to third-party benefits who receives any third-party benefit or proceeds
67 for a covered illness or injury is either required to pay the division within sixty days after receipt
68 of settlement proceeds the full amount of the third-party benefits up to the total MO HealthNet
69 benefits provided or to place the full amount of the third-party benefits in a trust account for the
70 benefit of the division pending judicial or administrative determination of the division's right to
71 third-party benefits.

72 5. Every person, corporation or partnership who acts for or on behalf of a person who
73 is or was eligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections
74 208.162 and 208.204 for purposes of pursuing the applicant's or participant's claim which
75 accrued as a result of a nonoccupational or nonwork-related incident or occurrence resulting in
76 the payment of MO HealthNet benefits shall notify the MO HealthNet division upon agreeing
77 to assist such person and further shall notify the MO HealthNet division of any institution of a
78 proceeding, settlement or the results of the pursuit of the claim and give thirty days' notice before
79 any judgment, award, or settlement may be satisfied in any action or any claim by the applicant
80 or participant to recover damages for such injuries, disease, or disability, or benefits arising from
81 a health insurance program to which the participant may be entitled.

82 6. Every participant, minor, guardian, conservator, personal representative, estate,
83 including persons entitled under section 537.080, RSMo, to bring an action for wrongful death,
84 or his attorney or legal representative shall promptly notify the MO HealthNet division of any
85 recovery from a third party and shall immediately reimburse the department of social services,
86 MO HealthNet division, or its contractor from the proceeds of any settlement, judgment, or other
87 recovery in any action or claim initiated against any such third party. A judgment, award, or
88 settlement in an action by a [recipient] **participant** to recover damages for injuries or other
89 third-party benefits in which the division has an interest may not be satisfied without first giving
90 the division notice and a reasonable opportunity to file and satisfy the claim or proceed with any
91 action as otherwise permitted by law.

92 7. The department of social services, MO HealthNet division or its contractor shall have
93 a right to recover the amount of payments made to a provider under this chapter because of an

94 injury, disease, or disability, or benefits arising from a health insurance plan to which the
95 participant may be entitled for which a third party is or may be liable in contract, tort or
96 otherwise under law or equity. Upon request by the MO HealthNet division, all third-party
97 payers shall provide the MO HealthNet division with information contained in a 270/271 Health
98 Care Eligibility Benefits Inquiry and Response standard transaction mandated under the federal
99 Health Insurance Portability and Accountability Act, except that third-party payers shall not
100 include accident-only, specified disease, disability income, hospital indemnity, or other fixed
101 indemnity insurance policies.

102 8. The department of social services or MO HealthNet division shall have a lien upon
103 any moneys to be paid by any insurance company or similar business enterprise, person,
104 corporation, institution, public agency or private agency in settlement or satisfaction of a
105 judgment on any claim for injuries or disability or disease benefits arising from a health
106 insurance program to which the participant may be entitled which resulted in medical expenses
107 for which the department or MO HealthNet division made payment. This lien shall also be
108 applicable to any moneys which may come into the possession of any attorney who is handling
109 the claim for injuries, or disability or disease or benefits arising from a health insurance plan to
110 which the participant may be entitled which resulted in payments made by the department or MO
111 HealthNet division. In each case, a lien notice shall be served by certified mail or registered
112 mail, upon the party or parties against whom the applicant or participant has a claim, demand or
113 cause of action. The lien shall claim the charge and describe the interest the department or MO
114 HealthNet division has in the claim, demand or cause of action. The lien shall attach to any
115 verdict or judgment entered and to any money or property which may be recovered on account
116 of such claim, demand, cause of action or suit from and after the time of the service of the notice.

117 9. On petition filed by the department, or by the participant, or by the defendant, the
118 court, on written notice of all interested parties, may adjudicate the rights of the parties and
119 enforce the charge. The court may approve the settlement of any claim, demand or cause of
120 action either before or after a verdict, and nothing in this section shall be construed as requiring
121 the actual trial or final adjudication of any claim, demand or cause of action upon which the
122 department has charge. The court may determine what portion of the recovery shall be paid to
123 the department against the recovery. In making this determination the court shall conduct an
124 evidentiary hearing and shall consider competent evidence pertaining to the following matters:

125 (1) The amount of the charge sought to be enforced against the recovery when expressed
126 as a percentage of the gross amount of the recovery; the amount of the charge sought to be
127 enforced against the recovery when expressed as a percentage of the amount obtained by
128 subtracting from the gross amount of the recovery the total attorney's fees and other costs
129 incurred by the participant incident to the recovery; and whether the department should, as a

130 matter of fairness and equity, bear its proportionate share of the fees and costs incurred to
131 generate the recovery from which the charge is sought to be satisfied;

132 (2) The amount, if any, of the attorney's fees and other costs incurred by the participant
133 incident to the recovery and paid by the participant up to the time of recovery, and the amount
134 of such fees and costs remaining unpaid at the time of recovery;

135 (3) The total hospital, doctor and other medical expenses incurred for care and treatment
136 of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the
137 participant, by insurance provided by the participant, and by the department, and the amount of
138 such previously incurred expenses which remain unpaid at the time of recovery and by whom
139 such incurred, unpaid expenses are to be paid;

140 (4) Whether the recovery represents less than substantially full recompense for the injury
141 and the hospital, doctor and other medical expenses incurred to the date of recovery for the care
142 and treatment of the injury, so that reduction of the charge sought to be enforced against the
143 recovery would not likely result in a double recovery or unjust enrichment to the participant;

144 (5) The age of the participant and of persons dependent for support upon the participant,
145 the nature and permanency of the participant's injuries as they affect not only the future
146 employability and education of the participant but also the reasonably necessary and foreseeable
147 future material, maintenance, medical rehabilitative and training needs of the participant, the cost
148 of such reasonably necessary and foreseeable future needs, and the resources available to meet
149 such needs and pay such costs;

150 (6) The realistic ability of the participant to repay in whole or in part the charge sought
151 to be enforced against the recovery when judged in light of the factors enumerated above.

152 10. The burden of producing evidence sufficient to support the exercise by the court of
153 its discretion to reduce the amount of a proven charge sought to be enforced against the recovery
154 shall rest with the party seeking such reduction. **The computerized records of the MO
155 HealthNet division, certified by the director or his designee, shall be prima facie evidence
156 of proof of moneys expended and the amount of the debt due the state.**

157 11. The court may reduce and apportion the department's or MO HealthNet division's
158 lien proportionate to the recovery of the claimant. The court may consider the nature and extent
159 of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it
160 applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The
161 department or MO HealthNet division shall pay its pro rata share of the attorney's fees based on
162 the department's or MO HealthNet division's lien as it compares to the total settlement agreed
163 upon. This section shall not affect the priority of an attorney's lien under section 484.140,
164 RSMo. The charges of the department or MO HealthNet division or contractor described in this
165 section, however, shall take priority over all other liens and charges existing under the laws of
166 the state of Missouri with the exception of the attorney's lien under such statute.

167 12. Whenever the department of social services or MO HealthNet division has a statutory
168 charge under this section against a recovery for damages incurred by a participant because of its
169 advancement of any assistance, such charge shall not be satisfied out of any recovery until the
170 attorney's claim for fees is satisfied, [irrespective] **regardless** of whether [or not] an action based
171 on participant's claim has been filed in court. Nothing herein shall prohibit the director from
172 entering into a compromise agreement with any participant, after consideration of the factors in
173 subsections 9 to 13 of this section.

174 13. This section shall be inapplicable to any claim, demand or cause of action arising
175 under the workers' compensation act, chapter 287, RSMo. From funds recovered pursuant to this
176 section the federal government shall be paid a portion thereof equal to the proportionate part
177 originally provided by the federal government to pay for MO HealthNet benefits to the
178 participant or minor involved. The department or MO HealthNet division shall enforce TEFRA
179 liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on permanently
180 institutionalized individuals. The department or MO HealthNet division shall have the right to
181 enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on all other
182 institutionalized individuals. For the purposes of this subsection, "permanently institutionalized
183 individuals" includes those people who the department or MO HealthNet division determines
184 cannot reasonably be expected to be discharged and return home, and "property" includes the
185 homestead and all other personal and real property in which the participant has sole legal interest
186 or a legal interest based upon co-ownership of the property which is the result of a transfer of
187 property for less than the fair market value within thirty months prior to the participant's entering
188 the nursing facility. The following provisions shall apply to such liens:

189 (1) The lien shall be for the debt due the state for MO HealthNet benefits paid or to be
190 paid on behalf of a participant. The amount of the lien shall be for the full amount due the state
191 at the time the lien is enforced;

192 (2) The MO HealthNet division shall file for record, with the recorder of deeds of the
193 county in which any real property of the participant is situated, a written notice of the lien. The
194 notice of lien shall contain the name of the participant and a description of the real estate. The
195 recorder shall note the time of receiving such notice, and shall record and index the notice of lien
196 in the same manner as deeds of real estate are required to be recorded and indexed. The director
197 or the director's designee may release or discharge all or part of the lien and notice of the release
198 shall also be filed with the recorder. The department of social services, MO HealthNet division,
199 shall provide payment to the recorder of deeds the fees set for similar filings in connection with
200 the filing of a lien and any other necessary documents;

201 (3) No such lien may be imposed against the property of any individual prior to the
202 individual's death on account of MO HealthNet benefits paid except:

203 (a) In the case of the real property of an individual:

204 a. Who is an inpatient in a nursing facility, intermediate care facility for the mentally
205 retarded, or other medical institution, if such individual is required, as a condition of receiving
206 services in such institution, to spend for costs of medical care all but a minimal amount of his
207 or her income required for personal needs; and

208 b. With respect to whom the director of the MO HealthNet division or the director's
209 designee determines, after notice and opportunity for hearing, that he cannot reasonably be
210 expected to be discharged from the medical institution and to return home. The hearing, if
211 requested, shall proceed under the provisions of chapter 536, RSMo, before a hearing officer
212 designated by the director of the MO HealthNet division; or

213 (b) Pursuant to the judgment of a court on account of benefits incorrectly paid on behalf
214 of such individual;

215 (4) No lien may be imposed under paragraph (b) of subdivision (3) of this subsection on
216 such individual's home if one or more of the following persons is lawfully residing in such home:

217 (a) The spouse of such individual;

218 (b) Such individual's child who is under twenty-one years of age, or is blind or
219 permanently and totally disabled; or

220 (c) A sibling of such individual who has an equity interest in such home and who was
221 residing in such individual's home for a period of at least one year immediately before the date
222 of the individual's admission to the medical institution;

223 (5) Any lien imposed with respect to an individual pursuant to subparagraph b of
224 paragraph (a) of subdivision (3) of this subsection shall dissolve upon that individual's discharge
225 from the medical institution and return home.

226 14. The debt due the state provided by this section is subordinate to the lien provided by
227 section 484.130, RSMo, or section 484.140, RSMo, relating to an attorney's lien and to the
228 participant's expenses of the claim against the third party.

229 15. Application for and acceptance of MO HealthNet benefits under this chapter shall
230 constitute an assignment to the department of social services or MO HealthNet division of any
231 rights to support for the purpose of medical care as determined by a court or administrative order
232 and of any other rights to payment for medical care.

233 16. All participants receiving benefits as defined in this chapter shall cooperate with the
234 state by reporting to the family support division or the MO HealthNet division, within thirty
235 days, any occurrences where an injury to their persons or to a member of a household who
236 receives MO HealthNet benefits is sustained, on such form or forms as provided by the family
237 support division or MO HealthNet division.

238 17. If a person fails to comply with the provision of any judicial or administrative decree
239 or temporary order requiring that person to maintain medical insurance on or be responsible for
240 medical expenses for a dependent child, spouse, or ex-spouse, in addition to other remedies

241 available, that person shall be liable to the state for the entire cost of the medical care provided
242 pursuant to eligibility under any public assistance program on behalf of that dependent child,
243 spouse, or ex-spouse during the period for which the required medical care was provided. Where
244 a duty of support exists and no judicial or administrative decree or temporary order for support
245 has been entered, the person owing the duty of support shall be liable to the state for the entire
246 cost of the medical care provided on behalf of the dependent child or spouse to whom the duty
247 of support is owed.

248 18. The department director or the director's designee may compromise, settle or waive
249 any such claim in whole or in part in the interest of the MO HealthNet program.
250 Notwithstanding any provision in this section to the contrary, the department of social services,
251 MO HealthNet division is not required to seek reimbursement from a liable third party on claims
252 for which the amount it reasonably expects to recover will be less than the cost of recovery or
253 for which recovery efforts will not be cost-effective. Cost-effectiveness is determined based on
254 the following:

- 255 (1) Actual and legal issues of liability as may exist between the [recipient] **participant**
256 and the liable party;
257 (2) Total funds available for settlement; and
258 (3) An estimate of the cost to the division of pursuing its claim.

214.160. The county commission shall invest or loan said trust fund or funds only in
2 United States government, state, county or municipal bonds, [or] **certificates of deposit**, first
3 real estate mortgages, or deeds of trust. They shall use the net income from said trust fund or
4 funds or so much thereof as is necessary to support and maintain and beautify any public or
5 private cemetery or any particular part thereof which may be designated by the person, persons
6 or firm or association making said gift or bequest. In maintaining or supporting the cemetery or
7 any particular part or portion thereof the commission shall as nearly as possible follow the
8 expressed wishes of the creator of said trust fund.

214.270. As used in sections 214.270 to 214.410, the following terms mean:

- 2 (1) "Agent" or "authorized agent", any person empowered by the cemetery operator to
3 represent the operator in dealing with the general public, including owners of the burial space
4 in the cemetery;
5 (2) "Burial space", one or more than one plot, grave, mausoleum, crypt, lawn, surface
6 lawn crypt, niche or space used or intended for the interment of the human dead;
7 (3) "Burial merchandise", a monument, marker, memorial, tombstone, headstone, urn,
8 outer burial container, or similar article which may contain specific lettering, shape, color, or
9 design as specified by the purchaser;
10 (4) "Cemetery", property restricted in use for the interment of the human dead by formal
11 dedication or reservation by deed but shall not include any of the foregoing held or operated by

12 the state or federal government or any political subdivision thereof, any incorporated city or
13 town, any county or any religious organization, cemetery association or fraternal society holding
14 the same for sale solely to members and their immediate families;

15 (5) "Cemetery association", any number of persons who shall have associated themselves
16 by articles of agreement in writing as a not-for-profit association or organization, whether
17 incorporated or unincorporated, formed for the purpose of ownership, preservation, care,
18 maintenance, adornment and administration of a cemetery. Cemetery associations shall be
19 governed by a board of directors. Directors shall serve without compensation;

20 (6) "Cemetery operator" or "operator", any person who owns, controls, operates or
21 manages a cemetery;

22 (7) "Cemetery prearranged contract", any contract with a **cemetery or** cemetery operator
23 for [goods and services covered by this chapter which includes a sale of burial merchandise in
24 which delivery of merchandise or a valid warehouse receipt under sections 214.270 to 214.550
25 is deferred pursuant to written instructions from the purchaser. It shall also mean any contract
26 for goods and services covered by sections 214.270 to 214.550 which includes a sale of burial
27 services to be performed at a future date] **burial merchandise or burial services covered by**
28 **sections 214.270 to 214.410 which is entered into before the death of the individual for**
29 **whom the burial merchandise or burial services are intended;**

30 (8) "Cemetery service" or "burial service", those services performed by a cemetery owner
31 or operator licensed as an endowed care or nonendowed cemetery including setting a monument
32 or marker, setting a tent, excavating a grave, interment, entombment, inurnment, setting a vault,
33 or other related services within the cemetery;

34 (9) "Columbarium", a building or structure for the inurnment of cremated human
35 remains;

36 (10) "Community mausoleum", a mausoleum containing a substantial area of enclosed
37 space and having either a heating, ventilating or air conditioning system;

38 (11) "Department", department of insurance, financial institutions and professional
39 registration;

40 (12) "Developed acreage", the area which has been platted into grave spaces and has
41 been developed with roads, paths, features, or ornamentations and in which burials can be made;

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

43 (14) "Division", division of professional registration;

44 (15) "Endowed care", the maintenance, repair and care of all burial space subject to the
45 endowment within a cemetery, including any improvements made for the benefit of such burial
46 space. Endowed care shall include the general overhead expenses needed to accomplish such
47 maintenance, repair, care and improvements. Endowed care shall include the terms perpetual
48 care, permanent care, continual care, eternal care, care of duration, or any like term;

49 (16) "Endowed care cemetery", a cemetery, or a section of a cemetery, which represents
50 itself as offering endowed care and which complies with the provisions of sections 214.270 to
51 214.410;

52 (17) "Endowed care fund", "endowed care trust", or "trust", any cash or cash equivalent,
53 to include any income therefrom, impressed with a trust by the terms of any gift, grant,
54 contribution, payment, devise or bequest to an endowed care cemetery, or its endowed care trust,
55 or funds to be delivered to an endowed care cemetery's trust received pursuant to a contract and
56 accepted by any endowed care cemetery operator or his agent. This definition includes the terms
57 endowed care funds, maintenance funds, memorial care funds, perpetual care funds, or any like
58 term;

59 (18) "Escrow account", an account established in lieu of an endowed care fund as
60 provided under section 214.330 or an account used to hold deposits under section 214.387;

61 (19) "Escrow agent", an attorney, title company, certified public accountant or other
62 person authorized by the division to exercise escrow powers under the laws of this state;

63 (20) "Escrow agreement", an agreement subject to approval by the office between an
64 escrow agent and a cemetery operator or its agent or related party with common ownership, to
65 receive and administer payments under cemetery prearranged contracts sold by the cemetery
66 operator;

67 (21) "Family burial ground", a cemetery in which no burial space is sold to the public
68 and in which interments are restricted to persons related by blood or marriage;

69 (22) "Fraternal cemetery", a cemetery owned, operated, controlled or managed by any
70 fraternal organization or auxiliary organizations thereof, in which the sale of burial space is
71 restricted solely to its members and their immediate families;

72 (23) "Garden mausoleum", a mausoleum without a substantial area of enclosed space
73 and having its crypt and niche fronts open to the atmosphere. Ventilation of the crypts by forced
74 air or otherwise does not constitute a garden mausoleum as a community mausoleum;

75 (24) "Government cemetery", or "municipal cemetery", a cemetery owned, operated,
76 controlled or managed by the federal government, the state or a political subdivision of the state,
77 including a county or municipality or instrumentality thereof;

78 (25) "Grave" or "plot", a place of ground in a cemetery, used or intended to be used for
79 burial of human remains;

80 (26) "Human remains", the body of a deceased person in any state of decomposition, as
81 well as cremated remains;

82 (27) "Inurnment", placing an urn containing cremated remains in a burial space;

83 (28) "Lawn crypt", a burial vault or other permanent container for a casket which is
84 permanently installed below ground prior to the time of the actual interment. A lawn crypt may
85 permit single or multiple interments in a grave space;

86 (29) "Mausoleum", a structure or building for the entombment of human remains in
87 crypts;

88 (30) "Niche", a space in a columbarium used or intended to be used for inurnment of
89 cremated remains;

90 (31) "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery or a section
91 of a cemetery for which no endowed care trust fund has been established in accordance with
92 sections 214.270 to 214.410;

93 (32) "Office", the office of endowed care cemeteries within the division of professional
94 registration;

95 (33) "Owner of burial space", a person to whom the cemetery operator or his authorized
96 agent has transferred the right of use of burial space;

97 (34) "Person", an individual, corporation, partnership, joint venture, association, trust
98 or any other legal entity;

99 (35) "Registry", the list of cemeteries maintained in the division office for public review.
100 The division may charge a fee for copies of the registry;

101 (36) "Religious cemetery", a cemetery owned, operated, controlled or managed by any
102 church, convention of churches, religious order or affiliated auxiliary thereof in which the sale
103 of burial space is restricted solely to its members and their immediate families;

104 (37) "Surface lawn crypt", a sealed burial chamber whose lid protrudes above the land
105 surface;

106 (38) "Total acreage", the entire tract which is dedicated to or reserved for cemetery
107 purposes;

108 (39) "Trustee of an endowed care fund", the separate legal entity **qualified under**
109 **section 214.330** appointed as trustee of an endowed care fund.

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

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

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

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

19 (3) Use of fraud, deception, misrepresentation or bribery in securing any license, issued
20 pursuant to sections 214.270 to 214.516 or in obtaining permission to take any examination
21 given or required pursuant to sections 214.270 to 214.516;

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

24 (5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty
25 in the performance of the functions or duties of any profession regulated by sections 214.270 to
26 214.516;

27 (6) Violation of, or assisting or enabling any person to violate, any provision of sections
28 214.270 to 214.516, or any lawful rule or regulation adopted pursuant to sections 214.270 to
29 214.516;

30 (7) Impersonation of any person holding a license or allowing any person to use his or
31 her license;

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

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

37 (10) Assisting or enabling any person to practice or offer to practice any profession
38 licensed or regulated by sections 214.270 to 214.516 who is not registered and currently eligible
39 to practice pursuant to sections 214.270 to 214.516;

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

41 (12) Failure to display a valid license;

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

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

45 (15) Willfully and through undue influence selling a burial space, cemetery services or
46 merchandise.

47 3. After the filing of such complaint, the proceedings shall be conducted in accordance
48 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing
49 commission that the grounds, provided in subsection 2 of this section, for disciplinary action are

50 met, the division may singly or in combination, censure or place the person named in the
51 complaint on probation on such terms and conditions as the division deems appropriate for a
52 period not to exceed five years, or may suspend, or revoke the license or permit **or may impose**
53 **a penalty allowed by subsection 4 of section 214.410.** No new license shall be issued to the
54 owner or operator of a cemetery or to any corporation controlled by such owner for three years
55 after the revocation of the certificate of the owner or of a corporation controlled by the owner.

56 4. [Operators of all existing endowed care or nonendowed care cemeteries shall, prior
57 to August twenty-eighth following August 28, 2001, apply for a license pursuant to this section.
58 All endowed care or nonendowed care cemeteries operating in compliance with sections 214.270
59 to 214.516 prior to August twenty-eighth following August 28, 2001, shall be granted a license
60 by the division upon receipt of application.

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

67 **5. Use of the procedures set out in this section shall not preclude the application of**
68 **any other remedy provided by this chapter.**

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

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

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

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

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

214.282. 1. Each contract sold by a cemetery operator for cemetery services or for
2 **grave lots, grave spaces, markers, monuments, memorials, tombstones, crypts, niches,**

3 **mausoleums, or other receptacles shall be voidable by the purchaser and deemed**
4 **unenforceable unless:**

5 (1) **It is in writing;**

6 (2) **It is executed by a cemetery operator who is in compliance with the licensing**
7 **provisions of this chapter;**

8 (3) **It identifies the contract purchaser and identifies the cemetery services or other**
9 **items to be provided;**

10 (4) **It identifies the name and address of any trustee or escrow agent that will**
11 **receive payments made pursuant to the contract under the provisions of sections 214.320,**
12 **214.330, or 214.387, if applicable;**

13 (5) **It contains the name and address of the cemetery operator; and**

14 (6) **It identifies any grounds for cancellation by the purchaser or by the cemetery**
15 **operator on default of payment.**

16 **2. If a cemetery prearranged contract does not substantially comply with the**
17 **provisions of this section, all payments made under such contract shall be recoverable by**
18 **the purchaser, or the purchaser's legal representative, from the contract seller or other**
19 **payee thereof, together with interest at the rate of ten percent per annum and all**
20 **reasonable costs of collection, including attorneys' fees.**

214.283. 1. **Any person, entity, association, city, town, village, county or political**
2 **subdivision that purchases, receives or holds any real estate used for the burial of dead**
3 **human bodies, excluding a family burial ground, shall notify the office of the endowed care**
4 **cemeteries of the name, location and address of such real estate on a form approved by the**
5 **office, before October 1, 2010, or within thirty days of purchasing, receiving or holding**
6 **such land or of being notified by the office of the requirements of this provision. No fee**
7 **shall be charged for such notification nor shall any penalty be assessed for failure to**
8 **register. This section shall not be deemed to exempt any operator of an endowed care**
9 **cemetery or non-endowed care cemetery from being duly licensed as required by this**
10 **chapter.**

11 **2. The division shall establish and maintain a registry of cemeteries and the registry shall**
12 **be available to the public for review at the division office or copied upon request. The division**
13 **may charge a fee for copies of the register.**

14 (1) **If, in the course of a land survey of property located in this state, a surveyor licensed**
15 **pursuant to chapter 327, RSMo, locates any cemetery which has not been previously registered,**
16 **the surveyor shall file a statement with the division regarding the location of the cemetery. The**
17 **statement shall be filed on a form as defined by division rule. No fee shall be charged to the**
18 **surveyor for such filing.**

19 (2) Any person, family, group, association, society or county surveyor may submit to the
20 division, on forms provided by the division, the names and locations of any cemetery located in
21 this state for inclusion in the registry. No fee shall be charged for such submissions.

