

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1563

96TH GENERAL ASSEMBLY

5569S.06T

2012

AN ACT

To repeal sections 195.060, 195.080, 334.104, 334.747, 337.300, 337.305, 337.310, 337.315, 337.325, 337.345, 338.315, 338.333, and 660.315, RSMo, and to enact in lieu thereof sixteen new sections relating to healthcare services, with a penalty provision and an emergency clause for a certain section.

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

Section A. Sections 195.060, 195.080, 334.104, 334.747, 337.300, 337.305, 337.310, 337.315, 337.325, 337.345, 338.315, 338.333, and 660.315, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 173.1400, 195.060, 195.080, 334.104, 334.747, 337.300, 337.305, 337.310, 337.315, 337.325, 337.347, 337.647, 338.315, 338.320, 338.333, and 660.315, to read as follows:

173.1400. 1. The state of Missouri hereby authorizes accredited Missouri colleges or universities to issue on behalf of the state a document of school social work program verification and acknowledgment of completion to any individual who has obtained a degree in social work from an accredited college or university and:

(1) Holds a credential in school social work issued by a nationally-recognized credentialing organization in social work; or

(2) Demonstrates competency in school social work by successful passage of a school social worker exam approved by the state committee for social workers established in section 337.622 and administered by the accredited college or university.

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.

10 **2. The department of higher education shall develop a form, available to Missouri**
11 **colleges and universities upon request, containing the following information:**

12 **(1) The words "State of Missouri";**

13 **(2) The seal of the state of Missouri;**

14 **(3) A place for inclusion of the name of the issuing accredited Missouri college or**
15 **university awarding the document;**

16 **(4) A statement of the criteria outlined in subsection 1 of this section;**

17 **(5) A place for inclusion of the name of the individual who has applied for the**
18 **school social work program verification and acknowledgment of completion;**

19 **(6) A place for inclusion of the date of issuance;**

20 **(7) A place for the signatures of the college or university official and an official**
21 **from the state department of higher education;**

22 **(8) A footnote stating "No person shall hold himself or herself out to be a social**
23 **worker unless such person has met the requirements of section 337.604, RSMo.".**

24 **3. Accredited Missouri colleges or universities may issue a document on the state's**
25 **behalf to any person making application as a credentialed school social worker provided**
26 **he or she meets the qualifications contained in this section.**

195.060. 1. Except as provided in subsection [3] 4 of this section, a pharmacist, in good
2 faith, may sell and dispense controlled substances to any person only upon a prescription of a
3 practitioner as authorized by statute, provided that the controlled substances listed in Schedule
4 V may be sold without prescription in accordance with regulations of the department of health
5 and senior services. All written prescriptions shall be signed by the person prescribing the same.
6 All prescriptions shall be dated on the day when issued and bearing the full name and address
7 of the patient for whom, or of the owner of the animal for which, the drug is prescribed, and the
8 full name, address, and the registry number under the federal controlled substances laws of the
9 person prescribing, if he is required by those laws to be so registered. If the prescription is for
10 an animal, it shall state the species of the animal for which the drug is prescribed. The person
11 filling the prescription shall either write the date of filling and his own signature on the
12 prescription or retain the date of filling and the identity of the dispenser as electronic prescription
13 information. The prescription or electronic prescription information shall be retained on file by
14 the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily
15 accessible for inspection by any public officer or employee engaged in the enforcement of this
16 law. No prescription for a drug in Schedule I or II shall be filled more than six months after the
17 date prescribed; no prescription for a drug in schedule I or II shall be refilled; no prescription for
18 a drug in Schedule III or IV shall be filled or refilled more than six months after the date of the
19 original prescription or be refilled more than five times unless renewed by the practitioner.

20 2. A pharmacist, in good faith, may sell and dispense controlled substances to any
21 person upon a prescription of a practitioner located in another state, provided that the:

22 (1) Prescription was issued according to and in compliance with the applicable laws
23 of that state and the United States; and

24 (2) Quantity limitations in subsection 2 of section 195.080 apply to prescriptions
25 dispensed to patients located in this state.