214.300. Any cemetery operator may, after October 13, 1961, qualify to operate a
2 cemetery which has been operated as a nonendowed cemetery for a minimum of two years, as
3 an endowed care cemetery by:

4 (1) So electing in compliance with section 214.280;

5 (2) Establishing an endowed care **trust** fund in cash of one thousand dollars for each acre
6 in said cemetery with a minimum of five thousand dollars and a maximum of twenty-five
7 thousand dollars;

8 (3) Filing the report required by section 214.340.

214.310. 1. Any cemetery operator who elects to operate a new cemetery as an endowed
2 care cemetery or who represents to the public that perpetual, permanent, endowed, continual,
3 eternal care, care of duration or similar care will be furnished cemetery property sold shall create
4 an endowed care **trust** fund and shall deposit a minimum of twenty-five thousand dollars for
5 cemeteries that have in excess of one hundred burials annually or a minimum of five thousand
6 dollars for cemeteries that have one hundred or less burials annually in such fund before selling
7 or disposing of any burial space in said cemetery, or in lieu thereof such cemetery owner may
8 furnish a surety bond issued by a bonding company or insurance company authorized to do
9 business in this state in the face amount of thirty thousand dollars, and such bond shall run to the
10 office of endowed care cemeteries for the benefit of the care **trust** funds held by such cemetery.
11 This bond shall be for the purpose of guaranteeing an accumulation of twenty-five thousand
12 dollars in such care **trust** fund and also for the further purpose of assuring that the cemetery
13 owner shall provide annual perpetual or endowment care in an amount equal to the annual
14 reasonable return on a secured cash investment of twenty-five thousand dollars until twenty-five
15 thousand dollars is accumulated in said endowed care **trust** funds, and these shall be the
16 conditions of such surety bond; provided, however, the liability of the principal and surety on
17 the bond shall in no event exceed thirty thousand dollars. Provided further, that whenever a
18 cemetery owner which has made an initial deposit to the endowed care **trust** fund demonstrates
19 to the satisfaction of the administrator of the office of endowed care cemeteries that more than
20 twenty-five thousand dollars has been accumulated in the endowed care **trust** fund, the cemetery
21 owner may petition the administrator of the office of endowed care cemeteries for an order to
22 dissolve the surety bond requirement, so long as at least twenty-five thousand dollars always
23 remains in the endowed care **trust** fund.

24 2. Construction of a mausoleum, lawn crypt, columbarium or crematorium as part of a
25 cemetery then operated as an endowed care cemetery shall not be considered the establishment
26 of a new cemetery for purposes of this section.

27 3. Any endowed care cemetery which does not maintain a [fully] **adequately** staffed
28 office in the county in which the cemetery is located shall have prominently displayed on the
29 premises a sign clearly stating the operator's name, address and telephone number. If the
30 operator does not reside in the county in which the cemetery is located, the sign shall also state
31 the name, address and telephone number of a resident of the county who is the authorized agent
32 of the operator or the location of an office of the cemetery which is within ten miles of such
33 cemetery. In jurisdictions where ordinances require signs to meet certain specifications, a
34 weatherproof notice containing the information required by this subsection shall be sufficient.

214.320. 1. An operator of an endowed care cemetery shall establish and deposit in an
2 endowed care **trust** fund not less than the following amounts for burial space sold or disposed
3 of, with such deposits to the endowed care **trust** fund to be made [semiannually] **monthly** on all
4 burial space that has been fully paid for to the date of deposit:

5 (1) A minimum of fifteen percent of the gross sales price, or twenty dollars, whichever
6 is greater, for each grave space sold;

7 (2) A minimum of ten percent of the gross sales price of each crypt or niche sold in a
8 community mausoleum, or a minimum of one hundred dollars for each crypt or [ten dollars for
9 each niche sold in a garden mausoleum] **fifty dollars for each niche sold in a community**
10 **mausoleum, whichever is greater;**

11 (3) **A minimum of ten percent of the gross sales price of each crypt or niche sold in**
12 **a garden mausoleum, or a minimum of one hundred dollars for each crypt or twenty-five**
13 **dollars for each niche sold in a garden mausoleum, whichever is greater;**

14 (4) A minimum of [seventy-five dollars per grave space for] **ten percent of the gross**
15 **sales price of each lawn crypt sold or a minimum of seventy-five dollars, whichever is**
16 **greater.**

17 2. Notwithstanding the provisions of subdivision (2) of subsection 1 of this section, a
18 cemetery operator who has made the initial deposit in trust as required by sections 214.270 to
19 214.410 from his own funds, and not from funds deposited with respect to sales of burial space,
20 may deposit only one-half the minimum amounts set forth in subdivisions (1) and (2) of
21 subsection 1 of this section, until he shall have recouped his entire initial deposit. Thereafter,
22 he shall make the minimum deposits required under subdivisions (1), (2) [and] , (3), **and (4)** of
23 subsection 1 of this section.

24 3. **As required by section 214.340**, each operator of an endowed care cemetery shall[,
25 after August 28, 1990,] file with the division of professional registration, on a form provided by
26 the division, an annual endowed care trust fund report. The operator of any cemetery
27 representing the cemetery, or any portion of the cemetery, as an endowed care cemetery shall
28 make available to the division for inspection or audit at any reasonable time only those cemetery
29 records and trust fund records necessary to determine whether the cemetery's endowed care **trust**

30 fund is in compliance with sections 214.270 to 214.410. Each cemetery operator who has
31 established a [segregated] **escrow** account pursuant to section [214.385] **214.387** shall make
32 available to the division for inspection or audit at any reasonable time those cemetery records
33 and financial institution records necessary to determine whether the cemetery operator is in
34 compliance with the provisions of section [214.385]. All documents, records, and work product
35 from any inspections or audits performed by or at the direction of the division shall remain in the
36 possession of the division of professional registration and shall not be sent to the state board of
37 embalmers and funeral directors. No charge shall be made for such inspections or audits]
38 **214.387.**

39 4. [If any endowed care cemetery operator conducts the trust fund accounting and record
40 keeping outside of this state, then such operator shall maintain current and accurate copies of
41 such accounting and record keeping within this state and such copies shall be readily available
42 to the division for inspection or audit purposes.

43 5.] No cemetery operator shall operate or represent to the public by any title, description,
44 or similar terms that a cemetery provides endowed care unless the cemetery is in compliance
45 with the provisions of sections 214.270 to 214.410.

46 **5. A cemetery operator shall be exempt from the provisions of chapter 436 for the**
47 **sale of cemetery services or for grave lots, grave spaces, markers, monuments, memorials,**
48 **tombstones, crypts, niches or mausoleums, outer burial containers or other receptacle. A**
49 **cemetery operator shall be prohibited from adjusting or establishing the sales price of**
50 **items with the intent of evading the trusting or escrow provisions of this chapter.**

214.325. If the deposits to any endowed care **trust** fund [required by sections 214.270
2 to 214.410] are less than the total sum required to be set aside and deposited since the effective
3 date of such sections, the cemetery operator shall correct such deficiency by depositing not less
4 than twenty percent of such deficiency each year for five years [following August 28, 1990,] and
5 shall file, on the form provided by the division, a statement outlining the date and amount such
6 deposits were made. If the cemetery operator fails to correct the deficiency **with respect to**
7 **funds maintained under section 214.330**, the cemetery operator shall thereafter not represent
8 the cemetery as an endowed care cemetery. Any funds held in the cemetery's endowed care trust
9 shall continue to be used for endowed care for that cemetery. The cemetery operator shall
10 remain subject to the provisions of sections 214.270 to 214.410 for any cemetery or any section
11 of the cemetery for which endowed care payments have been collected, subject to the penalties
12 contained in section 214.410, and civil actions as well as subject to any regulations promulgated
13 by the division. **For purposes of this section, the term "deficiency" shall mean a deficiency**
14 **in the amount required to be deposited pursuant to section 214.320, or a deficiency created**
15 **by disbursements in excess of what is permitted under section 214.330 and shall not include**
16 **or be affected by deficiencies or shortages caused by the fluctuating value of investments.**

214.330. 1. [The endowed care fund required by sections 214.270 to 214.410 shall be
2 permanently set aside in trust or in accordance with the provisions of subsection 2 of this section.
3 The trustee of the endowed care trust shall be a state- or federally chartered financial institution
4 authorized to exercise trust powers in Missouri and located in this state. The income from the
5 endowed care fund shall be distributed to the cemetery operator at least annually or in other
6 convenient installments. The cemetery operator shall have the duty and responsibility to apply
7 the income to provide care and maintenance only for that part of the cemetery in which burial
8 space shall have been sold and with respect to which sales the endowed care fund shall have been
9 established and not for any other purpose. The principal of such funds shall be kept intact and
10 appropriately invested by the trustee, or the independent investment advisor. An endowed care
11 trust agreement may provide that when the principal in an endowed care trust exceeds two
12 hundred fifty thousand dollars, investment decisions regarding the principal and undistributed
13 income may be made by a federally registered or Missouri-registered independent qualified
14 investment advisor designated by the cemetery owner, relieving the trustee of all liability
15 regarding investment decisions made by such qualified investment advisor. It shall be the duty
16 of the trustee, or the investment advisor, in the investment of such funds to exercise the diligence
17 and care men of ordinary prudence, intelligence and discretion would employ, but with a view
18 to permanency of investment considering probable safety of capital investment, income produced
19 and appreciation of capital investment. The trustee's duties shall be the maintenance of records
20 and the accounting for and investment of moneys deposited by the operator to the endowed care
21 fund. For the purposes of sections 214.270 to 214.410, the trustee or investment advisor shall
22 not be deemed to be responsible for the care, the maintenance, or the operation of the cemetery,
23 or for any other matter relating to the cemetery, including, but not limited to, compliance with
24 environmental laws and regulations. With respect to cemetery property maintained by cemetery
25 care funds, the cemetery operator shall be responsible for the performance of the care and
26 maintenance of the cemetery property owned by the cemetery operator and for the opening and
27 closing of all graves, crypts, or niches for human remains in any cemetery property owned by the
28 cemetery operator.

29 2. If the endowed care cemetery fund is not permanently set aside in a trust fund as
30 required by subsection 1 of this section then the funds shall be permanently set aside in a
31 segregated bank account which requires the signature of the cemetery owner and either the
32 administrator of the office of endowed care cemeteries, or the signature of a licensed practicing
33 attorney with escrow powers in this state as joint signatories for any distribution from the trust
34 fund. No funds shall be expended without the signature of either the administrator of the office
35 of endowed care cemeteries, or a licensed practicing attorney with escrow powers in this state.
36 The account shall be insured by the Federal Deposit Insurance Corporation or comparable
37 deposit insurance and held in the state- or federally chartered financial institution authorized to

38 do business in Missouri and located in this state. The income from the endowed care fund shall
39 be distributed to the cemetery operator at least in annual or semiannual installments. The
40 cemetery operator shall have the duty and responsibility to apply the income to provide care and
41 maintenance only for that part of the cemetery in which burial space shall have been sold and
42 with respect to which sales the endowed care fund shall have been established and not for any
43 other purpose. The principal of such funds shall be kept intact and appropriately invested by the
44 cemetery operator with written approval of either the administrator of the office of endowed care
45 cemeteries or a licensed practicing attorney with escrow powers in this state. It shall be the duty
46 of the cemetery owner in the investment of such funds to exercise the diligence and care a person
47 of reasonable prudence, intelligence and discretion would employ, but with a view to
48 permanency of investment considering probable safety of capital investment, income produced
49 and appreciation of capital investment. The cemetery owner's duties shall be the maintenance
50 of records and the accounting for an investment of moneys deposited by the operator to the
51 endowed care fund. For purposes of sections 214.270 to 214.410, the administrator of the office
52 of endowed care cemeteries or the licensed practicing attorney with escrow powers in this state
53 shall not be deemed to be responsible for the care, maintenance, or operation of the cemetery.
54 With respect to cemetery property maintained by cemetery care funds, the cemetery operator
55 shall be responsible for the performance of the care and maintenance of the cemetery property
56 owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches
57 for human remains in any cemetery property owned by the cemetery operator.

58 3. The cemetery operator shall be accountable to the owners of burial space in the
59 cemetery for compliance with sections 214.270 to 214.410.

60 4. All endowed care funds shall be administered in accordance with an endowed care
61 fund agreement. The endowed care fund agreement shall be subject to review and approval by
62 the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers
63 in this state. The endowed care cemetery shall be notified in writing by the office of endowed
64 care cemeteries or by a licensed practicing attorney with escrow powers in this state regarding
65 the approval or disapproval of the endowed care fund agreement and regarding any changes
66 required to be made for compliance with this chapter and the rules and regulations promulgated
67 thereunder. A copy of the proposed endowed care fund agreement shall be submitted to the
68 office of endowed care cemeteries. The office of endowed care cemeteries or a licensed
69 practicing attorney with escrow powers in this state shall notify the endowed care cemetery in
70 writing of approval and of any required change. Any amendment or change to the endowed care
71 fund agreement shall be submitted to the office of endowed care cemeteries or to a licensed
72 practicing attorney with escrow powers in this state for review and approval. Said amendment
73 or change shall not be effective until approved by the office of endowed care cemeteries or by
74 a licensed practicing attorney with escrow powers in this state. All endowed care cemeteries

75 shall be under a continuing duty to file with the office of endowed care cemeteries or with a
76 licensed practicing attorney with escrow powers in this state and to submit for approval any and
77 all changes, amendment, or revisions of the endowed care fund agreement.

78 5. No principal shall be distributed from an endowed care trust fund except to the extent
79 that a unitrust election is in effect with respect to such trust under the provisions of section
80 469.411, RSMo.] **The endowed care trust fund required by sections 214.270 to 214.410**
81 **shall be permanently set aside in trust or in accordance with the provisions of subsection**
82 **2 of this section. The trustee of the endowed care trust shall be a state or federally**
83 **chartered financial institution authorized to exercise trust powers in Missouri. The contact**
84 **information for a trust officer or duly appointed representative of the trustee with**
85 **knowledge and access to the trust fund accounting and trust fund records must be**
86 **disclosed to the office or its duly authorized representative upon request.**

87 (1) **The trust fund records, including all trust fund accounting records, shall be**
88 **maintained in the state of Missouri at all times or shall be electronically stored so that the**
89 **records may be made available in the state of Missouri within fifteen business days of**
90 **receipt of a written request. The operator of an endowed care cemetery shall maintain a**
91 **current name and address of the trustee and the records custodian for the endowed care**
92 **trust fund and shall supply such information to the office, or its representative, upon**
93 **request;**

94 (2) **Missouri law shall control all endowed care trust funds and the Missouri courts**
95 **shall have jurisdiction over endowed care trusts regardless of where records may be kept**
96 **or various administrative tasks may be performed.**

97 2. **An endowed care trust fund shall be administered in accordance with Missouri**
98 **law governing trusts, including but not limited to the applicable provisions of chapters 456**
99 **and 469, except as specifically provided in this subsection or where the provisions of**
100 **sections 214.270 to 214.410 provide differently, provided that a cemetery operator shall not**
101 **in any circumstances be authorized to restrict, enlarge, change, or modify the requirements**
102 **of this section or the provisions of chapters 456 and 469 by agreement or otherwise.**

103 (1) **Income and principal of an endowed care trust fund shall be determined under**
104 **the provisions of law applicable to trusts, except that the provisions of section 469.405 shall**
105 **not apply.**

106 (2) **No principal shall be distributed from an endowed care trust fund except to the**
107 **extent that a unitrust election is in effect with respect to such trust under the provisions of**
108 **section 469.411.**

109 (3) **No right to transfer jurisdiction from Missouri under section 456.1-108 shall**
110 **exist for endowed care trusts.**

111 (4) **All endowed care trusts shall be irrevocable.**

112 **(5) No trustee shall have the power to terminate an endowed care trust fund under**
113 **the provisions of section 456.4-414.**

114 **(6) A unitrust election made in accordance with the provisions of chapter 469 shall**
115 **be made by the cemetery operator in the terms of the endowed care trust fund agreement**
116 **itself, not by the trustee.**

117 **(7) No contract of insurance shall be deemed a suitable investment for an endowed**
118 **care trust fund.**

119 **(8) The income from the endowed care fund may be distributed to the cemetery**
120 **operator at least annually on a date designated by the cemetery operator, but no later than**
121 **sixty days following the end of the trust fund year. Any income not distributed within sixty**
122 **days following the end of the trust's fiscal year shall be added to and held as part of the**
123 **principal of the trust fund.**

124 **3. The cemetery operator shall have the duty and responsibility to apply the income**
125 **distributed to provide care and maintenance only for that part of the cemetery designated**
126 **as an endowed care section and not for any other purpose.**

127 **4. In addition to any other duty, obligation, or requirement imposed by sections**
128 **214.270 to 214.410 or the endowed care trust agreement, the trustee's duties shall be the**
129 **maintenance of records related to the trust and the accounting for and investment of**
130 **moneys deposited by the operator to the endowed care trust fund.**

131 **(1) For the purposes of sections 214.270 to 214.410, the trustee shall not be deemed**
132 **responsible for the care, the maintenance, or the operation of the cemetery, or for any**
133 **other matter relating to the cemetery, or the proper expenditure of funds distributed by**
134 **the trustee to the cemetery operator, including, but not limited to, compliance with**
135 **environmental laws and regulations.**

136 **(2) With respect to cemetery property maintained by endowed care funds, the**
137 **cemetery operator shall be responsible for the performance of the care and maintenance**
138 **of the cemetery property.**

139 **5. If the endowed care cemetery fund is not permanently set aside in a trust fund**
140 **as required by subsection 1 of this section, then the funds shall be permanently set aside**
141 **in an escrow account in the state of Missouri. Funds in an escrow account shall be placed**
142 **in an endowed care trust fund under subsection 1 if the funds in the escrow account exceed**
143 **three hundred fifty thousand dollars, unless otherwise approved by the division for good**
144 **cause. The account shall be insured by the Federal Deposit Insurance Corporation or**
145 **comparable deposit insurance and held in a state or federally chartered financial**
146 **institution authorized to do business in Missouri and located in this state.**

147 **(1) The interest from the escrow account may be distributed to the cemetery**
148 **operator at least in annual or semiannual installments, but not later than six months**

149 following the calendar year. Any interest not distributed within six months following the
150 end of the calendar year shall be added to and held as part of the principal of the account.

151 (2) The cemetery operator shall have the duty and responsibility to apply the
152 interest to provide care and maintenance only for that part of the cemetery in which burial
153 space shall have been sold and with respect to which sales the escrow account shall have
154 been established and not for any other purpose. The principal of such funds shall be kept
155 intact. The cemetery operator's duties shall be the maintenance of records and the
156 accounting for an investment of moneys deposited by the operator to the escrow account.
157 For purposes of sections 214.270 to 214.410, the administrator of the office of endowed care
158 cemeteries shall not be deemed to be responsible for the care, maintenance, or operation
159 of the cemetery. With respect to cemetery property maintained by cemetery care funds,
160 the cemetery operator shall be responsible for the performance of the care and
161 maintenance of the cemetery property owned by the cemetery operator.

162 (3) The division may approve an escrow agent if the escrow agent demonstrates the
163 knowledge, skill, and ability to handle escrow funds and financial transactions and is of
164 good moral character.

165 6. The cemetery operator shall be accountable to the owners of burial space in the
166 cemetery for compliance with sections 214.270 to 214.410.

167 7. Excluding funds held in an escrow account, all endowed care trust funds shall
168 be administered in accordance with an endowed care trust fund agreement, which shall be
169 submitted to the office by the cemetery operator for review and approval. The endowed
170 care cemetery shall be notified in writing by the office of endowed care cemeteries
171 regarding the approval or disapproval of the endowed care trust fund agreement and
172 regarding any changes required to be made for compliance with sections 214.270 to 214.410
173 and the rules and regulations promulgated thereunder.

174 8. All endowed care cemeteries shall be under a continuing duty to file with the
175 office of endowed care cemeteries and to submit for prior approval any and all changes,
176 amendments, or revisions of the endowed care trust fund agreement, at least thirty days
177 before the effective date of such change, amendment, or revision.

178 9. If the endowed care trust fund agreement, or any changes, amendments, or
179 revisions filed with the office, are not disapproved by the office within thirty days after
180 submission by the cemetery operator, the endowed care trust fund agreement, or the
181 related change, amendment, or revision, shall be deemed approved and may be used by the
182 cemetery operator and the trustee. Notwithstanding any other provision of this section, the
183 office may review and disapprove an endowed care trust fund agreement, or any submitted
184 change, amendment, or revision, after the thirty days provided herein or at any other time
185 if the agreement is not in compliance with sections 214.270 to 214.410 or the rules

186 **promulgated thereunder. Notice of disapproval by the office shall be in writing and**
187 **delivered to the cemetery operator and the trustee within ten days of disapproval.**

188 **10. Funds in an endowed care trust fund or escrow account may be commingled**
189 **with endowed care funds for other endowed care cemeteries, provided that the cemetery**
190 **operator and the trustee shall maintain adequate accounting records of the disbursements,**
191 **contributions, and income allocated for each cemetery.**

192 **11. By accepting the trusteeship of an endowed care trust or accepting funds as an**
193 **escrow agent pursuant to sections 214.270 to 214.410, the trustee or escrow agent submits**
194 **personally to the jurisdiction of the courts of this state and the office of endowed care**
195 **cemeteries regarding the administration of the trust or escrow account. A trustee or**
196 **escrow agent shall consent in writing to the jurisdiction of the state of Missouri and the**
197 **office in regards to the trusteeship or the operation of the escrow account and to the**
198 **appointment of the office of secretary of state as its agent for service of process regarding**
199 **any administrative or legal actions relating to the trust or the escrow account, if it has no**
200 **designated agent for service of process located in this state. Such consent shall be filed with**
201 **the office prior to accepting funds pursuant to sections 214.270 to 214.410 as trustee or as**
202 **an escrow agent on a form provided by the office by rule.**

214.335. **1. Any endowed care cemetery may require a contribution to the endowed care**
2 **fund or to a separate memorial care fund for each memorial or monument installed on a grave**
3 **in the cemetery. Such contribution, if required by a cemetery, shall not exceed twenty cents per**
4 **square inch of base area, and shall be charged on every installation regardless of the person**
5 **performing the installation. Each contribution made pursuant to a contract or agreement entered**
6 **into after August 28, 1990, shall be entrusted and administered pursuant to sections 214.270 to**
7 **214.410 for the endowed care fund. Each contribution made pursuant to a contract or agreement**
8 **entered into before August 28, 1990, shall be governed by the law in effect at the time the**
9 **contract or agreement was entered into.**

10 **2. If the deposits to any endowed care trust fund are less than the total sum**
11 **required to be set aside and deposited since the effective date of such sections, the cemetery**
12 **operator shall correct such deficiency by depositing not less than twenty percent of such**
13 **deficiency each year for five years and shall file, on the form provided by the division, a**
14 **statement outlining the date and amount such deposits were made. If the cemetery**
15 **operator fails to correct the deficiency with respect to funds maintained under section**
16 **214.330, the cemetery operator shall thereafter not represent the cemetery as an endowed**
17 **care cemetery. Any funds held in the cemetery's endowed care trust shall continue to be**
18 **used for endowed care for that cemetery. The cemetery operator shall remain subject to**
19 **the provisions of sections 214.270 to 214.410 for any cemetery or any section of the**
20 **cemetery for which endowed care payments have been collected, subject to the penalties**

21 **contained in section 214.410, and civil actions, as well as subject to any regulations**
22 **promulgated by the division. For purposes of this section, the term "deficiency" shall**
23 **mean a deficiency in the amount required to be deposited pursuant to subsection 1 of this**
24 **section, or a deficiency created by disbursements in excess of what is permitted under**
25 **section 214.330 and shall not include or be affected by deficiencies or shortages caused by**
26 **the fluctuating value of investments.**

214.340. 1. Each operator of an endowed care cemetery shall maintain at an office in
2 the cemetery or, if the cemetery has no office in the cemetery, at an office within a reasonable
3 distance of the cemetery, the reports of the endowed care **trust** fund's operation for the preceding
4 seven years. Each report shall contain, at least, the following information:

5 (1) Name and address of the trustee of the endowed care **trust** fund and the depository,
6 if different from the trustee;

7 (2) Balance per previous year's report;

8 (3) Principal contributions received since previous report;

9 (4) Total earnings since previous report;

10 (5) Total distribution to the cemetery operator since the previous report;

11 (6) Current balance;

12 (7) A statement of all assets listing cash, real or personal property, stocks, bonds, and
13 other assets, showing cost, acquisition date and current market value of each asset;

14 (8) Total expenses, excluding distributions to cemetery operator, since previous report;
15 and

16 (9) A statement of the cemetery's total acreage and of its developed acreage.

17 2. Subdivisions (1) through (7) of the report described in subsection 1 above shall be
18 certified to under oath as complete and correct by a corporate officer of the trustee. Subdivision
19 (8) of such report shall be certified under oath as complete and correct by an officer of the
20 cemetery operator. Both the trustee and cemetery operator or officer shall be subject to the
21 penalty of making a false affidavit or declaration.

22 3. The report shall be placed in the cemetery's office within ninety days of the close of
23 the trust's fiscal year. A copy of this report shall be filed by the cemetery operator with the
24 division of professional registration as condition of license renewal as required by subsection 4
25 of section 214.275. [The report shall not be sent to the state board of embalmers and funeral
26 directors.]

27 4. Each cemetery operator who establishes [a segregated] **an escrow or trust** account
28 pursuant to [subsection 1 of section 214.385] **section 214.387** shall file with the report required
29 under subsection 1 of this section [a segregated] **an escrow or trust** account report that shall
30 provide the following information:

31 (1) The [number of monuments, markers and memorials] **total face value of all**
32 **contracts for burial merchandise and services** that have been deferred for delivery by purchase
33 designation; **and**

34 (2) [The aggregate wholesale cost of all such monuments, markers and memorials; and

35 (3)] The amount on deposit in the [segregated] **escrow or trust** account established
36 pursuant to section [214.385] **214.387**, and the account number **in the case of an escrow**
37 **account.**

214.345. 1. Any cemetery operator who negotiates the sale of burial space in any
2 cemetery located in this state shall provide each prospective owner of burial space a written
3 statement, which may be a separate form or a part of the sales contract, which states and explains
4 in plain language that the burial space is part of an endowed care cemetery; that the cemetery has
5 established and maintains the endowed care **trust** fund required by law; and that the information
6 regarding the fund described in section 214.340 is available to the prospective purchaser. If the
7 burial space is in a nonendowed cemetery, or in a nonendowed section of an endowed care
8 cemetery, the cemetery operator shall state he has elected not to establish an endowed care **trust**
9 fund.

10 2. The operator of each endowed care cemetery shall, upon request, give to the public
11 for retention a copy of the endowed care **trust** fund annual report prepared pursuant to the
12 provisions of subsection 1 of section 214.340.

214.360. No cemetery operator, nor any director, officer or shareholder of any cemetery
2 may borrow or in any other way make use of the endowed care **trust** funds for his own use,
3 directly or indirectly, or for furthering or developing his or any other cemetery, nor may any
4 trustee lend or make such funds available for said purpose or for the use of any operator or any
5 director, officer or shareholder of any cemetery.

214.363. In the event of a cemetery's bankruptcy, insolvency, or assignment for the
2 benefit of creditors, the endowed care **trust** funds shall not be available to any creditor as assets
3 of the cemetery's owner or to pay any expenses of any bankruptcy or similar proceeding, but shall
4 be retained intact to provide for the future maintenance of the cemetery.

214.365. Prior to any action as provided in subsection 2 of section 214.205, and when
2 the division has information that a [public] cemetery is not providing maintenance and care, has
3 been abandoned, or has ceased operation, the division may investigate the cemetery to determine
4 the cemetery's current status. If the division finds evidence that the cemetery is abandoned, is
5 not conducting business, or is not providing maintenance and care, the division may apply to the
6 circuit court for appointment as receiver, trustee, or successor in trust.

214.367. **1. Prior to selling or otherwise disposing of a majority of the business**
2 **assets of a cemetery, or a majority of its stock or other ownership interest, if a corporation**
3 **or other organized business entity, the cemetery operator shall provide written notification**

4 **to the division of its intent at least thirty days prior to the date set for the transfer, or the**
5 **closing of the sale, or the date set for termination of its business. Such notice is confidential**
6 **and shall not be considered a public record subject to the provisions of chapter 610 until**
7 **the sale of the cemetery has been effectuated. Upon receipt of the written notification, the**
8 **division may take reasonable and necessary action to determine that the cemetery operator**
9 **has made proper plans to assure that trust funds or funds held in an escrow account for**
10 **or on behalf of the cemetery will be set aside and used as provided in sections 214.270 to**
11 **214.410, including, but not limited to, an audit or examination of books and records. The**
12 **division may waive the requirements of this subsection or may shorten the period of**
13 **notification for good cause or if the division determines in its discretion that compliance**
14 **with its provisions are not necessary.**

15 **2. A cemetery operator may complete the sale, transfer, or cessation if the division**
16 **does not disapprove the transaction within thirty days after receiving notice. Nothing in**
17 **this section shall be construed to restrict any other right or remedy vested in the division**
18 **or the attorney general.**

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

214.387. 1. [Upon written instructions from the purchaser of burial merchandise or
2 burial services set forth in a cemetery prearranged contract, a cemetery may defer delivery of
3 such burial merchandise or a warehouse receipt for the same under section 214.385, or
4 performance of services, to a date designated by the purchaser, provided the cemetery operator,
5 after deducting sales and administrative costs not to exceed twenty percent of the purchase price,
6 deposits the remaining portion of the purchase price into an escrow or trust account as herein
7 provided, within sixty days following receipt of payment from the purchaser. Funds so deposited
8 pursuant to this section shall be maintained in such account until delivery of the property or the
9 performance of services is made or the contract for the purchase of such property or services is
10 canceled. The account is subject to inspection, examination or audit by the division. No
11 withdrawals may be made from the escrow or trust account established pursuant to this section
12 except as herein provided.

13 **2. Upon written instructions from the purchaser of an interment, entombment, or**
14 **inurnment cemetery service, a cemetery may defer performance of such service to a date**
15 **designated by the purchaser, provided the cemetery operator, within forty-five days of the date**
16 **the agreement is paid in full, deposits from its own funds an amount equal to eighty percent of**
17 **the published retail price into a trusteed account. Funds deposited in a trusteed account pursuant**

18 to this section and section 214.385 shall be maintained in such account until delivery of the
19 service is made or the agreement for the purchase of the service is canceled. No withdrawals
20 may be made from the trustee account established pursuant to this section and section 214.385
21 except as provided herein. Money in this account shall be invested utilizing the prudent man
22 theory and is subject to audit by the division. Names and addresses of depositories of such
23 money shall be submitted with the annual report.

24 3. Upon the delivery of the interment, entombment, or inurnment cemetery service
25 agreed upon by the cemetery or its agent, or the cancellation of the agreement for the purchase
26 of such service, the cemetery operator may withdraw from the trustee account an amount equal
27 to (i) the market value of the trustee account based on the most recent account statement issued
28 to the cemetery operator, times (ii) the ratio the service's deposit in the account bears to the
29 aggregate deposit of all services which are paid in full but not delivered. The trustee account
30 may be inspected or audited by the division.

31 4. The provisions of this section shall apply to all agreements entered into after August
32 28, 2002.] **With the exception of sales made pursuant to section 214.385, all sales of**
33 **prearranged burial merchandise and services shall be made pursuant to this section.**

34 2. **Upon written instructions from the purchaser of burial merchandise or burial**
35 **services set forth in a cemetery prearranged contract, a cemetery may defer delivery of**
36 **such burial merchandise or a warehouse receipt for the same under section 214.385, or**
37 **performance of services, to a date designated by the purchaser, provided the cemetery**
38 **operator, after deducting sales and administrative costs associated with the sale, not to**
39 **exceed twenty percent of the purchase price, deposits the remaining portion of the**
40 **purchase price into an escrow or trust account as herein provided, within sixty days**
41 **following receipt of payment from the purchaser. Funds so deposited pursuant to this**
42 **section shall be maintained in such account until delivery of the property or the**
43 **performance of services is made or the contract for the purchase of such property or**
44 **services is cancelled, and fees and costs associated with the maintenance of the trust or**
45 **escrow arrangement shall be charged to these funds. The account is subject to inspection,**
46 **examination or audit by the division. No withdrawals may be made from the escrow or**
47 **trust account established pursuant to this section except as herein provided.**

48 3. **Each escrow arrangement must comply with the following:**

49 (1) **The escrow agent shall be located in Missouri, authorized to exercise escrow**
50 **powers, and shall maintain the escrow records so that they may be accessed and produced**
51 **for inspection within five business days of the agent's receipt of a written request made by**
52 **the office or its duly authorized representative. A cemetery operator shall not serve as an**
53 **escrow agent for the cemetery operator's account nor shall the escrow agent be employed**
54 **by or under common ownership with the cemetery operator. The cemetery operator shall**

55 **maintain a current name and address for the escrow agent with the office, and shall obtain**
56 **written approval from the office before making any change in the name or address of the**
57 **escrow agent. Notwithstanding any other provision of law, information regarding the**
58 **escrow agent shall be deemed an open record;**

59 **(2) The escrow account funds shall be maintained in depository accounts at a**
60 **Missouri financial institution that provides Federal Deposit Insurance Corporation or**
61 **comparable deposit insurance;**

62 **(3) The escrow arrangement shall be administered by the escrow agent pursuant**
63 **to an agreement approved by the office under the same filing and approval procedure as**
64 **that set forth for endowed care trust fund agreements in section 214.330;**

65 **(4) The operator shall establish a separate depository account for each cemetery**
66 **prearranged contract administered pursuant to this subsection;**

67 **(5) The division may promulgate by rule a form escrow agreement to be used by**
68 **a cemetery operator operating pursuant to this section.**

69 **4. Each trust must comply with the following:**

70 **(1) The trustee shall be a state or federally chartered financial institution**
71 **authorized to exercise trust powers in Missouri, provided that a foreign financial**
72 **institution must be approved by the office;**

73 **(2) The trust fund records, including all trust fund accounting records, shall either**
74 **be maintained in the state of Missouri or shall be electronically stored so that the records**
75 **may be made available within fifteen business days of the trustee's receipt of a written**
76 **request made by the office or its duly authorized representative. The cemetery operator**
77 **shall maintain a current name and address of the trustee and the records custodian and**
78 **shall supply such information to the office or its representative upon request;**

79 **(3) The principal of such funds shall be appropriately invested pursuant to the**
80 **prudent investor rule under chapter 469, provided that no trust funds shall be invested in**
81 **any term insurance product;**

82 **(4) Payments regarding two or more cemetery prearranged contracts may be**
83 **deposited into and commingled in the same trust, so long as adequate records are made**
84 **available to the trustee to account for cemetery prearranged contracts on an individual**
85 **basis with regard to deposits, earnings, distributions, and any taxes;**

86 **(5) Trust instruments shall be subject to the same filing and approval procedure**
87 **as that set forth for endowed care trust fund agreements under section 214.330;**

88 **(6) A trustee may commingle the funds from trusts of unrelated cemetery operators**
89 **for investment purposes if the trustee has adequate accounting for the allocations,**
90 **disbursements, payments, and income among the participating trusts.**

91 **5. The income from escrow accounts, after payment of expenses associated with the**
92 **arrangement, shall be distributed to the cemetery operator. All other distributions from**
93 **trusts and escrow accounts shall be made pursuant to forms approved by the office. For**
94 **performance of a cemetery prearranged contract, a certificate of performance form signed**
95 **by the cemetery operator shall be required for distribution. For cancellation of a cemetery**
96 **prearranged contract, a certificate of cancellation form signed by the cemetery operator**
97 **and the purchaser shall be required for distribution.**

98 **6. A cemetery prearranged contract is subject to cancellation as follows:**

99 **(1) At any time before the final disposition of the deceased, or before the services**
100 **or merchandise described in this section are provided, the purchaser may cancel the**
101 **contract without cause by delivering written notice thereof to the operator. Within fifteen**
102 **days after its receipt of such notice, the cemetery operator shall pay to the purchaser a net**
103 **amount equal to eighty percent of all payments made under the contract. The cemetery**
104 **operator shall be entitled to keep one-half of the interest earned on trust funds. Upon**
105 **delivery of the purchaser's receipt for such payment to the escrow agent or trustee, the**
106 **escrow agent or trustee shall distribute to the cemetery operator from the escrow account**
107 **or trust an amount equal to all deposits made into the escrow account or trust for the**
108 **contract;**

109 **(2) Notwithstanding the provisions of subdivision (1) of this subsection, if a**
110 **purchaser is eligible, becomes eligible, or desires to become eligible, to receive public**
111 **assistance under chapter 208 or any other applicable state or federal law, the purchaser**
112 **may irrevocably waive and renounce his right to cancel the contract pursuant to the**
113 **provisions of subdivision (1) of this section, which waiver and renunciation shall be made**
114 **in writing and delivered to the cemetery operator;**

115 **(3) Notwithstanding the provisions of subdivision (1) of this subsection, any**
116 **purchaser, within thirty days of receipt of the executed contract, may cancel the contract**
117 **without cause by delivering written notice thereof to the cemetery operator, and receive a**
118 **full refund of all payments made on the contract;**

119 **(4) Notwithstanding the provisions of subdivision (1) of this subsection, once any**
120 **purchase order is entered for the production or manufacture of burial merchandise, per**
121 **the purchaser's written request, the purchaser's obligation to pay for said burial**
122 **merchandise shall be noncancellable;**

123 **(5) No funds subject to a purchaser's right of cancellation hereunder shall be**
124 **subject to the claims of the cemetery operator's creditors.**

125 **7. Burial merchandise sold through a contract with a cemetery or cemetery**
126 **operator which is entered into after the death of the individual for whom the burial**

127 merchandise is intended shall not be subject to any trusting or escrow requirement of this
128 section.

129 **8. This section shall apply to all agreements entered into after August 28, 2010.**

**214.389. 1. The division may direct a trustee, financial institution, or escrow agent
2 to suspend distribution from an endowed care trust fund or escrow account if the cemetery
3 operator does not have a current and active cemetery operator license, has failed to file an
4 annual report, or if, after an audit or examination, the division determines there is a
5 deficiency in an endowed care trust fund or escrow account maintained under section
6 214.330 and the cemetery operator has failed to file a corrective action plan detailing how
7 the deficiency shall be remedied. For purposes of this section, a deficiency shall only be
8 deemed to exist if, after an audit or examination, the division determines a cemetery
9 operator has failed to deposit the total aggregate of funds required to be deposited in trust
10 or an escrow account pursuant to section 214.320 or subsection 1 of section 214.335, or has
11 received disbursements from the trust or escrow account in excess of what is permitted
12 under section 214.330. No deficiency shall be deemed to be created by fluctuations in the
13 value of investments held in trust or escrow.**

**14 2. The division shall provide written notification to the cemetery operator and the
15 trustee, financial institution, or escrow agent within fourteen days of discovering a
16 potential violation as described in this section. Upon receipt of written notification from
17 the division, the cemetery operator shall have sixty days to cure any alleged violations or
18 deficiencies cited in the notification without a suspension of distribution. If, after the sixty-
19 day time period, the division feels the cemetery has not cured the alleged violations or
20 deficiencies cited in the notification, the division may send a notice of suspension to the
21 cemetery operator that the division is ordering a suspension of distribution as described
22 in this section. In the event of a suspension of distribution, the amount of any distribution
23 suspended shall become principal, with credit against the deficiency, unless the cemetery
24 operator files an appeal with a court of competent jurisdiction or with the administrative
25 hearing commission, as provided herein. In the event of an appeal, a cemetery operator
26 may request the court or administrative hearing commission stay the suspension of
27 distribution after a showing of necessity and good cause or authorize payment from the
28 endowed care trust fund or escrow account for necessary expenses from any amount
29 subject to distribution.**

**30 3. Upon receipt of an order from the division suspending distribution pursuant to
31 this section, a trustee, financial institution, or escrow agent shall immediately suspend
32 distribution as required by the order. A trustee, financial institution, or escrow agent shall
33 be exempt from liability for failure to distribute funds as ordered by the division.**

34 **4. A cemetery operator may appeal an order suspending distribution pursuant to**
35 **this section to the administrative hearing commission. The administrative hearing**
36 **commission shall receive notice of such appeal within thirty days from the date the notice**
37 **of suspension was mailed by certified mail. Failure of a person whose license was**
38 **suspended to notify the administrative hearing commission of his or her intent to appeal**
39 **waives all rights to appeal the suspension. Upon notice of such person's intent to appeal,**
40 **a hearing shall be held before the administrative hearing commission pursuant to chapter**
41 **621.**

42 **5. A cemetery operator may apply for reinstatement of distributions upon**
43 **demonstration that the deficiencies or other problems have been cured or that the operator**
44 **has otherwise come into compliance.**

45 **6. The division may promulgate rules to implement the provisions of this section.**
46 **Any rule or portion of a rule, as that term is defined in section 536.010, that is created**
47 **under the authority delegated in this section shall become effective only if it complies with**
48 **and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028.**
49 **This section and chapter 536 are nonseverable and if any of the powers vested with the**
50 **general assembly pursuant to chapter 536, to review, to delay the effective date, or to**
51 **disapprove and annul a rule are subsequently held unconstitutional, then the grant of**
52 **rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be**
53 **invalid and void.**

214.392. 1. The division shall:

2 (1) Recommend prosecution for violations of the provisions of sections 214.270 to
3 214.410 to the appropriate prosecuting, circuit attorney or to the attorney general;

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

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

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

11 **(5) Be authorized, within the limits of the funds appropriated to conduct**
12 **investigations, examinations, or audits to determine compliance with sections 214.270 to**
13 **214.410;**

14 **(6) The division may promulgate rules necessary to implement the provisions of sections**
15 **214.270 to 214.516, including but not limited to:**

16 (a) Rules setting the amount of fees authorized pursuant to sections 214.270 to 214.516.
17 The fees shall be set at a level to produce revenue that shall not substantially exceed the cost and

18 expense of administering sections 214.270 to 214.516. All moneys received by the division
19 pursuant to sections 214.270 to 214.516 shall be collected by the director who shall transmit such
20 moneys to the department of revenue for deposit in the state treasury to the credit of the endowed
21 care cemetery audit fund created in section 193.265, RSMo;

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

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

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

214.400. Sections 214.270 to 214.410 shall be known as the "Cemetery Endowed Care
2 **Trust Fund Law**".

214.410. 1. Any cemetery operator who shall willfully violate any provisions of sections
2 214.270 to 214.410 for which no penalty is otherwise prescribed shall be deemed guilty of a
3 misdemeanor and upon conviction thereof shall be fined a sum not to exceed five hundred
4 dollars or shall be confined not more than six months or both.

5 2. Any cemetery operator who shall willfully violate any provision of [section] **sections**
6 214.320, 214.330, 214.335, 214.340, 214.360 [or], 214.385, **or 214.387** shall be deemed guilty
7 of a class D felony and upon conviction thereof shall be fined a sum not to exceed ten thousand
8 dollars or shall be confined not more than five years or both. This section shall not apply to
9 cemeteries or cemetery associations which do not sell lots in the cemetery.

10 3. Any trustee who shall willfully violate any applicable provisions of sections 214.270
11 to 214.410 shall have committed an unsafe and unsound banking practice and shall be penalized
12 as authorized by chapters 361 and 362, RSMo. This subsection shall be enforced exclusively by
13 the Missouri division of finance for state chartered institutions and the Missouri attorney general
14 for federally chartered institutions.

15 4. Any person who shall willfully violate any provision of section 214.320, 214.330,
16 214.335, 214.340, 214.360 or 214.385 or violates any rule, regulation or order of the division
17 may, in accordance with the regulations issued by the division, be assessed an administrative
18 penalty by the division. The penalty shall not exceed five thousand dollars for each violation and
19 each day of the continuing violation shall be deemed a separate violation for purposes of

20 administrative penalty assessment. However, no administrative penalty may be assessed until
21 the person charged with the violation has been given the opportunity for a hearing on the
22 violation. Penalty assessments received shall be deposited in the endowed care cemetery audit
23 fund created in section 193.265, RSMo.

214.500. Any cemetery located in a city [not within a county,] which has become the
2 property of such city pursuant to section 214.205 or a public tax sale may be sold to another
3 cemetery operator or a not-for-profit corporation which is unrelated to the previous cemetery
4 operator.

214.504. Any cemetery operator who purchases a cemetery from a city [not within a
2 county] pursuant to sections 214.500 to 214.516 shall not be liable for any wrongful interments
3 or errors made in the sale of plots prior to the cemetery operator's purchase of the cemetery, nor
4 shall such cemetery operator be liable for multiple ownership of plots sold by such cemetery
5 operator due to a lack of adequate records in such cemetery operator's possession at the time of
6 such cemetery operator's purchase of such cemetery from the city, provided the cemetery
7 operator offers a plot of equal value for the interment, if such party can prove ownership of the
8 right to bury a person by presenting a contract for the right to burial.

214.508. Any cemetery operator who purchases a cemetery from a city [not within a
2 county] shall not be held liable or responsible for any conditions existing or actions taken which
3 occurred prior to the cemetery operator's purchase from such city; except that, the exemption
4 provided in this section shall not relieve any previous owner or wrongdoer for their actions
5 related to such cemetery.

214.512. Any subsequent cemetery owner after a city [not within a county] shall be
2 exempt from the provisions of section 214.325 and section 214.410 for any deficiency existing
3 prior to such city's ownership; except that, such exemption shall not relieve any previous
4 cemetery owners or wrongdoers from the provisions of such sections.