26 3. The legal owner of any stock of controlled substances in a pharmacy, upon
27 discontinuance of dealing in such drugs, may sell the stock to a manufacturer, wholesaler, or
28 pharmacist, but only on an official written order.

29 [3.] 4. A pharmacist, in good faith, may sell and dispense any Schedule II drug or drugs
30 to any person in emergency situations as defined by rule of the department of health and senior
31 services upon an oral prescription by an authorized practitioner.

32 [4.] 5. Except where a bona fide physician-patient-pharmacist relationship exists,
33 prescriptions for narcotics or hallucinogenic drugs shall not be delivered to or for an ultimate
34 user or agent by mail or other common carrier.

 195.080. 1. Except as otherwise in sections 195.005 to 195.425 specifically provided,
2 sections 195.005 to 195.425 shall not apply to the following cases: prescribing, administering,
3 dispensing or selling at retail of liniments, ointments, and other preparations that are susceptible
4 of external use only and that contain controlled substances in such combinations of drugs as to
5 prevent the drugs from being readily extracted from such liniments, ointments, or preparations,
6 except that sections 195.005 to 195.425 shall apply to all liniments, ointments, and other
7 preparations that contain coca leaves in any quantity or combination.

8 2. The quantity of Schedule II controlled substances prescribed or dispensed at any one
9 time shall be limited to a thirty-day supply. The quantity of Schedule III, IV or V controlled
10 substances prescribed or dispensed at any one time shall be limited to a ninety-day supply and
11 shall be prescribed and dispensed in compliance with the general provisions of sections 195.005
12 to 195.425. The supply limitations provided in this subsection may be increased up to three
13 months if the physician describes on the prescription form or indicates via telephone, fax, or
14 electronic communication to the pharmacy to be entered on or attached to the prescription form
15 the medical reason for requiring the larger supply. The supply limitations provided in this
16 subsection shall not apply if:

17 (1) The prescription is issued by a practitioner located in another state according
18 to and in compliance with the applicable laws of that state and the United States and
19 dispensed to a patient located in another state; or

20 (2) The prescription is dispensed directly to a member of the United States armed forces
21 serving outside the United States.

22 3. The partial filling of a prescription for a Schedule II substance is permissible as
23 defined by regulation by the department of health and senior services.

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

9 2. Collaborative practice arrangements, which shall be in writing, may delegate to a
10 registered professional nurse the authority to administer, dispense or prescribe drugs and provide
11 treatment if the registered professional nurse is an advanced practice nurse as defined in
12 subdivision (2) of section 335.016. Collaborative practice arrangements may delegate to an
13 advanced practice registered nurse, as defined in section 335.016, the authority to administer,
14 dispense, or prescribe controlled substances listed in Schedules III, IV, and V of section 195.017;
15 except that, the collaborative practice arrangement shall not delegate the authority to administer
16 any controlled substances listed in schedules III, IV, and V of section 195.017 for the purpose
17 of inducing sedation or general anesthesia for therapeutic, diagnostic, or surgical procedures.
18 Schedule III narcotic controlled substance prescriptions shall be limited to a one hundred
19 twenty-hour supply without refill. Such collaborative practice arrangements shall be in the form
20 of written agreements, jointly agreed-upon protocols or standing orders for the delivery of health
21 care services.

22 3. The written collaborative practice arrangement shall contain at least the following
23 provisions:

24 (1) Complete names, home and business addresses, zip codes, and telephone numbers
25 of the collaborating physician and the advanced practice registered nurse;

26 (2) A list of all other offices or locations besides those listed in subdivision (1) of this
27 subsection where the collaborating physician authorized the advanced practice registered nurse
28 to prescribe;

29 (3) A requirement that there shall be posted at every office where the advanced practice
30 registered nurse is authorized to prescribe, in collaboration with a physician, a prominently
31 displayed disclosure statement informing patients that they may be seen by an advanced practice
32 registered nurse and have the right to see the collaborating physician;

33 (4) All specialty or board certifications of the collaborating physician and all
34 certifications of the advanced practice registered nurse;

35 (5) The manner of collaboration between the collaborating physician and the advanced
36 practice registered nurse, including how the collaborating physician and the advanced practice
37 registered nurse will:

38 (a) Engage in collaborative practice consistent with each professional's skill, training,
39 education, and competence;

40 (b) Maintain geographic proximity; and

41 (c) Provide coverage during absence, incapacity, infirmity, or emergency by the
42 collaborating physician;

43 (6) A description of the advanced practice registered nurse's controlled substance
44 prescriptive authority in collaboration with the physician, including a list of the controlled
45 substances the physician authorizes the nurse to prescribe and documentation that it is consistent
46 with each professional's education, knowledge, skill, and competence;

47 (7) A list of all other written practice agreements of the collaborating physician and the
48 advanced practice registered nurse;

49 (8) The duration of the written practice agreement between the collaborating physician
50 and the advanced practice registered nurse;

51 (9) A description of the time and manner of the collaborating physician's review of the
52 advanced practice registered nurse's delivery of health care services. The description shall
53 include provisions that the advanced practice registered nurse shall submit a minimum of ten
54 percent of the charts documenting the advanced practice registered nurse's delivery of health care
55 services to the collaborating physician for review **by the collaborating physician, or any other**
56 **physician designated in the collaborative practice arrangement**, every fourteen days; and

57 (10) The collaborating physician, **or any other physician designated in the**
58 **collaborative practice arrangement**, shall review every fourteen days a minimum of twenty
59 percent of the charts in which the advanced practice registered nurse prescribes controlled
60 substances. The charts reviewed under this subdivision may be counted in the number of charts
61 required to be reviewed under subdivision (9) of this subsection.

62 4. The state board of registration for the healing arts pursuant to section 334.125 and the
63 board of nursing pursuant to section 335.036 may jointly promulgate rules regulating the use of
64 collaborative practice arrangements. Such rules shall be limited to specifying geographic areas
65 to be covered, the methods of treatment that may be covered by collaborative practice
66 arrangements and the requirements for review of services provided pursuant to collaborative
67 practice arrangements including delegating authority to prescribe controlled substances. Any
68 rules relating to dispensing or distribution of medications or devices by prescription or
69 prescription drug orders under this section shall be subject to the approval of the state board of
70 pharmacy. Any rules relating to dispensing or distribution of controlled substances by

71 prescription or prescription drug orders under this section shall be subject to the approval of the
72 department of health and senior services and the state board of pharmacy. In order to take effect,
73 such rules shall be approved by a majority vote of a quorum of each board. Neither the state
74 board of registration for the healing arts nor the board of nursing may separately promulgate rules
75 relating to collaborative practice arrangements. Such jointly promulgated rules shall be
76 consistent with guidelines for federally funded clinics. The rulemaking authority granted in this
77 subsection shall not extend to collaborative practice arrangements of hospital employees
78 providing inpatient care within hospitals as defined pursuant to chapter 197 or population-based
79 public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

80 5. The state board of registration for the healing arts shall not deny, revoke, suspend or
81 otherwise take disciplinary action against a physician for health care services delegated to a
82 registered professional nurse provided the provisions of this section and the rules promulgated
83 thereunder are satisfied. Upon the written request of a physician subject to a disciplinary action
84 imposed as a result of an agreement between a physician and a registered professional nurse or
85 registered physician assistant, whether written or not, prior to August 28, 1993, all records of
86 such disciplinary licensure action and all records pertaining to the filing, investigation or review
87 of an alleged violation of this chapter incurred as a result of such an agreement shall be removed
88 from the records of the state board of registration for the healing arts and the division of
89 professional registration and shall not be disclosed to any public or private entity seeking such
90 information from the board or the division. The state board of registration for the healing arts
91 shall take action to correct reports of alleged violations and disciplinary actions as described in
92 this section which have been submitted to the National Practitioner Data Bank. In subsequent
93 applications or representations relating to his medical practice, a physician completing forms or
94 documents shall not be required to report any actions of the state board of registration for the
95 healing arts for which the records are subject to removal under this section.