214.516. Any cemetery owner subsequent to a city [not within a county], regardless of
2 whether such cemetery was previously registered as an endowed care cemetery, held itself out
3 to be an endowed care cemetery or was a nonendowed care cemetery, shall comply with section
4 214.310 and register such cemetery as an endowed care cemetery as if it were a newly created
5 cemetery with no interments at the time of such registration. Any contracts for the right of burial
6 sold after compliance with section 214.310 and all subsequent action of a subsequent cemetery
7 owner shall comply fully with the provisions of sections 214.270 to 214.410.

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

2 (1) "Cremains", the [ashes that remain after cremation of a human corpse] **remains of**
3 **a human corpse after cremation;**

4 (2) "Operator", a church that owns and maintains a religious cemetery;

5 (3) "Religious cemetery", a cemetery owned, operated, controlled, or managed by any
6 church that has or would qualify for federal tax-exempt status as a nonprofit religious
7 organization pursuant to section 501(c) of the Internal Revenue Code as amended;

8 (4) "Scatter garden", a location for the spreading of cremains set aside within a cemetery.

9 2. It shall be lawful for any operator of a religious cemetery adjacent to a church building
10 or other building regularly used as a place of worship to establish a scatter garden for the purpose
11 of scattering human cremains.

12 3. The operator of any religious cemetery containing a scatter garden shall maintain,
13 protect, and supervise the scatter garden, and shall be responsible for all costs incurred for such
14 maintenance, protection, and supervision. Such operator shall also maintain a record of all
15 cremains scattered in the scatter garden that shall include the name, date of death, and Social
16 Security number of each person whose cremains are scattered, and the date the cremains were
17 scattered.

18 4. A scatter garden established pursuant to this section shall be maintained by the
19 operator of the religious cemetery for as long as such operator is in existence. Upon dissolution
20 of such operator, all records of cremains shall be transferred to the clerk of the city, town, or
21 village in which the scatter garden is located, or if the scatter garden is located in any
22 unincorporated area, to the county recorder.

324.1100. As used in sections 324.1100 to 324.1148, the following terms mean:

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

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

4 (3) "Department", the department of insurance, financial institutions and professional
5 registration;

6 (4) **"Director", the director of the division of professional registration;**

7 (5) **"Division", the division of professional registration;**

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

10 [(5)] (7) "Organization", a corporation, trust, estate, partnership, cooperative, or
11 association;

12 [(6)] (8) "Person", an individual or organization;

13 [(7)] (9) "Private investigator", any person who receives any consideration, either directly
14 or indirectly, for engaging in the private investigator business;

15 [(8)] (10) "Private investigator agency", a person who regularly employs any other
16 person, other than an organization, to engage in the private investigator business;

17 [(9)] (11) "Private investigator business", the furnishing of, making of, or agreeing to
18 make, any investigation for the purpose of obtaining information pertaining to:

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

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

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

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

27 (e) Sale of personal identification information to the public; or

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

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

4 2. The board shall be composed of five members, including two public members,
5 appointed by the governor with the advice and consent of the senate. Except for the public
6 members, each member of the board shall be a citizen of the United States, a resident of Missouri
7 **for at least one year, a registered voter**, at least thirty years of age, and shall have been actively
8 engaged in the private investigator business for the previous five years. No more than one
9 private investigator board member may be employed by, or affiliated with, the same private
10 investigator agency. The initial private investigator board members shall not be required to be
11 licensed but shall obtain a license within one hundred eighty days after the effective date of the
12 rules promulgated under sections 324.1100 to 324.1148 regarding licensure. The public
13 members shall each be a **citizen of the United States, a resident of Missouri**, a registered voter
14 and a person who is not and never was a member of any profession licensed or regulated under
15 sections 324.1100 to 324.1148 or the spouse of such person; and a person who does not have and
16 never has had a material, financial interest in either the providing of the professional services
17 regulated by sections 324.1100 to 324.1148, or an activity or organization directly related to any
18 profession licensed or regulated under sections 324.1100 to 324.1148. The duties of the public
19 members shall not include the determination of the technical requirements to be met for licensure
20 or whether any person meets such technical requirements or of the technical competence or
21 technical judgment of a licensee or a candidate for licensure.

22 3. The members shall be appointed for terms of [two] **five** years, except those first
23 appointed, in which case two members, who shall be private investigators, shall be appointed for
24 terms of four years, two members shall be appointed for terms of three years, and one member
25 shall be appointed for a one-year term. Any vacancy on the board shall be filled for the

26 unexpired term of the member and in the manner as the first appointment. [No member may
27 serve consecutive terms.]

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

31 5. There is hereby created in the state treasury the "Board of Private Investigator
32 Examiners Fund", which shall consist of money collected under sections 324.1100 to 324.1148.
33 The state treasurer shall be custodian of the fund and [shall] **may** approve disbursements from
34 the fund in accordance with the provisions of sections 30.170 and 30.180, RSMo. Upon
35 appropriation, money in the fund shall be used solely for the administration of sections 324.1100
36 to 324.1148. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money
37 in this fund shall not be transferred and placed to the credit of general revenue until the amount
38 in the fund at the end of the biennium exceeds two times the amount of the appropriation from
39 the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less
40 frequently than yearly, then three times the appropriation from the board's funds for the preceding
41 fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which
42 exceeds the appropriate multiple of the appropriations from the board's funds for the preceding
43 fiscal year.

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

5 2. The board shall be composed of five members, including two public
6 members, appointed by the governor with the advice and consent of the senate.
7 Except for the public members, each member of the board shall be a citizen of the
8 United States, a resident of Missouri, at least thirty years of age, and shall have
9 been actively engaged in the private investigator business for the previous five
10 years. No more than one private investigator board member may be employed
11 by, or affiliated with, the same private investigator agency. The initial private
12 investigator board members shall not be required to be licensed but shall obtain
13 a license within one hundred eighty days after the effective date of the rules
14 promulgated under sections 324.1100 to 324.1148 regarding licensure. The
15 public members shall each be a registered voter and a person who is not and
16 never was a member of any profession licensed or regulated under sections
17 324.1100 to 324.1148 or the spouse of such person; and a person who does not
18 have and never has had a material, financial interest in either the providing of the
19 professional services regulated by sections 324.1100 to 324.1148, or an activity
20 or organization directly related to any profession licensed or regulated under
21 sections 324.1100 to 324.1148. The duties of the public members shall not
22 include the determination of the technical requirements to be met for licensure
23 or whether any person meets such technical requirements or of the technical
competence or technical judgment of a licensee or a candidate for licensure.

24 3. The members shall be appointed for terms of two years, except those
25 first appointed, in which case two members, who shall be private investigators,
26 shall be appointed for terms of four years, two members shall be appointed for
27 terms of three years, and one member shall be appointed for a one-year term.
28 Any vacancy on the board shall be filled for the unexpired term of the member
29 and in the manner as the first appointment. No member may serve consecutive
30 terms.

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

34 5. There is hereby created in the state treasury the "Board of Private
35 Investigator Examiners Fund", which shall consist of money collected under
36 sections 324.1100 to 324.1148. The state treasurer shall be custodian of the fund
37 and shall approve disbursements from the fund in accordance with the provisions
38 of sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund
39 shall be used solely for the administration of sections 324.1100 to 324.1148.
40 Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any
41 moneys remaining in the fund at the end of the biennium shall not revert to the
42 credit of the general revenue fund. The state treasurer shall invest moneys in the
43 fund in the same manner as other funds are invested. Any interest and moneys
44 earned on such investments shall be credited to the fund.]

324.1103. For the purposes of sections 324.1100 to 324.1148, the division shall:

2 **(1) Employ board personnel, within the limits of the appropriations for that**
3 **purpose as established in sections 324.1100 to 324.1148;**

4 **(2) Exercise all administrative functions;**

5 **(3) Deposit all fees collected under sections 324.1100 to 324.1148 by transmitting**
6 **such funds to the department of revenue for deposit in the state treasury to the credit of**
7 **the board of private investigators examiners fund.**

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

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

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

7 (3) Any employee, agent, or independent contractor employed by any government
8 agency, division, or department of the state whose work relationship is established by a written
9 contract while working within the scope of employment established under such contract;

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

13 (5) **A certified public accountant performing duties as a certified public accountant**
14 **who holds an active license issued by any state and the employees of such certified public**
15 **accountant or certified public accounting firm assisting in the performance of duties or**
16 **investigation on behalf of such certified public accountant or certified public accounting**
17 **firm;**

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

23 [(6)] (7) Insurers and insurance producers licensed by the state, performing duties in
24 connection with insurance transacted by them;

25 [(7)] (8) Any bank subject to the jurisdiction of the director of the division of finance of
26 the state of Missouri or the comptroller of currency of the United States;

27 [(8)] (9) An insurance adjuster. For the purposes of sections 324.1100 to 324.1148, an
28 "insurance adjuster" means any person who receives any consideration, either directly or
29 indirectly, for adjusting in the disposal of any claim under or in connection with a policy of
30 insurance or engaging in soliciting insurance adjustment business;

31 [(9)] (10) Any private fire investigator whose primary purpose of employment is the
32 determination of the origin, nature, cause, or calculation of losses relevant to a fire;

33 [(10)] (11) Employees of [a not-for-profit] **an organization, whether for-profit or not-**
34 **for-profit**, or its affiliate or subsidiary, whether for-profit or not-for-profit, whose investigatory
35 activities are limited to making and processing requests for criminal history records and other
36 background information from state, federal, or local databases, including requests for employee
37 background check information under section 660.317, RSMo;

38 [(11)] (12) Any real estate broker, real estate salesperson, or real estate appraiser acting
39 within the scope of his or her license;

40 [(12)] (13) Expert witnesses who have been certified or accredited by a national or state
41 association associated with the expert's scope of expertise;

42 [(13)] (14) Any person who does not hold themselves out to the public as a private
43 investigator [but is under] **and is exclusively employed by or under exclusive** contract with a
44 state agency or political subdivision;

45 [(14)] (15) Any person performing duties or [conducting investigations] **activities**
46 relating to serving legal process when such person's [investigation is] **duties or activities are**
47 incidental to the serving of legal process; or

48 [(15)] (16) A consumer reporting agency [is] **as** defined in 15 U.S.C. Section [1681(a)]
49 **1681a** and its contract and salaried employees.

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

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

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

10 (3) Any employee, agent, or independent contractor employed by any
11 government agency, division, or department of the state whose work relationship
12 is established by a written contract while working within the scope of
13 employment established under such contract;

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

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

22 (6) Insurers and insurance producers licensed by the state, performing
23 duties in connection with insurance transacted by them;

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

27 (8) An insurance adjuster. For the purposes of sections 324.1100 to
28 324.1148, an "insurance adjuster" means any person who receives any
29 consideration, either directly or indirectly, for adjusting in the disposal of any
30 claim under or in connection with a policy of insurance or engaging in soliciting
31 insurance adjustment business;

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

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

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

41 (12) Expert witnesses who have been certified or accredited by a national
42 or state association associated with the expert's scope of expertise;

43 (13) Any person who does not hold themselves out to the public as a
44 private investigator but is under contract with a state agency or political
subdivision; or

45 (14) Any person performing duties or conducting investigations relating
46 to serving legal process when such person's investigation is incidental to the
47 serving of legal process;

48 (15) A consumer reporting agency as defined in 15 U.S.C. Section
49 1681(a) and its contract and salaried employees.]

324.1110. 1. The board of private investigator examiners shall require as a condition of
2 licensure as a private investigator that the applicant pass a written examination as evidence of
3 knowledge of investigator rules and regulations.

4 2. The [department] **board** shall conduct a complete investigation of the background of
5 each applicant for licensure as a private investigator to determine whether the applicant is
6 qualified for licensure under sections 324.1100 to 324.1148. The board shall [and will] outline
7 basic qualification requirements for licensing as a private investigator and agency.

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

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

11 (2) Two hundred fifty thousand dollars in business general liability insurance.

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

324.1112. 1. The board of private investigator examiners may deny a request for a
2 license if the applicant:

3 (1) Has committed any act which, if committed by a licensee, would be grounds for the
4 suspension or revocation of a license under the provisions of sections 324.1100 to 324.1148;

5 (2) [Within two years prior to the application date:

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

9 [(b)] (3) Has been convicted of or entered a plea of guilty or nolo contendere to a
10 misdemeanor offense involving moral turpitude, **including receiving a suspended imposition**
11 **of sentence following a plea of guilty to a misdemeanor offense;**

12 (4) **Has been refused a license under sections 324.1100 to 324.1148 or had a license**
13 **revoked or denied in this state or any other state;**

14 [(c)] (5) Has falsified or willfully misrepresented information in an employment
15 application, records of evidence, or in testimony under oath;

16 [(d)] (6) Has been dependent on or abused alcohol or drugs; or

17 [(e)] (7) Has used, possessed, or trafficked in any illegal substance;

18 [(3)] (8) Has been refused a license under the provisions of sections 324.1100 to
19 324.1148 or had a license revoked in this state or in any other state;

20 [(4)] (9) While unlicensed, committed or aided and abetted the commission of any act
21 for which a license is required by sections 324.1100 to 324.1148 after August 28, 2007; or

22 [(5)] (10) Knowingly made any false statement in the application.

23 **2. The board shall consider any evidence of the applicant's rehabilitation when**
24 **considering a request for licensure.**

 324.1114. 1. Every application submitted under the provisions of sections 324.1100 to
2 324.1148 shall be accompanied by a fee as determined by the board [as follows:

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

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

7 2. The board shall set fees as authorized by sections 324.1100 to 324.1148 at a level to
8 produce revenue which will not substantially exceed the cost and expense of administering
9 sections 324.1100 to 324.1148.

10 3. The fees prescribed by sections 324.1100 to 324.1148 shall be exclusive and
11 notwithstanding any other provision of law. No municipality may require any person licensed
12 under sections 324.1100 to 324.1148 to furnish any bond, pass any examination, or pay any
13 license fee or occupational tax relative to practicing the person's profession.

14 4. A private investigator license shall allow only the individual licensed by the state of
15 **Missouri** to conduct investigations. An agency license shall be applied for separately and held
16 by [an individual] **a person** who is licensed as a private investigator. The agency may hire
17 individuals to work for the agency conducting investigations for the agency only. Persons hired
18 shall make application as determined by the board and meet all requirements set forth by the
19 board except that they shall not be required to meet any experience requirements and shall be
20 allowed to begin working immediately upon the agency submitting their applications.

 [324.1118. A private investigator agency shall not hire an individual,
2 who is not licensed as a private investigator, as an employee if the individual:

3 (1) Has committed any act which, if committed by a licensee, would be
4 grounds for the suspension or revocation of a license under the provisions of
5 sections 324.1100 to 324.1148;

6 (2) Within two years prior to the hiring date:

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

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

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

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

- 15 (e) Has used, possessed, or trafficked in any illegal substance;
16 (3) Has been refused a license under the provisions of sections 324.1100
17 to 324.1148 or had a license revoked in this state or in any other state;
18 (4) While unlicensed, committed or aided and abetted the commission
19 of any act for which a license is required by sections 324.1100 to 324.1148 after
20 August 28, 2007; or
21 (5) Knowingly made any false statement in the application.]

324.1118. A private investigator agency shall not hire an individual, who is not licensed
2 as a private investigator, as an employee if the individual:

- 3 (1) Has committed any act which, if committed by a licensee, would be grounds for the
4 suspension or revocation of a license under the provisions of sections 324.1100 to 324.1148;
5 (2) Within two years prior to the application date:
6 (a) Has been convicted of or entered a plea of guilty or nolo contendere to a felony
7 offense, including the receiving of a suspended imposition of sentence following a plea or
8 finding of guilty to a felony offense;
9 (b) Has been convicted of or entered a plea of guilty or nolo contendere to a
10 misdemeanor offense involving moral turpitude, **including receiving a suspended imposition**
11 **of sentence following a plea of guilty to a misdemeanor offense;**
12 (c) Has falsified or willfully misrepresented information in an employment application,
13 records of evidence, or in testimony under oath;
14 (d) Has been dependent on or abused alcohol or drugs; or
15 (e) Has used, possessed, or trafficked in any illegal substance;
16 (3) Has been refused a license under the provisions of sections 324.1100 to 324.1148 or
17 had a license revoked in this state or in any other state;
18 (4) While unlicensed, committed or aided and abetted the commission of any act for
19 which a license is required by sections 324.1100 to 324.1148 after August 28, 2007; or
20 (5) Knowingly made any false statement in the application.

324.1124. 1. The [board of private investigator examiners] **division** shall determine the
2 form of the license [which shall include the:

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

6 2. The license shall be posted at all times in a conspicuous place in the principal place
7 of business of the licensee. Upon the issuance of a license, a pocket card of such size, design,
8 and content as determined by the division shall be issued without charge to each licensee. Such
9 card shall be evidence that the licensee is licensed under sections 324.1100 to 324.1148. When
10 any person to whom a card is issued terminates such person's position, office, or association with
11 the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be

12 mailed or delivered by the licensee to the board of private investigator examiners for
13 cancellation. Within thirty days after any change of address, a licensee shall notify the board of
14 the address change. The principal place of business may be at a residence or at a business
15 address, but it shall be the place at which the licensee maintains a permanent office.

324.1126. 1. Any license issued under sections 324.1100 to 324.1148 shall [expire two
2 years after the date of its issuance. Renewal of any such license shall be made in the manner
3 prescribed for obtaining an original license, including payment of the appropriate fee, except
4 that:

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

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

10 (3) The applicant does not have to be tested again but must instead provide proof that
11 the applicant successfully completed sixteen hours of continuing education credits; and

12 (4) Additional information may be required by rules and regulations adopted by the
13 board of private investigator examiners] **be valid for two years. An application for renewal
14 of such license shall be mailed to every person to whom a license was issued or renewed
15 during the current licensing period. The applicant shall complete the application and
16 return it to the board by the renewal date with a renewal fee in an amount to be set by the
17 board and with evidence of continuing education under section 324.1122. Any licensee who
18 practices during the time the license has expired shall be considered to be engaged in
19 prohibited acts under section 324.1104 and shall be subject to the penalties provided for
20 violation of the provisions of sections 324.1100 to 324.1148. If a person is otherwise eligible
21 to renew the person's certification or license, the person may renew an expired certification
22 or license within two years from the date of expiration. To renew such expired certification
23 or license, the person shall submit an application for renewal, pay the renewal fee, pay a
24 delinquent renewal fee as established by the board, and present evidence, in the form
25 prescribed by the board, of having completed the continuing education requirements for
26 renewal specified in section 324.1122. Upon a finding of extenuating circumstances, the
27 commission may waive the payment of the delinquent fee. If a person has failed to renew
28 the person's license within two years of its expiration, the license shall be void. A new
29 photograph shall be submitted with the application for renewal only if the photograph on
30 file with the board has been on file for more than two years.**

31 2. A licensee shall at all times be legally responsible for the good conduct of each of the
32 licensee's employees or agents while engaged in the business of the licensee and the licensee is
33 legally responsible for any acts committed by such licensee's employees or agents which are in

34 violation of sections 324.1100 to 324.1148. A person receiving an agency license shall directly
35 manage the agency and employees.

36 3. A license issued under sections 324.1100 to 324.1148 shall not be assignable.

324.1128. 1. Any licensee may divulge to the board, any law enforcement officer,
2 prosecuting attorney, or such person's representative any information such person may acquire
3 about any criminal offense. [The licensee may instruct his or her client to divulge such
4 information if the client is the victim, but such person shall not divulge to any other person,
5 except as he or she may be required by law, any information acquired by such person at the
6 direction of the employer or client for whom the information was obtained.] **The licensee shall
7 not divulge to any other person, except as required by law, any other information acquired
8 by the licensee at the direction of his or her employer or client for whom the information
9 was obtained. A licensee may instruct his or her client to divulge any information to the
10 board, any law enforcement officer, prosecuting attorney, or other such person's
11 representative related to a criminal offense if the client is the victim of the criminal offense.**

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

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

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

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

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

24 (5) Manufacture false evidence; or

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

324.1132. Every advertisement by a licensee soliciting or advertising business shall
2 contain the licensee's name, city, and state as it appears in the records of the board of private
3 investigator examiners. No individual or business can advertise as a private investigator, private
4 detective, or private investigator agency without including their state private investigator or
5 private investigator agency license number in the advertisement. A licensee shall not advertise
6 or conduct business from any Missouri address other than that shown on the records of the board
7 as the licensee's principal place of business unless the licensee has received an additional agency

8 license for such location after compliance with the provisions of sections 324.1100 to 324.1148
9 and such additional requirements necessary for the protection of the public as the board may
10 prescribe by regulation. A licensee shall notify the board in writing within ten days after closing
11 or changing the location of a branch office. The fee for the additional license shall be [one-half
12 the cost of the fee for the agency's original license] **determined by the board.**

324.1134. 1. The board may suspend or refuse to renew any certificate of registration
2 or authority, permit or license required under sections 324.1100 to 324.1148 for one or any
3 combination of causes stated in subsection 2 of this section. The board shall notify the applicant
4 in writing of the reasons for the suspension or refusal and shall advise the applicant of the
5 applicant's right to file a complaint with the administrative hearing commission as provided by
6 chapter 621, RSMo. As an alternative to a refusal to issue or renew any certificate, registration
7 or authority, the board may, at its discretion, issue a license which is subject to probation,
8 restriction or limitation to an applicant for licensure for any one or any combination of causes
9 stated in subsection 2 of this section. The board's order of probation, limitation or restriction
10 shall contain a statement of the discipline imposed, the basis therefor, the date such action shall
11 become effective, and a statement that the applicant has thirty days to request in writing a hearing
12 before the administrative hearing commission. If the board issues a probationary, limited or
13 restricted license to an applicant for licensure, either party may file a written petition with the
14 administrative hearing commission within thirty days of the effective date of the probationary,
15 limited or restricted license seeking review of the board's determination. If no written request
16 for a hearing is received by the administrative hearing commission within the thirty-day period,
17 the right to seek review of the board's decision shall be considered as waived.

18 2. The board may cause a complaint to be filed with the administrative hearing
19 commission as provided by chapter 621, RSMo, against any holder of any certificate of
20 registration or authority, permit or license required by this chapter or any person who has failed
21 to renew or has surrendered the person's certificate of registration or authority, permit or license
22 for any one or any combination of the following causes:

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

25 (2) Violating any provision of sections 324.1100 to 324.1148;

26 (3) Violating any rule of the board of private investigator examiners adopted under the
27 authority contained in sections 324.1100 to 324.1148;

28 (4) Impersonating, or permitting or aiding and abetting an employee to impersonate, a
29 law enforcement officer or employee of the United States of America, or of any state or political
30 subdivision thereof;

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

34 (6) Knowingly violating, or advising, encouraging, or assisting the violation of, any court
35 order or injunction in the course of business as a licensee;

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

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

41 (9) **Violating or assisting or enabling any person to violate any provision of this**
42 **chapter or any lawful rule or regulation adopted pursuant to the authority granted in this**
43 **chapter; or**

44 (10) Committing any act which is grounds for denial of an application for a license under
45 section 324.1112.

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

49 4. The agency may continue under the direction of another employee if the licensee's
50 license is suspended or revoked by the board. The board shall establish a time frame in which
51 the agency shall identify an acceptable person who is qualified to assume control of the agency,
52 as required by the board.