96 6. Within thirty days of any change and on each renewal, the state board of registration
97 for the healing arts shall require every physician to identify whether the physician is engaged in
98 any collaborative practice agreement, including collaborative practice agreements delegating the
99 authority to prescribe controlled substances, or physician assistant agreement and also report to
100 the board the name of each licensed professional with whom the physician has entered into such
101 agreement. The board may make this information available to the public. The board shall track
102 the reported information and may routinely conduct random reviews of such agreements to
103 ensure that agreements are carried out for compliance under this chapter.

104 7. Notwithstanding any law to the contrary, a certified registered nurse anesthetist as
105 defined in subdivision (8) of section 335.016 shall be permitted to provide anesthesia services
106 without a collaborative practice arrangement provided that he or she is under the supervision of

107 an anesthesiologist or other physician, dentist, or podiatrist who is immediately available if
108 needed. Nothing in this subsection shall be construed to prohibit or prevent a certified registered
109 nurse anesthetist as defined in subdivision (8) of section 335.016 from entering into a
110 collaborative practice arrangement under this section, except that the collaborative practice
111 arrangement may not delegate the authority to prescribe any controlled substances listed in
112 Schedules III, IV, and V of section 195.017.

113 8. A collaborating physician shall not enter into a collaborative practice arrangement
114 with more than three full-time equivalent advanced practice registered nurses. This limitation
115 shall not apply to collaborative arrangements of hospital employees providing inpatient care
116 service in hospitals as defined in chapter 197 or population-based public health services as
117 defined by 20 CSR 2150-5.100 as of April 30, 2008.

118 9. It is the responsibility of the collaborating physician to determine and document the
119 completion of at least a one-month period of time during which the advanced practice registered
120 nurse shall practice with the collaborating physician continuously present before practicing in
121 a setting where the collaborating physician is not continuously present. This limitation shall not
122 apply to collaborative arrangements of providers of population-based public health services as
123 defined by 20 CSR 2150-5.100 as of April 30, 2008.

124 10. No agreement made under this section shall supersede current hospital licensing
125 regulations governing hospital medication orders under protocols or standing orders for the
126 purpose of delivering inpatient or emergency care within a hospital as defined in section 197.020
127 if such protocols or standing orders have been approved by the hospital's medical staff and
128 pharmaceutical therapeutics committee.

129 11. No contract or other agreement shall require a physician to act as a collaborating
130 physician for an advanced practice registered nurse against the physician's will. A physician
131 shall have the right to refuse to act as a collaborating physician, without penalty, for a particular
132 advanced practice registered nurse. No contract or other agreement shall limit the collaborating
133 physician's ultimate authority over any protocols or standing orders or in the delegation of the
134 physician's authority to any advanced practice registered nurse, but this requirement shall not
135 authorize a physician in implementing such protocols, standing orders, or delegation to violate
136 applicable standards for safe medical practice established by hospital's medical staff.

137 12. No contract or other agreement shall require any advanced practice registered nurse
138 to serve as a collaborating advanced practice registered nurse for any collaborating physician
139 against the advanced practice registered nurse's will. An advanced practice registered nurse shall
140 have the right to refuse to collaborate, without penalty, with a particular physician.

334.747. 1. A physician assistant with a certificate of controlled substance prescriptive
2 authority as provided in this section may prescribe any controlled substance listed in schedule

3 III, IV, or V of section 195.017 when delegated the authority to prescribe controlled substances
4 in a supervision agreement. Such authority shall be listed on the supervision verification form
5 on file with the state board of healing arts. The supervising physician shall maintain the right
6 to limit a specific scheduled drug or scheduled drug category that the physician assistant is
7 permitted to prescribe. Any limitations shall be listed on the supervision form. Physician
8 assistants shall not prescribe controlled substances for themselves or members of their families.
9 Schedule III controlled substances shall be limited to a five-day supply without refill. Physician
10 assistants who are authorized to prescribe controlled substances under this section shall register
11 with the federal Drug Enforcement Administration and the state bureau of narcotics and
12 dangerous drugs, and shall include [such] **the Drug Enforcement Administration** registration
13 [numbers] **number** on prescriptions for controlled substances.