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

324.1136. 1. **Each licensee shall maintain a record containing such information**
2 **relative to the licensee's employees as may be prescribed by the board of private**
3 **investigator examiners. Such licensee shall file with the board the complete address of the**
4 **location of the licensee's principal place of business. The board may require the filing of**
5 **other information for the purpose of identifying such principal place of business.**

6 2. Each private investigator or investigator agency operating under the provisions of
7 sections 324.1100 to 324.1148 shall be required to keep a complete record of the business
8 transactions of such investigator or investigator agency for a period of seven years. Upon the

9 service of a court order issued by a court of competent jurisdiction or upon the service of a
10 subpoena issued by the board that is based on a complaint supported by oath or affirmation,
11 which particularly describes the records and reports, any licensed private investigator who is the
12 owner, partner, director, corporate officer, or custodian of business records shall provide an
13 opportunity for the inspection of the same and to inspect reports made. Any information
14 obtained by the board shall be kept confidential, except as may be necessary to commence and
15 prosecute any legal proceedings. The board shall not personally enter a licensee's place of
16 business to inspect records, but shall utilize an employee of the division of professional
17 registration to act as a gatherer of information and facts to present to the board regarding any
18 complaint or inspection under investigation.

19 [2.]**3.** For the purpose of enforcing the provisions of sections 324.1100 to 324.1148, and
20 in making investigations relating to any violation thereof, the board shall have the power to
21 subpoena and bring before the board any person in this state and require the production of any
22 books, records, or papers which the board deems relevant to the inquiry. The board also may
23 administer an oath to and take the testimony of any person, or cause such person's deposition to
24 be taken, except that any applicant or licensee or officer, director, partner, or associate thereof
25 shall not be entitled to any fees or mileage. A subpoena issued under this section shall be
26 governed by the Missouri rules of civil procedure and shall comply with any confidentiality
27 standards or legal limitations imposed by privacy or open records acts, fair credit reporting acts,
28 polygraph acts, driver privacy protection acts, judicially recognized privileged communications,
29 and the bill of rights of both the United States and Missouri Constitutions. Any person duly
30 subpoenaed who fails to obey such subpoena without reasonable cause, or without such cause
31 refuses to be examined or to answer any legal or pertinent question as to the character or
32 qualification of such applicant or licensee or such applicant's alleged unlawful or deceptive
33 practices or methods, shall be guilty of a class A misdemeanor. The testimony of witnesses in
34 any investigative proceeding shall be under oath.

35 **4. Any licensee who is required by fully executed written contract or court order**
36 **to destroy, seal, or return to a party to a lawsuit, or to the court, records related to work**
37 **performed under that contract or court order shall maintain in his or her files, a fully**
38 **executed copy of the contract or court order requiring destruction, sealing, or return of the**
39 **records. Maintenance of the contract or court order shall fulfill the requirements of this**
40 **section.**

324.1140. 1. The board of private investigator examiners shall [certify] **license** persons
2 who are qualified to train private investigators.

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

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

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

7 (3) Be personally licensed as a private investigator under sections 324.1100 to 324.1148
8 and qualified to train private investigators.

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

14 [4.] **3.** A [certificate] **license** shall be granted to a trainer if the board finds that the
15 applicant:

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

17 (2)] Has sufficient knowledge of private investigator business in order to train private
18 investigators sufficiently;

19 [(3)] (2) Has supplied all required information to the board; and

20 [(4)] (3) Has paid the required fee.

21 [5.] **4.** The [certificate] **license** issued under this section shall [expire on the third year
22 after the year in which it is issued and shall be renewable triennially upon application and
23 payment of a fee] **be valid for two years and shall be renewable biennially upon application
24 and payment of the renewal fee established by the board. An application for renewal of
25 license shall be mailed to every person to whom a license was issued or renewed during the
26 current licensing period. The applicant shall complete the application and return it to the
27 board by the renewal date with a renewal fee in an amount to be set by the board and with
28 evidence of continuing education under section 324.1122. Any licensee who practices
29 during the time the license has expired shall be considered engaging in prohibited acts
30 under section 324.1104 and shall be subject to the penalties provided for the violation of
31 the provisions of sections 324.1100 to 324.1148. If a person is otherwise eligible to renew
32 the person's certification or license, the person may renew an expired certification or
33 license within two years from the date of expiration. To renew such expired certificate or
34 license, the person shall submit an application for renewal, pay the renewal fee, pay a
35 delinquent renewal fee as established by the board, and present evidence in the form
36 prescribed by the board of having completed the continuing education requirements for
37 renewal specified in section 324.1122. Upon a finding of extenuating circumstances, the
38 commission may waive the payment of the delinquent fee. If a person has failed to renew
39 the person's license within two years of its expiration, the license shall be void.**

2 **324.1147. The provisions of sections 324.1100 to 324.1148 shall not be construed to**
3 **release any person from civil liability or criminal prosecution under any other law of this**
4 **state.**

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

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

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

32 4. Each division of the board shall, at its first meeting in each even-numbered year, elect
33 one of its members as division chairperson for a term of two years. **Two voting members of**
34 **each division of the board shall constitute a quorum for the transaction of division**
35 **business.** The chairpersons of the architectural division, professional engineering division [and
36 the] , professional land surveying division, **and landscape architectural division** so elected
37 shall be vice chairpersons of the board, and when the chairperson of the board is an architect, the
38 chairperson of the architectural division shall be the ranking vice chairperson, and when the

35 chairperson of the board is a professional engineer, the chairperson of the professional
36 engineering division shall be the ranking vice chairperson, [and] when the chairperson of the
37 board is a professional land surveyor, the chairperson of the professional land surveying division
38 shall be the ranking vice chairperson, **and when the chairperson of the board is a landscape**
39 **architect, the chairperson of the landscape architectural division shall be the ranking vice**
40 **chairperson.** The chairperson of each division shall be the administrative and executive officer
41 of his or her division, and it shall be his or her duty to supervise and expedite the work of the
42 division, and, in case of a tie vote on any matter, the chairperson shall, at his or her election,
43 break the tie by his or her vote. Every motion or question pending before the division upon
44 which a tie exists shall be deemed lost, and so declared by the chairperson of the division, unless
45 the chairperson shall elect to break such tie by his or her vote.

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

72 any profession licensed or regulated pursuant to this chapter. All members, including public
73 members, shall be chosen from lists submitted by the director of the division of professional
74 registration. The duties of the public member shall not include the determination of the technical
75 requirements to be met for licensure or whether any person meets such technical requirements
76 or of the technical competence or technical judgment of a licensee or a candidate for licensure.

77 6. The governor shall appoint the chairperson and the other members of the board when
78 a vacancy occurs either by the expiration of a term or otherwise, and each board member shall
79 serve until such member's successor is appointed and has qualified. **Beginning August 28,**
80 **2010,** the position of chairperson shall [alternate among an architect, a professional engineer and
81 a professional land surveyor] **rotate sequentially with an architect, then professional**
82 **engineer, then professional land surveyor, then landscape architect, and shall be a licensee**
83 **who has previously served as a member of the board. The appointment of the chairperson**
84 **shall be for a term of four years which shall be deemed to have begun on the date of his or**
85 **her appointment and shall end upon the appointment of the chairperson's successor. The**
86 **chairperson shall not serve more than one term.** All other appointments, except to fill an
87 unexpired term, shall be for terms of four years; but no person shall serve on the board for more
88 than two consecutive four-year terms, and each four-year term shall be deemed to have begun
89 on the date of the expiration of the term of the board member who is being replaced or
90 reappointed, as the case may be. Any appointment to the board which is made when the senate
91 is not in session shall be submitted to the senate for its advice and consent at its next session
92 following the date of the appointment.

93 7. In the event that a vacancy is to occur on the board because of the expiration of a term,
94 then ninety days prior to the expiration, or as soon as feasible after a vacancy otherwise occurs,
95 [the president of the American Institute of Architects/Missouri if the vacancy to be filled requires
96 the appointment of an architect,] the president of the Missouri Association of Landscape
97 Architects if the vacancy to be filled requires the appointment of a landscape architect, the
98 president of the Missouri Society of Professional Engineers if the vacancy to be filled requires
99 the appointment of an engineer, [and] the president of the Missouri Society of Professional
100 Surveyors if the vacancy to be filled requires the appointment of a land surveyor, **and the**
101 **president of the Missouri Association of Landscape Architects if the vacancy to be filled**
102 **requires the appointment of a landscape architect,** shall submit to the director of the division
103 of professional registration a list of five architects or five professional engineers, [five landscape
104 architects] or five professional land surveyors, **or five landscape architects** as the case may
105 require, qualified and willing to fill the vacancy in question, with the recommendation that the
106 governor appoint one of the five persons so listed; and with the list of names so submitted, the
107 president of the appropriate organization shall include in a letter of transmittal a description of

108 the method by which the names were chosen. This subsection shall not apply to public member
109 vacancies.

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

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

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

327.041. 1. The board shall have the duty and the power to carry out the purposes and
2 to enforce and administer the provisions of this chapter, to require, by summons or subpoena,
3 with [the advice of the attorney general and upon] the vote of two-thirds of the voting board
4 members, the attendance and testimony of witnesses, and the production of drawings, plans,
5 plats, specifications, books, papers or any document representing any matter under hearing or
6 investigation, pertaining to the issuance, probation, suspension or revocation of certificates of
7 registration or certificates of authority provided for in this chapter, or pertaining to the unlawful
8 practice of architecture, professional engineering, professional land surveying or landscape
9 architecture.

10 2. The board shall, within the scope and purview of the provisions of this chapter,
11 prescribe the duties of its officers and employees and adopt, publish and enforce the rules and
12 regulations of professional conduct which shall establish and maintain appropriate standards of
13 competence and integrity in the professions of architecture, professional engineering,
14 professional land surveying and landscape architecture, and adopt, publish and enforce
15 procedural rules and regulations as may be considered by the board to be necessary or proper for
16 the conduct of the board's business and the management of its affairs, and for the effective
17 administration and interpretation of the provisions of this chapter. Any rule or portion of a rule,
18 as that term is defined in section 536.010, RSMo, that is created under the authority delegated
19 in this chapter shall become effective only if it complies with and is subject to all of the
20 provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
21 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly
22 pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul
23 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
24 proposed or adopted after August 28, 2001, shall be invalid and void.

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

327.351. 1. The professional license issued to every professional land surveyor in
2 Missouri, including certificates of authority issued to corporations as provided in section
3 327.401, shall be renewed on or before the license or certificate renewal date provided that the
4 required fee is paid. The license of any professional land surveyor or the certificate of authority
5 of any such corporation which is not renewed within three months of the renewal date shall be
6 suspended automatically, subject to the right of the holder of such suspended license or
7 certificate to have it reinstated within nine months of the date of suspension, if the reinstatement
8 fee is paid. Any license or certificate of authority suspended and not reinstated within nine
9 months of the suspension date shall expire and be void and the holder of such expired license or
10 certificate shall have no rights or privileges thereunder, but any person or corporation whose
11 license or certificate has expired may, within the discretion of the board and upon payment of
12 the required fee, be reregistered or relicensed under such person's or corporation's original license
13 number.

14 2. Each application for the renewal of a license or of a certificate of authority shall be
15 on a form furnished to the applicant and shall be accompanied by the required fee; but no
16 renewal fee need be paid by any professional land surveyor over the age of seventy-five.

17 3. Beginning January 1, 1996, as a condition for renewal of a license issued pursuant to
18 section 327.314, a license holder shall be required to successfully complete twenty units of
19 professional development that meet the standards established by the board regulations within the

20 preceding two calendar years. Any license holder who completes more than twenty units of
21 professional development within the preceding two calendar years may have the excess, not to
22 exceed ten units, applied to the requirement for the next two-year period.

23 4. The board shall not renew the license of any license holder who has failed to complete
24 the professional development requirements pursuant to subsection 3 of this section, unless such
25 license holder can show good cause why he or she was unable to comply with such requirements.
26 If the board determines that good cause was shown, the board shall permit the license holder to
27 make up all outstanding required units of professional development.

28 5. A license holder may at any time prior to the termination of his or her license request
29 to be classified as inactive. Inactive licenses may be maintained by payment of an annual fee
30 determined by the board. Holders of inactive licenses shall not be required to complete
31 professional development as required in subsection 3 of this section. Holders of inactive licenses
32 shall not practice as professional land surveyors **within this state, but may continue to use the**
33 **title "professional land surveyor" or the initials "PLS" after such person's name.** If the
34 board determines that good cause was shown, the board shall permit the professional land
35 surveyor to make up all outstanding required units of professional development.

36 6. A holder of an inactive license may return such license to an active license to practice
37 professional land surveying by paying the required fee, and either:

38 (1) Completing one-half of the two-year requirement for professional development
39 multiplied by the number of years of lapsed or inactive status. The maximum requirement for
40 professional development units shall be two and one-half times the two-year requirement. The
41 minimum requirement for professional development units shall be no less than the two-year
42 requirement. Such requirement shall be satisfied within the two years prior to the date of
43 reinstatement; or

44 (2) Taking such examination as the board deems necessary to determine such person's
45 qualifications. Such examination shall cover areas designed to demonstrate the applicant's
46 proficiency in current methods of land surveying practice.

47 7. Exemption to the required professional development units shall be granted to
48 registrants during periods of serving honorably on full-time active duty in the military service.

49 8. At the time of application for license renewal, each licensee shall report, on a form
50 provided by the board, the professional development activities undertaken during the preceding
51 renewal period to satisfy the requirements pursuant to subsection 3 of this section. The licensee
52 shall maintain a file in which records of activities are kept, including dates, subjects, duration
53 of program, and any other appropriate documentation, for a period of four years after the program
54 date.

327.411. 1. Each architect and each professional engineer and each professional land
2 surveyor and each landscape architect shall have a personal seal in a form prescribed by the

3 board, and he or she shall affix the seal to all final documents including, but not limited to, plans,
4 specifications, estimates, plats, reports, surveys, proposals and other documents or instruments
5 prepared by the licensee, or under such licensee's immediate personal supervision. **Such licensee**
6 **shall either prepare or personally supervise the preparation of all documents sealed by the**
7 **licensee**, and such licensee shall be held personally responsible for the contents of all such
8 documents sealed by such licensee, **whether prepared or drafted by another licensee or not.**

9 2. The personal seal of an architect or professional engineer or professional land surveyor
10 or landscape architect shall be the legal equivalent of the licensee's signature whenever and
11 wherever used, and the owner of the seal shall be responsible for the architectural, engineering,
12 surveying, or landscape architectural documents, as the case may be, when the licensee places
13 his or her personal seal on such plans, specifications, estimates, plats, reports, surveys or other
14 documents or instruments for, or to be used in connection with, any architectural or engineering
15 project, survey, or landscape architectural project. **Licensees shall undertake to perform**
16 **architectural, professional engineering, professional land surveying and landscape**
17 **architectural services only when they are qualified by education, training, and experience**
18 **in the specific technical areas involved.**

19 3. **Notwithstanding any provision of this section**, any architect, professional engineer,
20 professional land surveyor, or landscape architect may, but is not required to, attach a statement
21 over his or her signature, authenticated by his or her personal seal, specifying the particular plans,
22 specifications, plats, reports, surveys or other documents or instruments, or portions thereof,
23 intended to be authenticated by the seal, and disclaiming any responsibility for all other plans,
24 specifications, estimates, reports, or other documents or instruments relating to or intended to
25 be used for any part or parts of the architectural or engineering project or survey or landscape
26 architectural project.

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

332.011. As used in this chapter, the following words and terms mean:

2 (1) "Accredited dental hygiene school", any program which teaches a course in dental
3 hygiene which is accredited by the Commission on Dental Accreditation of the American Dental
4 Association and which shall have a minimum of two academic years of curriculum provided in
5 a college or institution of higher education;

6 (2) "Accredited dental school", any college, university, school, or other institution which
7 teaches dentistry which has been certified by the American Dental Association;

8 (3) "Board", the Missouri dental board;

9 (4) "Certified dental assistant", a dental assistant who is currently certified by the Dental
10 Assisting National Board, Inc.;

11 (5) "Dental assistant", an employee of a duly registered and currently licensed dentist in
12 Missouri, other than either a dental hygienist or a certified dental assistant;

13 (6) "Expanded-functions dental assistant", any dental assistant who has passed a basic
14 dental assisting skills mastery examination or a certified dental assistant, either of whom has
15 successfully completed a board-approved expanded-functions course, passed a competency
16 examination, and [can show proof of competency in a specific expanded function to the] **has**
17 **obtained a permit authorizing them to perform expanded-functions duties from the**
18 Missouri dental board;

19 (7) "Expanded-functions duties", reversible acts that would be considered the
20 practice of dentistry as defined in section 332.071 that the board specifies by rule may be
21 delegated to a dental assistant or dental hygienist who possesses an expanded-functions
22 permit.

332.098. 1. Dentists delegating expanded-functions duties to dental assistants or
2 **dental hygienists shall do so in accordance with rules set forth by the board. No person**
3 **shall perform expanded-functions duties in this state except under his or her own name**
4 **and unless the board has issued to such person a permit to perform expanded-functions**
5 **duties in this state; however, no provision of this section or this chapter shall be construed**
6 **to make it unlawful for a duly registered and currently licensed dentist in this state to**
7 **perform dental services that would be considered expanded-functions duties in this state**
8 **or to make it unlawful for dental assistants, certified dental assistants, or expanded-**
9 **functions dental assistants to perform polishing of teeth. Under section 332.093, the board**
10 **shall not promulgate any rule allowing the delegation of acts to a dental assistant that**
11 **would conflict with the practice of dental hygiene as defined in section 332.091. Expanded-**
12 **functions permits shall be renewed every five years. The board may promulgate rules**
13 **specifying the criteria by which expanded-functions permits may be issued and renewed.**
14 **Expanded-functions permits shall be subject to discipline as provided in section 332.321.**

15 **2. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
16 **created under the authority delegated in this section shall become effective only if it**
17 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
18 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
19 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
20 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
21 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2010,**
22 **shall be invalid and void.**

334.100. 1. The board may refuse to issue or renew any certificate of registration or
2 authority, permit or license required pursuant to this chapter for one or any combination of
3 causes stated in subsection 2 of this section. The board shall notify the applicant in writing of

4 the reasons for the refusal and shall advise the applicant of the applicant's right to file a
5 complaint with the administrative hearing commission as provided by chapter 621, RSMo. As
6 an alternative to a refusal to issue or renew any certificate, registration or authority, the board
7 may, at its discretion, issue a license which is subject to probation, restriction or limitation to an
8 applicant for licensure for any one or any combination of causes stated in subsection 2 of this
9 section. The board's order of probation, limitation or restriction shall contain a statement of the
10 discipline imposed, the basis therefor, the date such action shall become effective, and a
11 statement that the applicant has thirty days to request in writing a hearing before the
12 administrative hearing commission. If the board issues a probationary, limited or restricted
13 license to an applicant for licensure, either party may file a written petition with the
14 administrative hearing commission within thirty days of the effective date of the probationary,
15 limited or restricted license seeking review of the board's determination. If no written request
16 for a hearing is received by the administrative hearing commission within the thirty-day period,
17 the right to seek review of the board's decision shall be considered as waived.

18 2. The board may cause a complaint to be filed with the administrative hearing
19 commission as provided by chapter 621, RSMo, against any holder of any certificate of
20 registration or authority, permit or license required by this chapter or any person who has failed
21 to renew or has surrendered the person's certificate of registration or authority, permit or license
22 for any one or any combination of the following causes:

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

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

32 (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of
33 registration or authority, permit or license issued pursuant to this chapter or in obtaining
34 permission to take any examination given or required pursuant to this chapter;

35 (4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or
36 unprofessional conduct in the performance of the functions or duties of any profession licensed
37 or regulated by this chapter, including, but not limited to, the following:

38 (a) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by
39 fraud, deception or misrepresentation; willfully and continually overcharging or overtreating
40 patients; or charging for visits to the physician's office which did not occur unless the services

41 were contracted for in advance, or for services which were not rendered or documented in the
42 patient's records;

43 (b) Attempting, directly or indirectly, by way of intimidation, coercion or deception, to
44 obtain or retain a patient or discourage the use of a second opinion or consultation;

45 (c) Willfully and continually performing inappropriate or unnecessary treatment,
46 diagnostic tests or medical or surgical services;

47 (d) Delegating professional responsibilities to a person who is not qualified by training,
48 skill, competency, age, experience or licensure to perform such responsibilities;

49 (e) Misrepresenting that any disease, ailment or infirmity can be cured by a method,
50 procedure, treatment, medicine or device;

51 (f) Performing or prescribing medical services which have been declared by board rule
52 to be of no medical or osteopathic value;

53 (g) Final disciplinary action by any professional medical or osteopathic association or
54 society or licensed hospital or medical staff of such hospital in this or any other state or territory,
55 whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension,
56 limitation, or restriction of the person's license or staff or hospital privileges, failure to renew
57 such privileges or license for cause, or other final disciplinary action, if the action was in any way
58 related to unprofessional conduct, professional incompetence, malpractice or any other violation
59 of any provision of this chapter;

60 (h) Signing a blank prescription form; or dispensing, prescribing, administering or
61 otherwise distributing any drug, controlled substance or other treatment without sufficient
62 examination, or for other than medically accepted therapeutic or experimental or investigative
63 purposes duly authorized by a state or federal agency, or not in the course of professional
64 practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical
65 infirmity or disease, except as authorized in section 334.104;

66 (i) Exercising influence within a physician-patient relationship for purposes of engaging
67 a patient in sexual activity;

68 (j) Terminating the medical care of a patient without adequate notice or without making
69 other arrangements for the continued care of the patient;

70 (k) Failing to furnish details of a patient's medical records to other treating physicians
71 or hospitals upon proper request; or failing to comply with any other law relating to medical
72 records;

73 (l) Failure of any applicant or licensee, other than the licensee subject to the
74 investigation, to cooperate with the board during any investigation;

75 (m) Failure to comply with any subpoena or subpoena duces tecum from the board or
76 an order of the board;

77 (n) Failure to timely pay license renewal fees specified in this chapter;

78 (o) Violating a probation agreement with this board or any other licensing agency;

79 (p) Failing to inform the board of the physician's current residence and business address;

80 (q) Advertising by an applicant or licensee which is false or misleading, or which

81 violates any rule of the board, or which claims without substantiation the positive cure of any

82 disease, or professional superiority to or greater skill than that possessed by any other physician.

83 An applicant or licensee shall also be in violation of this provision if the applicant or licensee

84 has a financial interest in any organization, corporation or association which issues or conducts

85 such advertising;

86 (5) Any conduct or practice which is or might be harmful or dangerous to the mental or

87 physical health of a patient or the public; or incompetency, gross negligence or repeated

88 negligence in the performance of the functions or duties of any profession licensed or regulated

89 by this chapter. For the purposes of this subdivision, "repeated negligence" means the failure,

90 on more than one occasion, to use that degree of skill and learning ordinarily used under the

91 same or similar circumstances by the member of the applicant's or licensee's profession;

92 (6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling

93 any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted

94 pursuant to this chapter;

95 (7) Impersonation of any person holding a certificate of registration or authority, permit

96 or license or allowing any person to use his or her certificate of registration or authority, permit,

97 license or diploma from any school;

98 (8) Revocation, suspension, restriction, modification, limitation, reprimand, warning,

99 censure, probation or other final disciplinary action against the holder of or applicant for a

100 license or other right to practice any profession regulated by this chapter by another state,

101 territory, federal agency or country, whether or not voluntarily agreed to by the licensee or

102 applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing

103 the license to expire or lapse, or discontinuing or limiting the practice of medicine while subject

104 to an investigation or while actually under investigation by any licensing authority, medical

105 facility, branch of the armed forces of the United States of America, insurance company, court,

106 agency of the state or federal government, or employer;

107 (9) A person is finally adjudged incapacitated or disabled by a court of competent

108 jurisdiction;

109 (10) Assisting or enabling any person to practice or offer to practice any profession

110 licensed or regulated by this chapter who is not registered and currently eligible to practice

111 pursuant to this chapter; or knowingly performing any act which in any way aids, assists,

112 procures, advises, or encourages any person to practice medicine who is not registered and

113 currently eligible to practice pursuant to this chapter. A physician who works in accordance with

114 standing orders or protocols or in accordance with the provisions of section 334.104 shall not be
115 in violation of this subdivision;

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

118 (12) Failure to display a valid certificate or license if so required by this chapter or any
119 rule promulgated pursuant to this chapter;

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

122 (14) Knowingly making, or causing to be made, or aiding, or abetting in the making of,
123 a false statement in any birth, death or other certificate or document executed in connection with
124 the practice of the person's profession;

125 (15) Soliciting patronage in person or by agents or representatives, or by any other means
126 or manner, under the person's own name or under the name of another person or concern, actual
127 or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or
128 necessity for or appropriateness of health care services for all patients, or the qualifications of
129 an individual person or persons to diagnose, render, or perform health care services;

130 (16) Using, or permitting the use of, the person's name under the designation of
131 "Doctor", "Dr.", "M.D.", or "D.O.", or any similar designation with reference to the commercial
132 exploitation of any goods, wares or merchandise;

133 (17) Knowingly making or causing to be made a false statement or misrepresentation of
134 a material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208,
135 RSMo, or chapter 630, RSMo, or for payment from Title XVIII or Title XIX of the federal
136 Medicare program;

137 (18) Failure or refusal to properly guard against contagious, infectious or communicable
138 diseases or the spread thereof; maintaining an unsanitary office or performing professional
139 services under unsanitary conditions; or failure to report the existence of an unsanitary condition
140 in the office of a physician or in any health care facility to the board, in writing, within thirty
141 days after the discovery thereof;

142 (19) Any candidate for licensure or person licensed to practice as a physical therapist,
143 paying or offering to pay a referral fee or, notwithstanding section 334.010 to the contrary,
144 practicing or offering to practice professional physical therapy independent of the prescription
145 and direction of a person licensed and registered as a physician and surgeon pursuant to this
146 chapter, as a dentist pursuant to chapter 332, RSMo, as a podiatrist pursuant to chapter 330,
147 RSMo, **as an advanced practice registered nurse under chapter 335**, or any licensed and
148 registered physician, dentist, [or] podiatrist, **or advanced practice registered nurse** practicing
149 in another jurisdiction, whose license is in good standing;

150 (20) Any candidate for licensure or person licensed to practice as a physical therapist,
151 treating or attempting to treat ailments or other health conditions of human beings other than by
152 professional physical therapy and as authorized by sections 334.500 to 334.620;

153 (21) Any person licensed to practice as a physician or surgeon, requiring, as a condition
154 of the physician-patient relationship, that the patient receive prescribed drugs, devices or other
155 professional services directly from facilities of that physician's office or other entities under that
156 physician's ownership or control. A physician shall provide the patient with a prescription which
157 may be taken to the facility selected by the patient and a physician knowingly failing to disclose
158 to a patient on a form approved by the advisory commission for professional physical therapists
159 as established by section 334.625 which is dated and signed by a patient or guardian
160 acknowledging that the patient or guardian has read and understands that the physician has a
161 pecuniary interest in a physical therapy or rehabilitation service providing prescribed treatment
162 and that the prescribed treatment is available on a competitive basis. This subdivision shall not
163 apply to a referral by one physician to another physician within a group of physicians practicing
164 together;

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

167 (23) Revocation, suspension, limitation or restriction of any kind whatsoever of any
168 controlled substance authority, whether agreed to voluntarily or not;

169 (24) For a physician to operate, conduct, manage, or establish an abortion facility, or for
170 a physician to perform an abortion in an abortion facility, if such facility comes under the
171 definition of an ambulatory surgical center pursuant to sections 197.200 to 197.240, RSMo, and
172 such facility has failed to obtain or renew a license as an ambulatory surgical center;

173 (25) Being unable to practice as a physician and surgeon or with a specialty with
174 reasonable skill and safety to patients by reasons of medical or osteopathic incompetency, or
175 because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any
176 mental or physical condition. The following shall apply to this subdivision:

177 (a) In enforcing this subdivision the board shall, after a hearing by the board, upon a
178 finding of probable cause, require a physician to submit to a reexamination for the purpose of
179 establishing his or her competency to practice as a physician or surgeon or with a specialty
180 conducted in accordance with rules adopted for this purpose by the board, including rules to
181 allow the examination of the pattern and practice of such physician's or surgeon's professional
182 conduct, or to submit to a mental or physical examination or combination thereof by at least three
183 physicians, one selected by the physician compelled to take the examination, one selected by the
184 board, and one selected by the two physicians so selected who are graduates of a professional
185 school approved and accredited as reputable by the association which has approved and
186 accredited as reputable the professional school from which the licentiate graduated. However,

187 if the physician is a graduate of a medical school not accredited by the American Medical
188 Association or American Osteopathic Association, then each party shall choose any physician
189 who is a graduate of a medical school accredited by the American Medical Association or the
190 American Osteopathic Association;

191 (b) For the purpose of this subdivision, every physician licensed pursuant to this chapter
192 is deemed to have consented to submit to a mental or physical examination when directed in
193 writing by the board and further to have waived all objections to the admissibility of the
194 examining physician's testimony or examination reports on the ground that the examining
195 physician's testimony or examination is privileged;

196 (c) In addition to ordering a physical or mental examination to determine competency,
197 the board may, notwithstanding any other law limiting access to medical or other health data,
198 obtain medical data and health records relating to a physician or applicant without the physician's
199 or applicant's consent;

200 (d) Written notice of the reexamination or the physical or mental examination shall be
201 sent to the physician, by registered mail, addressed to the physician at the physician's last known
202 address. Failure of a physician to designate an examining physician to the board or failure to
203 submit to the examination when directed shall constitute an admission of the allegations against
204 the physician, in which case the board may enter a final order without the presentation of
205 evidence, unless the failure was due to circumstances beyond the physician's control. A
206 physician whose right to practice has been affected under this subdivision shall, at reasonable
207 intervals, be afforded an opportunity to demonstrate that the physician can resume the competent
208 practice as a physician and surgeon with reasonable skill and safety to patients;

209 (e) In any proceeding pursuant to this subdivision neither the record of proceedings nor
210 the orders entered by the board shall be used against a physician in any other proceeding.
211 Proceedings under this subdivision shall be conducted by the board without the filing of a
212 complaint with the administrative hearing commission;

213 (f) When the board finds any person unqualified because of any of the grounds set forth
214 in this subdivision, it may enter an order imposing one or more of the disciplinary measures set
215 forth in subsection 4 of this section.

216 3. Collaborative practice arrangements, protocols and standing orders shall be in writing
217 and signed and dated by a physician prior to their implementation.

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

224 license, certificate or permit for a period not to exceed three years, or restrict or limit the person's
225 license, certificate or permit for an indefinite period of time, or revoke the person's license,
226 certificate, or permit, or administer a public or private reprimand, or deny the person's
227 application for a license, or permanently withhold issuance of a license or require the person to
228 submit to the care, counseling or treatment of physicians designated by the board at the expense
229 of the individual to be examined, or require the person to attend such continuing educational
230 courses and pass such examinations as the board may direct.

231 5. In any order of revocation, the board may provide that the person may not apply for
232 reinstatement of the person's license for a period of time ranging from two to seven years
233 following the date of the order of revocation. All stay orders shall toll this time period.

234 6. Before restoring to good standing a license, certificate or permit issued pursuant to this
235 chapter which has been in a revoked, suspended or inactive state for any cause for more than two
236 years, the board may require the applicant to attend such continuing medical education courses
237 and pass such examinations as the board may direct.

238 7. In any investigation, hearing or other proceeding to determine a licensee's or
239 applicant's fitness to practice, any record relating to any patient of the licensee or applicant shall
240 be discoverable by the board and admissible into evidence, regardless of any statutory or
241 common law privilege which such licensee, applicant, record custodian or patient might
242 otherwise invoke. In addition, no such licensee, applicant, or record custodian may withhold
243 records or testimony bearing upon a licensee's or applicant's fitness to practice on the ground of
244 privilege between such licensee, applicant or record custodian and a patient.

334.506. 1. As used in this section, "approved health care provider" means a person
2 holding a current and active license as a physician and surgeon under this chapter, a chiropractor
3 under chapter 331, RSMo, a dentist under chapter 332, RSMo, a podiatrist under chapter 330,
4 RSMo, a physician assistant under this chapter, **an advanced practice registered nurse under**
5 **chapter 335**, or any licensed and registered physician, chiropractor, dentist, or podiatrist
6 practicing in another jurisdiction whose license is in good standing.

7 2. A physical therapist shall not initiate treatment for a new injury or illness without a
8 prescription from an approved health care provider.

9 3. A physical therapist may provide educational resources and training, develop fitness
10 or wellness programs for asymptomatic persons, or provide screening or consultative services
11 within the scope of physical therapy practice without the prescription and direction of an
12 approved health care provider.

13 4. A physical therapist may examine and treat without the prescription and direction of
14 an approved health care provider any person with a recurring self-limited injury within one year
15 of diagnosis by an approved health care provider or a chronic illness that has been previously
16 diagnosed by an approved health care provider. The physical therapist shall:

17 (1) Contact the patient's current approved health care provider within seven days of
18 initiating physical therapy services under this subsection;

19 (2) Not change an existing physical therapy referral available to the physical therapist
20 without approval of the patient's current approved health care provider;

21 (3) Refer to an approved health care provider any patient whose medical condition at the
22 time of examination or treatment is determined to be beyond the scope of practice of physical
23 therapy;

24 (4) Refer to an approved health care provider any patient whose condition for which
25 physical therapy services are rendered under this subsection has not been documented to be
26 progressing toward documented treatment goals after six visits or fourteen days, whichever first
27 occurs;

28 (5) Notify the patient's current approved health care provider prior to the continuation
29 of treatment if treatment rendered under this subsection is to continue beyond thirty days. The
30 physical therapist shall provide such notification for each successive period of thirty days.

31 5. The provision of physical therapy services of evaluation and screening pursuant to this
32 section shall be limited to a physical therapist, and any authority for evaluation and screening
33 granted within this section may not be delegated. Upon each reinitiation of physical therapy
34 services, a physical therapist shall provide a full physical therapy evaluation prior to the
35 reinitiation of physical therapy treatment. Physical therapy treatment provided pursuant to the
36 provisions of subsection 4 of this section may be delegated by physical therapists to physical
37 therapist assistants only if the patient's current approved health care provider has been so
38 informed as part of the physical therapist's seven-day notification upon reinitiation of physical
39 therapy services as required in subsection 4 of this section. Nothing in this subsection shall be
40 construed as to limit the ability of physical therapists or physical therapist assistants to provide
41 physical therapy services in accordance with the provisions of this chapter, and upon the referral
42 of an approved health care provider. Nothing in this subsection shall prohibit an approved health
43 care provider from acting within the scope of their practice as defined by the applicable chapters
44 of RSMo.

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

47 7. A physical therapist shall only delegate physical therapy treatment to a physical
48 therapist assistant or to a person in an entry level of a professional education program approved
49 by the Commission for Accreditation of Physical Therapists and Physical Therapist Assistant
50 Education (CAPTE) who satisfies supervised clinical education requirements related to the
51 person's physical therapist or physical therapist assistant education. The entry-level person shall
52 be under on-site supervision of a physical therapist.

334.613. 1. The board may refuse to issue or renew a license to practice as a physical therapist or physical therapist assistant for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue or renew a license to practice as a physical therapist or physical therapist assistant, the board may, at its discretion, issue a license which is subject to probation, restriction, or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation, or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited, or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited, or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of a license to practice as a physical therapist or physical therapist assistant who has failed to renew or has surrendered his or her license for any one or any combination of the following causes:

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

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

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

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct, or unprofessional conduct in the performance of the functions or duties of a physical therapist or physical therapist assistant, including but not limited to the following:

- 37 (a) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by
38 fraud, deception, or misrepresentation; willfully and continually overcharging or overtreating
39 patients; or charging for sessions of physical therapy which did not occur unless the services
40 were contracted for in advance, or for services which were not rendered or documented in the
41 patient's records;
- 42 (b) Attempting, directly or indirectly, by way of intimidation, coercion, or deception, to
43 obtain or retain a patient or discourage the use of a second opinion or consultation;
- 44 (c) Willfully and continually performing inappropriate or unnecessary treatment or
45 services;
- 46 (d) Delegating professional responsibilities to a person who is not qualified by training,
47 skill, competency, age, experience, or licensure to perform such responsibilities;
- 48 (e) Misrepresenting that any disease, ailment, or infirmity can be cured by a method,
49 procedure, treatment, medicine, or device;
- 50 (f) Performing services which have been declared by board rule to be of no physical
51 therapy value;
- 52 (g) Final disciplinary action by any professional association, professional society,
53 licensed hospital or medical staff of the hospital, or physical therapy facility in this or any other
54 state or territory, whether agreed to voluntarily or not, and including but not limited to any
55 removal, suspension, limitation, or restriction of the person's professional employment,
56 malpractice, or any other violation of any provision of this chapter;
- 57 (h) Administering treatment without sufficient examination, or for other than medically
58 accepted therapeutic or experimental or investigative purposes duly authorized by a state or
59 federal agency, or not in the course of professional physical therapy practice;
- 60 (i) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual,
61 while a physical therapist or physical therapist assistant/patient relationship exists; making sexual
62 advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of
63 a sexual nature with patients or clients;
- 64 (j) Terminating the care of a patient without adequate notice or without making other
65 arrangements for the continued care of the patient;
- 66 (k) Failing to furnish details of a patient's physical therapy records to treating physicians,
67 other physical therapists, or hospitals upon proper request; or failing to comply with any other
68 law relating to physical therapy records;
- 69 (l) Failure of any applicant or licensee, other than the licensee subject to the
70 investigation, to cooperate with the board during any investigation;
- 71 (m) Failure to comply with any subpoena or subpoena duces tecum from the board or
72 an order of the board;
- 73 (n) Failure to timely pay license renewal fees specified in this chapter;

74 (o) Violating a probation agreement with this board or any other licensing agency;

75 (p) Failing to inform the board of the physical therapist's or physical therapist assistant's
76 current telephone number, residence, and business address;

77 (q) Advertising by an applicant or licensee which is false or misleading, or which
78 violates any rule of the board, or which claims without substantiation the positive cure of any
79 disease, or professional superiority to or greater skill than that possessed by any other physical
80 therapist or physical therapist assistant. An applicant or licensee shall also be in violation of this
81 provision if the applicant or licensee has a financial interest in any organization, corporation, or
82 association which issues or conducts such advertising;

83 (5) Any conduct or practice which is or might be harmful or dangerous to the mental or
84 physical health of a patient or the public; or incompetency, gross negligence, or repeated
85 negligence in the performance of the functions or duties of a physical therapist or physical
86 therapist assistant. For the purposes of this subdivision, "repeated negligence" means the failure,
87 on more than one occasion, to use that degree of skill and learning ordinarily used under the
88 same or similar circumstances by the member of the applicant's or licensee's profession;

89 (6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling
90 any person to violate, any provision of this chapter, or of any lawful rule adopted under this
91 chapter;

92 (7) Impersonation of any person licensed as a physical therapist or physical therapist
93 assistant or allowing any person to use his or her license or diploma from any school;

94 (8) Revocation, suspension, restriction, modification, limitation, reprimand, warning,
95 censure, probation, or other final disciplinary action against a physical therapist or physical
96 therapist assistant for a license or other right to practice as a physical therapist or physical
97 therapist assistant by another state, territory, federal agency or country, whether or not voluntarily
98 agreed to by the licensee or applicant, including but not limited to the denial of licensure,
99 surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the
100 practice of physical therapy while subject to an investigation or while actually under
101 investigation by any licensing authority, medical facility, branch of the armed forces of the
102 United States of America, insurance company, court, agency of the state or federal government,
103 or employer;

104 (9) A person is finally adjudged incapacitated or disabled by a court of competent
105 jurisdiction;

106 (10) Assisting or enabling any person to practice or offer to practice who is not licensed
107 and currently eligible to practice under this chapter; or knowingly performing any act which in
108 any way aids, assists, procures, advises, or encourages any person to practice physical therapy
109 who is not licensed and currently eligible to practice under this chapter;

110 (11) Issuance of a license to practice as a physical therapist or physical therapist assistant
111 based upon a material mistake of fact;

112 (12) Failure to display a valid license pursuant to practice as a physical therapist or
113 physical therapist assistant;

114 (13) Knowingly making, or causing to be made, or aiding, or abetting in the making of,
115 a false statement in any document executed in connection with the practice of physical therapy;

116 (14) Soliciting patronage in person or by agents or representatives, or by any other means
117 or manner, under the person's own name or under the name of another person or concern, actual
118 or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or
119 necessity for or appropriateness of physical therapy services for all patients, or the qualifications
120 of an individual person or persons to render, or perform physical therapy services;

121 (15) Using, or permitting the use of, the person's name under the designation of "physical
122 therapist", "physiotherapist", "registered physical therapist", "P.T.", "Ph.T.", "P.T.T.", "D.P.T.",
123 "M.P.T." or "R.P.T.", "physical therapist assistant", "P.T.A.", "L.P.T.A.", "C.P.T.A.", or any
124 similar designation with reference to the commercial exploitation of any goods, wares or
125 merchandise;

126 (16) Knowingly making or causing to be made a false statement or misrepresentation of
127 a material fact, with intent to defraud, for payment under chapter 208, RSMo, or chapter 630,
128 RSMo, or for payment from Title XVIII or Title XIX of the federal Medicare program;

129 (17) Failure or refusal to properly guard against contagious, infectious, or communicable
130 diseases or the spread thereof; maintaining an unsanitary facility or performing professional
131 services under unsanitary conditions; or failure to report the existence of an unsanitary condition
132 in any physical therapy facility to the board, in writing, within thirty days after the discovery
133 thereof;

134 (18) Any candidate for licensure or person licensed to practice as a physical therapist or
135 physical therapist assistant paying or offering to pay a referral fee or, notwithstanding section
136 334.010 to the contrary, practicing or offering to practice professional physical therapy
137 independent of the prescription and direction of a person licensed and registered as a physician
138 and surgeon under this chapter, as a physician assistant under this chapter, as a chiropractor
139 under chapter 331, RSMo, as a dentist under chapter 332, RSMo, as a podiatrist under chapter
140 330, RSMo, **as an advanced practice registered nurse under chapter 335**, or any licensed and
141 registered physician, chiropractor, dentist, [or] , podiatrist, **or advanced practice registered**
142 **nurse** practicing in another jurisdiction, whose license is in good standing;

143 (19) Any candidate for licensure or person licensed to practice as a physical therapist or
144 physical therapist assistant treating or attempting to treat ailments or other health conditions of
145 human beings other than by professional physical therapy and as authorized by sections 334.500
146 to 334.685;

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

149 (21) Failing to maintain adequate patient records under 334.602;

150 (22) Attempting to engage in conduct that subverts or undermines the integrity of the
151 licensing examination or the licensing examination process, including but not limited to utilizing
152 in any manner recalled or memorized licensing examination questions from or with any person
153 or entity, failing to comply with all test center security procedures, communicating or attempting
154 to communicate with any other examinees during the test, or copying or sharing licensing
155 examination questions or portions of questions;

156 (23) Any candidate for licensure or person licensed to practice as a physical therapist or
157 physical therapist assistant who requests, receives, participates or engages directly or indirectly
158 in the division, transferring, assigning, rebating or refunding of fees received for professional
159 services or profits by means of a credit or other valuable consideration such as wages, an
160 unearned commission, discount or gratuity with any person who referred a patient, or with any
161 relative or business associate of the referring person;

162 (24) Being unable to practice as a physical therapist or physical therapist assistant with
163 reasonable skill and safety to patients by reasons of incompetency, or because of illness,
164 drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical
165 condition. The following shall apply to this subdivision:

166 (a) In enforcing this subdivision the board shall, after a hearing by the board, upon a
167 finding of probable cause, require a physical therapist or physical therapist assistant to submit
168 to a reexamination for the purpose of establishing his or her competency to practice as a physical
169 therapist or physical therapist assistant conducted in accordance with rules adopted for this
170 purpose by the board, including rules to allow the examination of the pattern and practice of such
171 physical therapist's or physical therapist assistant's professional conduct, or to submit to a mental
172 or physical examination or combination thereof by a facility or professional approved by the
173 board;

174 (b) For the purpose of this subdivision, every physical therapist and physical therapist
175 assistant licensed under this chapter is deemed to have consented to submit to a mental or
176 physical examination when directed in writing by the board;

177 (c) In addition to ordering a physical or mental examination to determine competency,
178 the board may, notwithstanding any other law limiting access to medical or other health data,
179 obtain medical data and health records relating to a physical therapist, physical therapist assistant
180 or applicant without the physical therapist's, physical therapist assistant's or applicant's consent;

181 (d) Written notice of the reexamination or the physical or mental examination shall be
182 sent to the physical therapist or physical therapist assistant, by registered mail, addressed to the
183 physical therapist or physical therapist assistant at the physical therapist's or physical therapist

184 assistant's last known address. Failure of a physical therapist or physical therapist assistant to
185 submit to the examination when directed shall constitute an admission of the allegations against
186 the physical therapist or physical therapist assistant, in which case the board may enter a final
187 order without the presentation of evidence, unless the failure was due to circumstances beyond
188 the physical therapist's or physical therapist assistant's control. A physical therapist or physical
189 therapist assistant whose right to practice has been affected under this subdivision shall, at
190 reasonable intervals, be afforded an opportunity to demonstrate that the physical therapist or
191 physical therapist assistant can resume the competent practice as a physical therapist or physical
192 therapist assistant with reasonable skill and safety to patients;

193 (e) In any proceeding under this subdivision neither the record of proceedings nor the
194 orders entered by the board shall be used against a physical therapist or physical therapist
195 assistant in any other proceeding. Proceedings under this subdivision shall be conducted by the
196 board without the filing of a complaint with the administrative hearing commission;

197 (f) When the board finds any person unqualified because of any of the grounds set forth
198 in this subdivision, it may enter an order imposing one or more of the disciplinary measures set
199 forth in subsection 3 of this section.

200 3. After the filing of such complaint before the administrative hearing commission, the
201 proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon
202 a finding by the administrative hearing commission that the grounds provided in subsection 2
203 of this section for disciplinary action are met, the board may, singly or in combination:

204 (1) Warn, censure or place the physical therapist or physical therapist assistant named
205 in the complaint on probation on such terms and conditions as the board deems appropriate for
206 a period not to exceed ten years;

207 (2) Suspend the physical therapist's or physical therapist assistant's license for a period
208 not to exceed three years;

209 (3) Restrict or limit the physical therapist's or physical therapist assistant's license for an
210 indefinite period of time;

211 (4) Revoke the physical therapist's or physical therapist assistant's license;

212 (5) Administer a public or private reprimand;

213 (6) Deny the physical therapist's or physical therapist assistant's application for a license;

214 (7) Permanently withhold issuance of a license;

215 (8) Require the physical therapist or physical therapist assistant to submit to the care,
216 counseling or treatment of physicians designated by the board at the expense of the physical
217 therapist or physical therapist assistant to be examined;

218 (9) Require the physical therapist or physical therapist assistant to attend such continuing
219 educational courses and pass such examinations as the board may direct.