14 2. The supervising physician shall be responsible to determine and document the
15 completion of at least one hundred twenty hours in a four-month period by the physician assistant
16 during which the physician assistant shall practice with the supervising physician on-site prior
17 to prescribing controlled substances when the supervising physician is not on-site. Such
18 limitation shall not apply to physician assistants of population-based public health services as
19 defined in 20 CSR 2150-5.100 as of April 30, 2009.

20 3. A physician assistant shall receive a certificate of controlled substance prescriptive
21 authority from the board of healing arts upon verification of the completion of the following
22 educational requirements:

23 (1) Successful completion of an advanced pharmacology course that includes clinical
24 training in the prescription of drugs, medicines, and therapeutic devices. A course or courses
25 with advanced pharmacological content in a physician assistant program accredited by the
26 Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) or its
27 predecessor agency shall satisfy such requirement;

28 (2) Completion of a minimum of three hundred clock hours of clinical training by the
29 supervising physician in the prescription of drugs, medicines, and therapeutic devices;

30 (3) Completion of a minimum of one year of supervised clinical practice or supervised
31 clinical rotations. One year of clinical rotations in a program accredited by the Accreditation
32 Review Commission on Education for the Physician Assistant (ARC-PA) or its predecessor
33 agency, which includes pharmacotherapeutics as a component of its clinical training, shall satisfy
34 such requirement. Proof of such training shall serve to document experience in the prescribing
35 of drugs, medicines, and therapeutic devices;

36 (4) A physician assistant previously licensed in a jurisdiction where physician assistants
37 are authorized to prescribe controlled substances may obtain a state bureau of narcotics and
38 dangerous drugs registration if a supervising physician can attest that the physician assistant has

39 met the requirements of subdivisions (1) to (3) of this subsection and provides documentation
40 of existing federal Drug Enforcement Agency registration.

337.300. As used in sections 337.300 to 337.345, the following terms shall mean:

- 2 (1) "Applied behavior analysis", the design, implementation, and evaluation of
3 environmental modifications, using behavioral stimuli and consequences, to produce socially
4 significant improvement in human behavior, including the use of direct observation,
5 measurement, and functional analysis of the relationships between environment and behavior.
6 **Applied behavior analysis does not include cognitive therapies or psychological testing,**
7 **personality assessment, intellectual assessment, neuropsychological assessment,**
8 **psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, family**
9 **therapy, and long-term counseling as treatment modalities;**
- 10 (2) "Board", the behavior analyst advisory board within the state committee of
11 psychologists;
- 12 (3) "Certifying entity", the nationally accredited Behavior Analyst Certification Board,
13 or other equivalent nationally accredited nongovernmental agency approved by the committee
14 which certifies individuals who have completed academic, examination, training, and
15 supervision requirements in applied behavior analysis;
- 16 (4) "Committee", the state committee of psychologists;
- 17 (5) "Division", the division of professional registration within the department of
18 insurance, financial institutions and professional registration;
- 19 (6) "Licensed assistant behavior analyst" or "LaBA", an individual who is certified by
20 the certifying entity as a certified assistant behavior analyst and meets the criteria in section
21 337.315 and as established by committee rule;
- 22 (7) "Licensed behavior analyst" or "LBA", an individual who is certified by the certifying
23 entity as a certified behavior analyst and meets the criteria in section 337.315 and as established
24 by committee rule;
- 25 (8) "Practice of applied behavior analysis", the application of the principles, methods,
26 and procedures of the experimental analysis of behavior and applied behavior analysis (including
27 principles of operant and respondent learning) to assess and improve socially important human
28 behaviors. It includes, but is not limited to, applications of those principles, methods, and
29 procedures to:
 - 30 (a) The design, implementation, evaluation, and modification of treatment programs to
31 change behavior of individuals;
 - 32 (b) The design, implementation, evaluation, and modification of treatment programs to
33 change behavior of groups; and