220 4. In any order of revocation, the board may provide that the physical therapist or
221 physical therapist assistant shall not apply for reinstatement of the physical therapist's or physical
222 therapist assistant's license for a period of time ranging from two to seven years following the
223 date of the order of revocation. All stay orders shall toll this time period.

224 5. Before restoring to good standing a license issued under this chapter which has been
225 in a revoked, suspended, or inactive state for any cause for more than two years, the board may
226 require the applicant to attend such continuing medical education courses and pass such
227 examinations as the board may direct.

228 6. In any investigation, hearing or other proceeding to determine a physical therapist's,
229 physical therapist assistant's or applicant's fitness to practice, any record relating to any patient
230 of the physical therapist, physical therapist assistant, or applicant shall be discoverable by the
231 board and admissible into evidence, regardless of any statutory or common law privilege which
232 such physical therapist, physical therapist assistant, applicant, record custodian, or patient might
233 otherwise invoke. In addition, no such physical therapist, physical therapist assistant, applicant,
234 or record custodian may withhold records or testimony bearing upon a physical therapist's,
235 physical therapist assistant's, or applicant's fitness to practice on the [ground] **grounds** of
236 privilege between such physical therapist, physical therapist assistant, applicant, or record
237 custodian and a patient.

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

- 2 (1) "Applicant", any individual who seeks to become licensed as a physician assistant;
- 3 (2) "Certification" or "registration", a process by a certifying entity that grants
4 recognition to applicants meeting predetermined qualifications specified by such certifying
5 entity;
- 6 (3) "Certifying entity", the nongovernmental agency or association which certifies or
7 registers individuals who have completed academic and training requirements;
- 8 (4) "Department", the department of insurance, financial institutions and professional
9 registration or a designated agency thereof;
- 10 (5) "License", a document issued to an applicant by the board acknowledging that the
11 applicant is entitled to practice as a physician assistant;
- 12 (6) "Physician assistant", a person who has graduated from a physician assistant program
13 accredited by the American Medical Association's Committee on Allied Health Education and
14 Accreditation or by its successor agency, who has passed the certifying examination administered
15 by the National Commission on Certification of Physician Assistants and has active certification
16 by the National Commission on Certification of Physician Assistants who provides health care
17 services delegated by a licensed physician. A person who has been employed as a physician
18 assistant for three years prior to August 28, 1989, who has passed the National Commission on

19 Certification of Physician Assistants examination, and has active certification of the National
20 Commission on Certification of Physician Assistants;

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

23 (8) "Supervision", control exercised over a physician assistant working within the same
24 facility as the supervising physician sixty-six percent of the time a physician assistant provides
25 patient care, except a physician assistant may make follow-up patient examinations in hospitals,
26 nursing homes, patient homes, and correctional facilities, each such examination being reviewed,
27 approved and signed by the supervising physician, except as provided by subsection 2 of this
28 section. For the purposes of this section, the percentage of time a physician assistant provides
29 patient care with the supervising physician on-site shall be measured each calendar quarter. The
30 supervising physician must be readily available in person or via telecommunication during the
31 time the physician assistant is providing patient care. The board shall promulgate rules pursuant
32 to chapter 536, RSMo, for documentation of joint review of the physician assistant activity by
33 the supervising physician and the physician assistant. The physician assistant shall be limited
34 to practice at locations where the supervising physician is no further than thirty miles by road
35 using the most direct route available, or in any other fashion so distanced as to create an
36 impediment to effective intervention and supervision of patient care or adequate review of
37 services. Any other provisions of this chapter notwithstanding, for up to ninety days following
38 the effective date of rules promulgated by the board to establish the waiver process under
39 subsection 2 of this section, any physician assistant practicing in a health professional shortage
40 area as of April 1, 2007, shall be allowed to practice under the on-site requirements stipulated
41 by the supervising physician on the supervising physician form that was in effect on April 1,
42 2007.

43 2. The board shall promulgate rules under chapter 536, RSMo, to direct the advisory
44 commission on physician assistants to establish a formal waiver mechanism by which an
45 individual physician-physician assistant team may apply for alternate minimum amounts of
46 on-site supervision and maximum distance from the supervising physician. After review of an
47 application for a waiver, the advisory commission on physician assistants shall present its
48 recommendation to the board for its advice and consent on the approval or denial of the
49 application. The rule shall establish a process by which the public is invited to comment on the
50 application for a waiver, and shall specify that a waiver may only be granted if a supervising
51 physician and physician assistant demonstrate to the board's satisfaction in accordance with its
52 uniformly applied criteria that:

53 (1) Adequate supervision will be provided by the physician for the physician assistant,
54 given the physician assistant's training and experience and the acuity of patient conditions
55 normally treated in the clinical setting;

56 (2) The physician assistant shall be limited to practice at locations where the supervising
57 physician is no further than fifty miles by road using the most direct route available, or in any
58 other fashion so distanced as to create an impediment to effective intervention and supervision
59 of patient care or adequate review of services;

60 (3) The community or communities served by the supervising physician and physician
61 assistant would experience reduced access to health care services in the absence of a waiver;

62 (4) The applicant will practice in an area designated at the time of application as a health
63 professional shortage area;

64 (5) Nothing in this section shall be construed to require a physician-physician assistant
65 team to increase their on-site requirement allowed in their initial waiver in order to qualify for
66 renewal of such waiver;

67 (6) If a waiver has been granted by the board of healing arts **on or after August 28,**
68 **2009,** to a **physician-physician assistant team** working in a rural health clinic under the federal
69 Rural Health Clinic Services Act, P.L. 95-210, as amended, no additional waiver shall be
70 required **for the physician-physician assistant team,** so long as the rural health clinic maintains
71 its status as a rural health clinic under such federal act, and such [physician assistant and
72 supervising physician] **physician-physician assistant team** comply with federal supervision
73 requirements. **No supervision requirements in addition to the minimum federal law shall**
74 **be required for the physician-physician assistant team in a rural health clinic if a waiver**
75 **has been granted by the board. However, the board shall be able to void a current waiver**
76 **after conducting a hearing and upon a finding of fact that the physician-physician assistant**
77 **team has failed to comply with such federal act or either member of the team has violated**
78 **a provision of this chapter;**

79 (7) A physician assistant shall only be required to seek a renewal of a waiver every five
80 years or when his or her supervising physician is a different physician than the physician shown
81 on the waiver application or they move their primary practice location more than ten miles from
82 the location shown on the waiver application.

83 3. The scope of practice of a physician assistant shall consist only of the following
84 services and procedures:

85 (1) Taking patient histories;

86 (2) Performing physical examinations of a patient;

87 (3) Performing or assisting in the performance of routine office laboratory and patient
88 screening procedures;

89 (4) Performing routine therapeutic procedures;

90 (5) Recording diagnostic impressions and evaluating situations calling for attention of
91 a physician to institute treatment procedures;

92 (6) Instructing and counseling patients regarding mental and physical health using
93 procedures reviewed and approved by a licensed physician;

94 (7) Assisting the supervising physician in institutional settings, including reviewing of
95 treatment plans, ordering of tests and diagnostic laboratory and radiological services, and
96 ordering of therapies, using procedures reviewed and approved by a licensed physician;

97 (8) Assisting in surgery;

98 (9) Performing such other tasks not prohibited by law under the supervision of a licensed
99 physician as the physician's assistant has been trained and is proficient to perform;

100 (10) Physician assistants shall not perform abortions.

101 4. Physician assistants shall not prescribe nor dispense any drug, medicine, device or
102 therapy [independent of consultation with the supervising physician] **unless pursuant to a**
103 **physician supervision agreement in accordance with the law**, nor prescribe lenses, prisms or
104 contact lenses for the aid, relief or correction of vision or the measurement of visual power or
105 visual efficiency of the human eye, nor administer or monitor general or regional block
106 anesthesia during diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing
107 of drugs, medications, devices or therapies by a physician assistant shall be pursuant to a
108 physician assistant supervision agreement which is specific to the clinical conditions treated by
109 the supervising physician and the physician assistant shall be subject to the following:

110 (1) A physician assistant shall only prescribe controlled substances in accordance with
111 section 334.747;

112 (2) The types of drugs, medications, devices or therapies prescribed or dispensed by a
113 physician assistant shall be consistent with the scopes of practice of the physician assistant and
114 the supervising physician;

115 (3) All prescriptions shall conform with state and federal laws and regulations and shall
116 include the name, address and telephone number of the physician assistant and the supervising
117 physician;

118 (4) A physician assistant or advanced practice nurse as defined in section 335.016,
119 RSMo, may request, receive and sign for noncontrolled professional samples and may distribute
120 professional samples to patients;

121 (5) A physician assistant shall not prescribe any drugs, medicines, devices or therapies
122 the supervising physician is not qualified or authorized to prescribe; and

123 (6) A physician assistant may only dispense starter doses of medication to cover a period
124 of time for seventy-two hours or less.

125 5. A physician assistant shall clearly identify himself or herself as a physician assistant
126 and shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr."
127 or "doc" nor hold himself or herself out in any way to be a physician or surgeon. No physician
128 assistant shall practice or attempt to practice without physician supervision or in any location

129 where the supervising physician is not immediately available for consultation, assistance and
130 intervention, except as otherwise provided in this section, and in an emergency situation, nor
131 shall any physician assistant bill a patient independently or directly for any services or procedure
132 by the physician assistant.

133 6. For purposes of this section, the licensing of physician assistants shall take place
134 within processes established by the state board of registration for the healing arts through rule
135 and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536,
136 RSMo, establishing licensing and renewal procedures, supervision, supervision agreements, fees,
137 and addressing such other matters as are necessary to protect the public and discipline the
138 profession. An application for licensing may be denied or the license of a physician assistant
139 may be suspended or revoked by the board in the same manner and for violation of the standards
140 as set forth by section 334.100, or such other standards of conduct set by the board by rule or
141 regulation. Persons licensed pursuant to the provisions of chapter 335, RSMo, shall not be
142 required to be licensed as physician assistants. All applicants for physician assistant licensure
143 who complete a physician assistant training program after January 1, 2008, shall have a master's
144 degree from a physician assistant program.

145 7. "Physician assistant supervision agreement" means a written agreement, jointly
146 agreed-upon protocols or standing order between a supervising physician and a physician
147 assistant, which provides for the delegation of health care services from a supervising physician
148 to a physician assistant and the review of such services.

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

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

157 10. It is the responsibility of the supervising physician to determine and document the
158 completion of at least a one-month period of time during which the licensed physician assistant
159 shall practice with a supervising physician continuously present before practicing in a setting
160 where a supervising physician is not continuously present.

161 11. No contract or other agreement shall require a physician to act as a supervising
162 physician for a physician assistant against the physician's will. A physician shall have the right
163 to refuse to act as a supervising physician, without penalty, for a particular physician assistant.
164 No contract or other agreement shall limit the supervising physician's ultimate authority over any
165 protocols or standing orders or in the delegation of the physician's authority to any physician

166 assistant, but this requirement shall not authorize a physician in implementing such protocols,
167 standing orders, or delegation to violate applicable standards for safe medical practice
168 established by hospital's medical staff.

169 12. Physician assistants shall file with the board a copy of their supervising physician
170 form.

171 13. No physician shall be designated to serve as supervising physician for more than
172 three full-time equivalent licensed physician assistants. This limitation shall not apply to
173 physician assistant agreements of hospital employees providing inpatient care service in hospitals
174 as defined in chapter 197, RSMo.

**335.075. 1. Before hiring a registered nurse, licensed practical nurse, or advanced
2 practice registered nurse in Missouri, an employer shall verify that the applicant has a
3 current, valid license to practice nursing under chapter 335. This section shall not apply
4 for employment which does not require the possession of a current, valid license to practice
5 nursing.**

**6 2. Employers shall have a process in place to verify licensure status of each
7 registered nurse, licensed practical nurse, or advanced practice registered nurse coinciding
8 with the license renewal.**

335.081. So long as the person involved does not represent or hold himself or herself out
2 as a nurse licensed to practice in this state, no provision of sections 335.011 to 335.096 shall be
3 construed as prohibiting:

4 (1) The practice of any profession for which a license is required and issued pursuant to
5 the laws of this state by a person duly licensed to practice that profession;

6 (2) The services rendered by technicians, nurses' aides or their equivalent trained and
7 employed in public or private hospitals and licensed long-term care facilities except the services
8 rendered in licensed long-term care facilities shall be limited to administering medication,
9 excluding injectable other than insulin;

10 (3) The providing of nursing care by friends or members of the family of the person
11 receiving such care;

12 (4) The incidental care of the sick, aged, or infirm by domestic servants or persons
13 primarily employed as housekeepers;

14 (5) The furnishing of nursing assistance in the case of an emergency situation;

15 (6) The practice of nursing under proper supervision:

16 (a) As a part of the course of study by students enrolled in approved schools of
17 professional nursing or in schools of practical nursing;

18 (b) By graduates of accredited nursing programs pending the results of the first licensing
19 examination or ninety days after graduation, whichever first occurs;

20 (c) A graduate nurse who is prevented from attending the first licensing examination
21 following graduation by reason of active duty in the military may practice as a graduate nurse
22 pending the results of the first licensing examination scheduled by the board following the
23 release of such graduate nurse from active military duty or pending the results of the first
24 licensing examination taken by the graduate nurse while involved in active military service
25 whichever comes first;

26 (7) The practice of nursing in this state by any legally qualified nurse duly licensed to
27 practice in another state whose engagement requires such nurse to accompany and care for a
28 patient temporarily residing in this state for a period not to exceed six months;

29 (8) The practice of any legally qualified nurse who is employed by the government of
30 the United States or any bureau, division or agency thereof, while in the discharge of his or her
31 official duties or to the practice of any legally qualified nurse serving in the armed forces of the
32 United States while stationed within this state;

33 (9) Nonmedical nursing care of the sick with or without compensation when done in
34 connection with the practice of the religious tenets of any church by adherents thereof, as long
35 as they do not engage in the practice of nursing as defined in sections 335.011 to 335.096;

36 **(10) The practice of any legally qualified and licensed nurse of another state,**
37 **territory, or foreign country whose responsibilities include transporting patients into, out**
38 **of, or through this state while actively engaged in patient transport that does not exceed**
39 **forty-eight hours in this state.**

337.528. 1. If the committee finds merit to a complaint by an individual incarcerated or
2 under the care and control of the department of corrections **or by an individual who has been**
3 **ordered to be taken into custody, detained, or held under sections 632.480 to 632.513** and
4 takes further investigative action, no documentation may appear on file or disciplinary action
5 may be taken in regards to the licensee's license unless the provisions of subsection 2 of section
6 337.525 have been violated. Any case file documentation that does not result in the committee
7 filing an action under subsection 2 of section 337.525 shall be destroyed within three months
8 after the final case disposition by the board. No notification to any other licensing board in
9 another state or any national registry regarding any investigative action shall be made unless the
10 provisions of subsection 2 of section 337.525 have been violated.

11 2. Upon written request of the licensed professional counselor subject to a complaint,
12 prior to August 28, 2007, by an individual incarcerated or under the care and control of the
13 department of corrections **or prior to August 28, 2010, by an individual who has been**
14 **ordered to be taken into custody, detained, or held under sections 632.480 to 632.513** that
15 did not result in the committee filing an action under subsection 2 of section 337.525, the
16 committee and the division of professional registration shall in a timely fashion:

17 (1) Destroy all documentation regarding the complaint;

18 (2) Notify any other licensing board in another state or any national registry regarding
19 the committee's actions if they have been previously notified of the complaint; and

20 (3) Send a letter to the licensee that clearly states that the committee found the complaint
21 to be unsubstantiated, that the committee has taken the requested action, and notify the licensee
22 of the provisions of subsection 3 of this section.

23 3. Any person who has been the subject of an unsubstantiated complaint as provided in
24 subsection 1 or 2 of this section shall not be required to disclose the existence of such complaint
25 in subsequent applications or representations relating to their counseling professions.

337.600. As used in sections 337.600 to 337.689, the following terms mean:

2 (1) "Advanced macro social worker", the applications of social work theory, knowledge,
3 methods, principles, values, and ethics; and the professional use of self to community and
4 organizational systems, systemic and macrocosm issues, and other indirect nonclinical services;
5 specialized knowledge and advanced practice skills in case management, information and
6 referral, nonclinical assessments, counseling, outcome evaluation, mediation, nonclinical
7 supervision, nonclinical consultation, expert testimony, education, outcome evaluation, research,
8 advocacy, social planning and policy development, community organization, and the
9 development, implementation and administration of policies, programs, and activities. A
10 licensed advanced macro social worker may not treat mental or emotional disorders or provide
11 psychotherapy without the direct supervision of a licensed clinical social worker, or diagnose a
12 mental disorder;

13 (2) "Clinical social work", the application of social work theory, knowledge, values,
14 methods, principles, and techniques of case work, group work, client-centered advocacy,
15 community organization, administration, planning, evaluation, consultation, research,
16 psychotherapy and counseling methods and techniques to persons, families and groups in
17 assessment, diagnosis, treatment, prevention and amelioration of mental and emotional
18 conditions;

19 (3) "Committee", the state committee for social workers established in section 337.622;

20 (4) "Department", the Missouri department of insurance, financial institutions and
21 professional registration;

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

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

24 (7) "Independent practice", any practice of social workers outside of an organized setting
25 such as a social, medical, or governmental agency in which a social worker assumes
26 responsibility and accountability for services required;

27 (8) "Licensed advanced macro social worker", any person who offers to render services
28 to individuals, groups, families, couples, organizations, institutions, communities, government
29 agencies, corporations, or the general public for a fee, monetary or otherwise, implying that the

30 person is trained, experienced, and licensed as an advanced macro social worker, and who holds
31 a current valid license to practice as an advanced macro social worker;

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

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

42 (11) "Licensed master social worker", any person who offers to render services to
43 individuals, groups, families, couples, organizations, institutions, communities, government
44 agencies, corporations, or the general public for a fee, monetary or otherwise, implying that the
45 person is trained, experienced, and licensed as a master social worker, and who holds a current
46 valid license to practice as a master social worker. A licensed master social worker may not treat
47 mental or emotional disorders, provide psychotherapy without the direct supervision of a
48 licensed clinical social worker, or diagnose a mental disorder;

49 (12) "Master social work", the application of social work theory, knowledge, methods,
50 and ethics and the professional use of self to restore or enhance social, psychosocial, or
51 biopsychosocial functioning of individuals, couples, families, groups, organizations,
52 communities, institutions, government agencies, or corporations. The practice includes the
53 applications of specialized knowledge and advanced practice skills in the areas of assessment,
54 treatment planning, implementation and evaluation, case management, mediation, information
55 and referral, counseling, client education, supervision, consultation, education, research,
56 advocacy, community organization and development, planning, evaluation, implementation and
57 administration of policies, programs, and activities. Under supervision as provided in this
58 section, the practice of master social work may include the practices reserved to clinical social
59 workers or advanced macro social workers **for no more than forty-eight consecutive calendar**
60 **months for the purpose of obtaining licensure under section 337.615 or 337.645;**

61 (13) "Practice of advanced macro social work", rendering, offering to render, or
62 supervising those who render to individuals, couples, families, groups, organizations,
63 institutions, corporations, government agencies, communities, or the general public any service
64 involving the application of methods, principles, and techniques of advanced practice macro
65 social work;

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

70 (15) "Practice of clinical social work", rendering, offering to render, or supervising those
71 who render to individuals, couples, groups, organizations, institutions, corporations, or the
72 general public any service involving the application of methods, principles, and techniques of
73 clinical social work;

74 (16) "Practice of master social work", rendering, offering to render, or supervising those
75 who render to individuals, couples, families, groups, organizations, institutions, corporations,
76 government agencies, communities, or the general public any service involving the application
77 of methods, principles, and techniques of master social work;

78 (17) ["Provisional licensed clinical social worker", any person who is a graduate of an
79 accredited school of social work and meets all requirements of a licensed clinical social worker,
80 other than the supervised clinical social work experience prescribed by subdivision (2) of
81 subsection 1 of section 337.615, and who is supervised by a person who is qualified to practice
82 clinical social work, as defined by rule;

83 (18)] "Qualified advanced macro supervisor", any licensed social worker who meets the
84 qualifications of a qualified clinical supervisor or a licensed advanced macro social worker who
85 has:

86 (a) Practiced in the field of **social work as a licensed social worker** for which he or she
87 is supervising the applicant for a minimum [uninterrupted period] of five years;

88 (b) Successfully completed a minimum of sixteen hours of supervisory training from the
89 Association of Social Work Boards, the National Association of Social Workers, an accredited
90 university, or a program approved by the state committee for social workers. All organizations
91 providing the supervisory training shall adhere to the basic content and quality standards outlined
92 by the state committee on social work; and

93 (c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by
94 the state committee for social workers;

95 [(19)] (18) "Qualified baccalaureate supervisor", any licensed social worker who meets
96 the qualifications of a qualified clinical supervisor, qualified master supervisor, qualified
97 advanced macro supervisor, or a licensed baccalaureate social worker who has:

98 (a) Practiced in the field of **social work as a licensed social worker** for which he or she
99 is supervising the applicant for a minimum [uninterrupted period] of five years;

100 (b) Successfully completed a minimum of sixteen hours of supervisory training from the
101 Association of Social Work Boards, the National Association of Social Workers, an accredited
102 university, or a program approved by the state committee for social workers. All organizations

103 providing the supervisory training shall adhere to the basic content and quality standards outlined
104 by the state committee on social workers; and

105 (c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by
106 the state committee for social workers;

107 [(20)] (19) "Qualified clinical supervisor", any licensed clinical social worker who has:

108 (a) Practiced in the field of **social work as a licensed social worker** for which he or she
109 is supervising the applicant [uninterrupted since August 28, 2004, or] **for** a minimum of five
110 years;

111 (b) Successfully completed a minimum of sixteen hours of supervisory training from the
112 Association of Social Work Boards, the National Association of Social Workers, an accredited
113 university, or a program approved by the state committee for social workers. All organizations
114 providing the supervisory training shall adhere to the basic content and quality standards outlined
115 by the state committee on social work; and

116 (c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by
117 the state committee for social workers;

118 [(21)] (20) "Social worker", any individual that has:

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

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

122 (c) A current social worker license as set forth in sections 337.600 to 337.689.

337.603. No person shall use the title of "licensed clinical social worker"[,] **or** "clinical
2 social worker" [or "provisional licensed clinical social worker"], or engage in the practice of
3 clinical social work in this state, unless the person is licensed as required by the provisions of
4 sections 337.600 to 337.689. Only individuals who are licensed clinical social workers shall
5 practice clinical social work. Sections 337.600 to 337.689 shall not apply to:

6 (1) Any person registered, certificated, or licensed by this state, another state, or any
7 recognized national certification agent acceptable to the committee to practice any other
8 occupation or profession while rendering services similar in nature to clinical social work in the
9 performance of the occupation or profession which the person is registered, certificated, or
10 licensed; and

11 (2) The practice of any social worker who is employed by any agency or department of
12 the state of Missouri while discharging the person's duties in that capacity.

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

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

6 (2) The applicant has completed three thousand hours of supervised clinical experience
7 with a qualified clinical supervisor, as defined in section 337.600, in no less than twenty-four
8 months and no more than forty-eight consecutive calendar months;

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

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

15 2. Any person holding a current license, certificate of registration, or permit from another
16 state or territory of the United States or the District of Columbia to practice clinical social work
17 who has had no disciplinary action taken against the license, certificate of registration, or permit
18 for the preceding five years may be granted a license to practice clinical social work in this state
19 if the person meets one of the following criteria:

20 (1) Has received a masters or doctoral degree from a college or university program of
21 social work accredited by the council of social work education and has been licensed to practice
22 clinical social work for the preceding five years; or

23 (2) Is currently licensed or certified as a clinical social worker in another state, territory
24 of the United States, or the District of Columbia having substantially the same requirements as
25 this state for clinical social workers.

26 3. The committee shall issue a license to each person who files an application and fee
27 as required by the provisions of sections 337.600 to 337.689 and who furnishes evidence
28 satisfactory to the committee that the applicant has complied with the provisions of subdivisions
29 (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of this section.

30 [The committee shall issue a provisional clinical social worker license to any applicant who
31 meets all requirements of subdivisions (1), (3) and (4) of subsection 1 of this section, but who
32 has not completed the twenty-four months of supervised clinical experience required by
33 subdivision (2) of subsection 1 of this section, and such applicant may reapply for licensure as
34 a clinical social worker upon completion of the twenty-four months of supervised clinical
35 experience.]

337.618. Each license issued pursuant to the provisions of sections 337.600 to 337.689
2 shall expire on a renewal date established by the director. The term of licensure shall be
3 twenty-four months. The committee shall require a minimum number of thirty clock hours of
4 continuing education for renewal of a license issued pursuant to sections 337.600 to 337.689.
5 The committee shall renew any license[, other than a provisional license,] upon application for
6 a renewal, completion of the required continuing education hours and upon payment of the fee
7 established by the committee pursuant to the provisions of section 337.612. As provided by rule,

8 the board may waive or extend the time requirements for completion of continuing education for
9 reasons related to health, military service, foreign residency, or for other good cause. All
10 requests for waivers or extensions of time shall be made in writing and submitted to the board
11 before the renewal date.

337.643. 1. No person shall use the title of licensed master social worker and engage
2 in the practice of master social work in this state unless the person is licensed as required by the
3 provisions of this section and section 337.644.

4 2. A licensed master social worker shall be deemed qualified to practice the applications
5 of social work theory, knowledge, methods and ethics and the professional use of self to restore
6 or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families,
7 groups, organizations, and communities. "Master social work practice" includes the applications
8 of specialized knowledge and advanced practice skills in the management, information and
9 referral, counseling, supervision, consultation, education, research, advocacy, community
10 organization, and the development, implementation, and administration of policies, programs,
11 and activities. Under supervision as provided in sections 337.600 to 337.689, the practice of
12 master social work may include the practices reserved to clinical social workers or advanced
13 macro social workers **for no more than forty-eight consecutive calendar months for the**
14 **purpose of obtaining licensure under section 337.615 or 337.645.**

337.700. As used in sections 337.700 to 337.739, the following terms mean:

- 2 (1) "Committee", the state committee for [family and] marital **and family** therapists;
- 3 (2) "Department", the Missouri department of insurance, financial institutions and
4 professional registration;
- 5 (3) "Director", the director of the division of professional registration;
- 6 (4) "Division", the division of professional registration;
- 7 (5) "Fund", the marital and family therapists' fund created in section 337.712;
- 8 (6) "Licensed marital and family therapist", a person to whom a license has been issued
9 pursuant to the provisions of sections 337.700 to 337.739, whose license is in force and not
10 suspended or revoked;
- 11 (7) "Marital and family therapy", the use of scientific and applied marriage and family
12 theories, methods and procedures for the purpose of describing, diagnosing, evaluating and
13 modifying marital, family and individual behavior within the context of marital and family
14 systems, including the context of marital formation and dissolution. Marriage and family therapy
15 is based on systems theories, marriage and family development, normal and dysfunctional
16 behavior, human sexuality and psychotherapeutic, marital and family therapy theories and
17 techniques and includes the use of marriage and family therapy theories and techniques in the
18 diagnosis, evaluation, assessment and treatment of intrapersonal or interpersonal dysfunctions
19 within the context of marriage and family systems. Marriage and family therapy may also

20 include clinical research into more effective methods for the treatment and prevention of the
21 above-named conditions;

22 (8) "Practice of marital and family therapy", the rendering of professional marital and
23 family therapy services to individuals, family groups and marital pairs, singly or in groups,
24 whether such services are offered directly to the general public or through organizations, either
25 public or private, for a fee, monetary or otherwise;

26 (9) **"Provisional licensed marital and family therapist", any person who is a**
27 **graduate of an acceptable education institution described in subsection 1 of section 337.715**
28 **with at least a master's degree in marital and family therapy, or its equivalent as defined**
29 **by state committee regulation, and meets all requirements of a licensed marital and family**
30 **therapist other than the supervised clinical experience set forth in section 337.715, and who**
31 **is supervised by a person who is qualified to be a supervisor, as defined by state committee**
32 **regulation.**

337.703. No person shall use the title of "licensed marital and family therapist", "marital
2 and family therapist", "provisional **licensed** marital and family therapist", or engage in the
3 practice of marital and family therapy in this state unless the person is licensed as required by
4 the provisions of sections 337.700 to 337.739. Sections 337.700 to 337.739 shall not apply to:

5 (1) Any person registered, certificated or licensed by this state, another state or any
6 recognized national certification agent acceptable to the division to practice any other occupation
7 or profession while rendering services similar in nature to marital and family therapy in the
8 performance of the occupation or profession in which the person is registered, certificated or
9 licensed, so long as the person does not use the title of "licensed marital and family therapist",
10 "marital and family therapist", or "provisional **licensed** marital and family therapist";

11 (2) The practice of any marital and family therapist who is employed by any political
12 subdivision, school district, agency or department of the state of Missouri while discharging the
13 therapist's duties in that capacity; and

14 (3) Duly ordained ministers or clergy, religious workers and volunteers or Christian
15 Science Practitioners.

337.705. No official, employee, board, commission, or agency of the state of
2 **Missouri, any county, municipality, school district, or other political subdivision of this**
3 **state shall discriminate between persons licensed under sections 337.700 to 337.739 when**
4 **promulgating rules or when requiring or recommending services that legally may be**
5 **performed by persons licensed under sections 337.700 to 337.739.**

337.706. 1. For a period of six months from September 1, 1995, a person may apply for
2 licensure without examination and shall be exempt from the academic requirements of sections
3 337.700 to 337.739 if the division is satisfied that the applicant:

4 (1) Has been a resident of the state of Missouri for at least the last six months; and

5 (2) Holds a valid license as a marital and family therapist from another state.

6 2. The division may determine by administrative rule the types of documentation needed
7 to verify that an applicant meets the qualifications provided in subsection 1 of this section.

8 3. [After March 1, 1996,] No person may engage in marital and family therapy for
9 compensation or hold himself or herself out as a "licensed marital and family therapist", "marital
10 and family therapist", [or] "provisional **licensed** marital and family therapist", or "**supervised**
11 **marital and family therapist**" unless the person complies with all educational and examination
12 requirements and is licensed in accordance with the provisions of sections 337.700 to 337.739.

337.715. 1. Each applicant for licensure or **provisional licensure** as a marital and
2 family therapist shall furnish evidence to the committee that:

3 (1) The applicant has a master's degree or a doctoral degree in marital and family
4 therapy, or its equivalent **as defined by committee regulation**, from an acceptable educational
5 institution accredited by a regional accrediting body or accredited by an accrediting body which
6 has been approved by the United States Department of Education;

7 (2) The applicant **for licensure as a marital and family therapist** has twenty-four
8 months of postgraduate supervised clinical experience acceptable to the [division] **committee**,
9 as the [division] **state committee** determines by rule;

10 (3) After August 28, 2008, the applicant shall have completed a minimum of three
11 semester hours of graduate-level course work in diagnostic systems either within the curriculum
12 leading to a degree as defined in subdivision (1) of this subsection or as post-master's
13 graduate-level course work. Each applicant shall demonstrate supervision of diagnosis as a core
14 component of the postgraduate supervised clinical experience as defined in subdivision (2) of
15 this subsection;

16 (4) Upon examination, the applicant is possessed of requisite knowledge of the
17 profession, including techniques and applications research and its interpretation and professional
18 affairs and ethics;

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

22 2. Any person otherwise qualified for licensure holding a current license, certificate of
23 registration, or permit from another state or territory of the United States or the District of
24 Columbia to practice marriage and family therapy may be granted a license without examination
25 to engage in the practice of marital and family therapy in this state upon application to the state
26 committee, payment of the required fee as established by the state committee, and satisfaction
27 of the following:

28 (1) Determination by the state committee that the requirements of the other state or
29 territory are substantially the same as Missouri;

30 (2) Verification by the applicant's licensing entity that the applicant has a current license;
31 and

32 (3) Consent by the applicant to examination of any disciplinary history in any state.

33 3. The state committee shall issue a license to each person who files an application and
34 fee as required by the provisions of sections 337.700 to 337.739.

337.718. 1. Each license issued pursuant to the provisions of sections 337.700 to
2 337.739 shall expire on a renewal date established by the director. The term of licensure shall
3 be twenty-four months; however, the director may establish a shorter term for the first licenses
4 issued pursuant to sections 337.700 to 337.739. The division shall renew any license upon
5 application for a renewal and upon payment of the fee established by the division pursuant to the
6 provisions of section 337.712. Effective August 28, 2008, as a prerequisite for renewal, each
7 [licensee] **licensed marital and family therapist** shall furnish to the committee satisfactory
8 evidence of the completion of the requisite number of hours of continuing education as defined
9 by rule, which shall be no more than forty contact hours biennially. The continuing education
10 requirements may be waived by the committee upon presentation to the committee of satisfactory
11 evidence of illness or for other good cause.

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

337.727. The committee shall promulgate rules and regulations pertaining to:

2 (1) The form and content of license applications required by the provisions of sections
3 337.700 to 337.739 and the procedures for filing an application for an initial or renewal license
4 in this state;

5 (2) Fees required by the provisions of sections 337.700 to 337.739;

6 (3) The content, conduct and administration of the licensing examination required by
7 section 337.715;

8 (4) The characteristics of supervised clinical experience as that term is used in section
9 337.715;

10 (5) The equivalent of the basic educational requirements set forth in section 337.715;

11 (6) The standards and methods to be used in assessing competency as a [licensed] marital
12 and family therapist;

13 (7) Establishment and promulgation of procedures for investigating, hearing and
14 determining grievances and violations occurring under the provisions of sections 337.700 to
15 337.739;

16 (8) Development of an appeal procedure for the review of decisions and rules of
17 administrative agencies existing under the constitution or laws of this state;

18 (9) Establishment of a policy and procedure for reciprocity with other states, including
19 states which do not have marital and family therapist licensing laws or states whose licensing
20 laws are not substantially the same as those of this state; and

21 (10) Any other policies or procedures necessary to the fulfillment of the requirements
22 of sections 337.700 to 337.739.

337.739. 1. There is created and established the "State Committee of Marital and Family
2 Therapists" which shall consist of four family and marital therapists and two voting public
3 members. The committee shall be appointed by the governor with the advice and consent of the
4 senate. Committee members shall serve for a term of five years, except for the members first
5 appointed, one public member and one other member shall be appointed for five years, two
6 members shall be appointed for four years, the other public member and one other member
7 appointed for three years. No person shall be eligible for appointment to the committee who has
8 served as a member of the committee for a total of ten years. Members shall be appointed to
9 represent a diversity in gender, race and ethnicity. No more than three members shall be from
10 the same political party.

11 2. Each nonpublic committee member shall be a resident of the state of Missouri for one
12 year, shall be a United States citizen, and shall meet all the requirements for licensing
13 enumerated in sections 337.700 to 337.739, shall be licensed [pursuant to] **as a licensed marital
14 and family therapist under** sections 337.700 to 337.739, except the members of the first
15 committee, who shall be licensed within six months of their appointment, and are actively
16 engaged in the practice of marital and family therapy. If a member of the committee shall, during
17 the member's term as a committee member, remove the member's domicile from the state of
18 Missouri, then the committee shall immediately notify the governor, and the seat of that
19 committee member shall be declared vacant. All such vacancies shall be filled by appointment
20 as in the same manner as the first appointment, and the member so appointed shall serve for the
21 unexpired term of the member whose seat has been declared vacant. The public members shall
22 be at the time of each member's appointment a citizen of the United States; a resident of this state
23 for a period of one year and a registered voter; a person who is not and never was a member of
24 any profession licensed or regulated pursuant to this chapter or the spouse of such person; a
25 person who does not have and never has had a material, financial interest in either the provision
26 of the professional services regulated by this chapter, or an activity or organization directly
27 related to any profession licensed or regulated pursuant to this chapter.

28 3. The committee shall hold a regular annual meeting at which it shall select from among
29 its members a chairman and a secretary. A quorum of the committee shall consist of a majority
30 of its members. In the absence of the chairman, the secretary shall conduct the office of the
31 chairman.

32 4. No member of the committee shall receive any compensation for the performance of
33 the member's official duties but shall be entitled to reimbursement for necessary and actual
34 expenses incurred in the performance of the member's duties. The committee shall share
35 resources and facilities with the office for the committee for professional counselors provided
36 for in sections 337.500 to 337.540. All staff for the committee shall be provided by the director
37 of the division of professional registration.

38 5. The governor may remove any member of the committee for misconduct, inefficiency,
39 incompetency or neglect of office.

338.333. 1. No person or distribution outlet shall act as a wholesale drug distributor or
2 pharmacy distributor without first obtaining license to do so from the Missouri board of
3 pharmacy and paying the required fee. The board may grant temporary licenses when the
4 wholesale drug distributor or pharmacy distributor first applies for a license to operate within the
5 state. Temporary licenses shall remain valid until such time as the board shall find that the
6 applicant meets or fails to meet the requirements for regular licensure. No license shall be issued
7 or renewed for a wholesale drug distributor or pharmacy distributor to operate unless the same
8 shall be operated in a manner prescribed by law and according to the rules and regulations
9 promulgated by the board of pharmacy with respect thereto. Separate licenses shall be required
10 for each distribution site owned or operated by a wholesale drug distributor or pharmacy
11 distributor, **unless such drug distributor or pharmacy distributor meets the requirements**
12 **of section 338.335.**

13 2. An agent or employee of any licensed or registered wholesale drug distributor or
14 pharmacy distributor need not seek licensure under this section and may lawfully possess
15 pharmaceutical drugs, if he is acting in the usual course of his business or employment.

16 3. The board may permit out-of-state wholesale drug distributors or out-of-state
17 pharmacy distributors to be licensed as required by sections 338.210 to 338.370 on the basis of
18 reciprocity to the extent that an out-of-state wholesale drug distributor or out-of-state pharmacy
19 distributor both:

20 (1) Possesses a valid license granted by another state pursuant to legal standards
21 comparable to those which must be met by a wholesale drug distributor or pharmacy distributor
22 of this state as prerequisites for obtaining a license under the laws of this state; and

23 (2) Distributes into Missouri from a state which would extend reciprocal treatment under
24 its own laws to a wholesale drug distributor or pharmacy distributor of this state.

338.335. 1. Separate licenses shall be required for each distribution site owned or
2 operated by a wholesale drug distributor or pharmacy distributor unless drugs are delivered only
3 on a consignment basis as defined by the board, **or the entity meets the requirements of**
4 **subsection 2 of this section.**

5 **2. A wholesale drug distributor distributing drug-related devices in Missouri is not**
6 **required to obtain a license from the board for out-of-state distribution sites owned by the**
7 **wholesale drug distributor if:**

8 **(1) The wholesale drug distributor has one or more distribution sites located in**
9 **Missouri, and all such in-state distribution sites receiving shipments of drug-related devices**
10 **are licensed by the board as a distributor;**

11 **(2) The wholesale drug distributor's out-of-state distribution sites shipping to the**
12 **in-state distribution site are in compliance with their respective state's licensing laws;**

13 **(3) The wholesale drug distributor's out-of-state distribution sites that deliver drug-**
14 **related devices regulated by the board into Missouri for patient use, deliver such devices**
15 **only to the licensed wholesale drug distributor's in-state distribution site.**

16 **3. A Missouri wholesale drug distributor receiving shipments of drug-related**
17 **devices from an out-of-state facility that is not required to be licensed as a distributor**
18 **pursuant to subsection 2 of this section shall be responsible for all shipments received.**

338.337. It shall be unlawful for any out-of-state wholesale drug distributor or
2 out-of-state pharmacy acting as a distributor to do business in this state without first obtaining
3 a license to do so from the board of pharmacy and paying the required fee, **except as otherwise**
4 **provided by section 338.335 and this section.** Application for an out-of-state wholesale drug
5 distributor's license under this section shall be made on a form furnished by the board. The
6 issuance of a license under sections 338.330 to 338.370 shall not change or affect tax liability
7 imposed by the Missouri department of revenue on any out-of-state wholesale drug distributor
8 or out-of-state pharmacy. Any out-of-state wholesale drug distributor that is a drug manufacturer
9 and which produces and distributes from a facility which has been inspected and approved by
10 the Food and Drug Administration, maintains current approval by the federal Food and Drug
11 Administration, and has provided a copy of the most recent Food and Drug Administration
12 Establishment Inspection Report to the board, and which is licensed by the state in which the
13 distribution facility is located, or, if located within a foreign jurisdiction, is authorized and in
14 good standing to operate as a drug manufacturer within such jurisdiction, need not be licensed
15 as provided in this section but such out-of-state distributor shall register its business name and
16 address with the board of pharmacy and pay a filing fee in an amount established by the board.

344.010. As used in this chapter the following words or phrases mean:

2 (1) "Board", the Missouri board of nursing home administrators;

3 (2) "Long-term care facility", any residential care facility, assisted living facility,
4 intermediate care facility or skilled nursing facility, as defined in section 198.006, RSMo, or
5 similar facility licensed by states other than Missouri;

6 (3) "Nursing home", any institution or facility defined as an assisted living facility,
7 **residential care facility**, intermediate care facility, or skilled nursing facility for licensing
8 purposes by section 198.006, RSMo, whether proprietary or nonprofit;

9 (4) "Nursing home administrator", a person who administers, manages, supervises, or
10 is in general administrative charge of a nursing home, whether such individual has an ownership
11 interest in the home, and whether his functions and duties are shared with one or more
12 individuals.

344.020. No person shall act or serve in the capacity of a nursing home administrator
2 without first procuring a license from the Missouri board of nursing home administrators as
3 provided in sections 344.010 to 344.108. The board may issue a separate license to
4 administrators of **residential care facilities that were licensed as a residential care facility II**
5 **on or before August 27, 2006, that continue to meet the licensure standards for a residential**
6 **care facility II in effect on August 27, 2006, and** assisted living facilities, as defined in section
7 198.006, RSMo. Any individual who receives a license to operate **a residential care facility**
8 **or** an assisted living facility is not thereby authorized to operate any intermediate care facility
9 or skilled nursing facility as those terms are defined in section 198.006, RSMo.

383.130. As used in sections 383.130 and 383.133, the following terms shall mean:

2 (1) "Disciplinary action", any final action taken by the board of trustees or similarly
3 empowered officials of a hospital [or] , ambulatory surgical center, [or] owner or operator of a
4 temporary nursing staffing agency, **home health agency, nursing home or any nursing facility**
5 **as such term is defined in chapter 198, or any entity that employs or contracts with licensed**
6 **health care professionals to provide healthcare services to individuals** to reprimand,
7 discipline or restrict the practice of a health care professional. Only such reprimands, discipline,
8 or restrictions in response to activities which are also grounds for disciplinary actions according
9 to the professional licensing law for that health care professional shall be considered disciplinary
10 actions for the purposes of this definition;

11 (2) "Health care professional", a physician or surgeon licensed under the provisions of
12 chapter 334, RSMo, a dentist licensed under the provisions of chapter 332, RSMo, or a podiatrist
13 licensed under the provisions of chapter 330, RSMo, or a pharmacist licensed under the
14 provisions of chapter 338, RSMo, a psychologist licensed under the provisions of chapter 337,
15 RSMo, or a nurse licensed under the provisions of chapter 335, RSMo, while acting within their
16 scope of practice;

17 (3) "Hospital", a place devoted primarily to the maintenance and operation of facilities
18 for the diagnosis, treatment or care for not less than twenty-four hours in any week of three or
19 more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal
20 physical conditions; or a place devoted primarily to provide for not less than twenty-four hours
21 in any week medical or nursing care for three or more nonrelated individuals. The term

22 "hospital" does not include convalescent, nursing, shelter or boarding homes as defined in
23 chapter 198, RSMo;

24 (4) "Licensing authority", the appropriate board or authority which is responsible for the
25 licensing or regulation of the health care professional;

26 (5) "Temporary nursing staffing agency", any person, firm, partnership, or corporation
27 doing business within the state that supplies, on a temporary basis, registered nurses, licensed
28 practical nurses to a hospital, nursing home, or other facility requiring the services of those
29 persons.

383.133. 1. The chief executive office or similarly empowered official of any hospital,
2 ambulatory surgical center, as such terms are defined in chapter 197, RSMo, [or] temporary
3 nursing staffing agency, **nursing home, any nursing facility as such term is defined in**
4 **chapter 198, or any entity that employs or contracts with licensed health care professionals**
5 **to provide healthcare services to individuals** shall report to the appropriate health care
6 professional licensing authority any disciplinary action against any health care professional or
7 the voluntary resignation of any health care professional against whom any complaints or reports
8 have been made which might have led to disciplinary action.

9 2. All reports required by this section shall be submitted within fifteen days of the final
10 disciplinary action and shall contain, but need not be limited to, the following information:

11 (1) The name, address and telephone number of the person making the report;

12 (2) The name, address and telephone number of the person who is the subject of the
13 report;

14 (3) A description of the facts, including as much detail and information as possible,
15 which gave rise to the issuance of the report, including the dates of occurrence deemed to
16 necessitate the filing of the report;

17 (4) If court action is involved and known to the reporting agent, the identity of the court,
18 including the date of filing and the docket number of the action.

19 3. Upon request, the licensing authority may furnish a report of any disciplinary action
20 received by it under the provisions of this section to any entity required to report under this
21 section. Such licensing authority may also furnish, upon request, a report of disciplinary action
22 taken by the licensing authority to any other administrative or law enforcement agency acting
23 within the scope of its statutory authority.

24 4. There shall be no liability on the part of, and no cause of action of any nature shall
25 arise against any health care professional licensing authority or any entity required to report
26 under this section, or any of their agents or employees for any action taken in good faith and
27 without malice in carrying out the provisions of this section.

28 5. Neither a report required to be filed under subsection 2 of this section nor the record
29 of any proceeding shall be used against a health care professional in any other administrative or
30 judicial proceeding.

31 6. Violation of any provision of this section is an infraction.

**Section 1. An applicant for or holder of a hospital license may define or revise the
2 premises of a hospital campus to include tracts of property which are adjacent but for a
3 common street or highway, as defined in section 300.010 and its accompanying public
4 right-of-way.**

[214.290. Any cemetery operator who within ninety days from the
2 effective date of sections 214.270 to 214.410 elects to operate a cemetery which
3 exists on the effective date of sections 214.270 to 214.410 as an endowed care
4 cemetery or who represents to the public that perpetual, permanent, endowed,
5 continual, eternal care, care of duration or similar care will be furnished cemetery
6 property sold, shall before selling or disposing of any interment space or lots in
7 said cemetery after the date of such election, establish a minimum endowed care
8 and maintenance fund in cash in the amount required by section 214.300 unless
9 an endowed care fund is already in existence to which regular deposits have been
10 made (whether or not the fund then existing shall be in the minimum amount
11 required under section 214.300).]

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