34 (c) Consultation to individuals and organizations[. Applied behavior analysis does not
35 include cognitive therapies or psychological testing, personality assessment, intellectual
36 assessment, neuropsychological assessment, psychotherapy, cognitive therapy, sex therapy,
37 psychoanalysis, hypnotherapy, family therapy, and long-term counseling as treatment modalities]
38 ;

39 (9) "Provisionally licensed assistant behavior analyst" or "PLABA", an individual
40 who meets the criteria in subsection 5 of section 337.315 and as established by the
41 committee by rule;

42 (10) "Provisionally licensed behavior analyst" or "PLBA", an individual who
43 meets the criteria in subsection 5 of section 337.315 and as established by the committee by
44 rule;

45 (11) "Temporary licensed assistant behavior analyst" or "TLaBA", an individual
46 who meets the criteria of subsection 4 of section 337.315 and as established by the
47 committee by rule;

48 (12) "Temporary licensed behavior analyst" or "TLBA", an individual who meets
49 the criteria in subsection 4 of section 337.315 and as established by the committee by rule.

337.305. 1. There is hereby created under the state committee of psychologists within
2 the division of professional registration the "Behavior Analyst Advisory Board". The behavior
3 analyst advisory board shall consist of the following seven members: three licensed behavior
4 analysts, one licensed behavior analyst holding a doctoral degree, one licensed assistant behavior
5 analyst, one professional member of the committee, and one public member.

6 2. Appointments to the board, **except for the one professional member of the**
7 **committee**, shall be made by the governor upon the recommendations of the director of the
8 division, upon the advice and consent of the senate. The division, prior to submitting
9 nominations, shall solicit nominees from professional associations and licensed behavior analysts
10 or licensed assistant behavior analysts in the state. **Appointment to the board of the one**
11 **professional member of the committee shall be made by nomination and majority vote of**
12 **the committee.**

13 3. The term of office for board members shall be five years. In making initial
14 appointments to the board, the governor shall stagger the terms of the appointees so that one
15 member serves an initial term of two years, three members shall serve an initial term of three
16 years, and three members serve initial terms of four years. Each member of the board shall hold
17 office until his or her successor has been qualified. A vacancy in the membership of the board
18 shall be filled for the unexpired term in the manner provided for the original appointment. A
19 member appointed for less than a full term may serve two full terms in addition to such part of
20 a full term.

21 4. Each board member shall be a resident of this state for a period of one year and a
22 registered voter, shall be a United States citizen, and shall, other than the public member, have
23 been a licensed behavior analyst or licensed assistant behavior analyst in this state for at least
24 three years prior to appointment except for the original members of the board who shall have
25 experience in the practice of applied behavior analysis.

26 5. The public member shall be a person who is not and never was a member of any
27 profession licensed or regulated under sections 337.300 to 337.345 or the spouse of such person;
28 and a person who does not have and never has had a material financial interest in either the
29 providing of the professional services regulated by sections 337.300 to 337.345, or an activity
30 or organization directly related to any profession licensed or regulated under sections 337.300
31 to 337.345.

32 6. The board shall meet at least quarterly. At one of its regular meetings, the board shall
33 select from among its members a chairperson and a vice chairperson. A quorum of the
34 committee shall consist of a majority of its members. In the absence of the chairperson, the vice
35 chairperson shall conduct the office of the chairperson.

36 7. Each member of the board shall receive as compensation an amount set by the division
37 not to exceed fifty dollars for each day devoted to the affairs of the board and shall be entitled
38 to reimbursement for necessary and actual expenses incurred in the performance of the member's
39 official duties.

40 8. Staff for the board shall be provided by the director of the division of professional
41 registration.

42 9. The governor may remove any member of the board for misconduct, inefficiency,
43 incompetency, or neglect of office. All vacancies shall be filled by appointment of the governor
44 with the advice and consent of the senate, and the member so appointed shall serve for the
45 unexpired term.

337.310. 1. The behavior analyst advisory board is authorized to:

2 (1) Review all applications for licensure, **provisional licensure**, and temporary licensure
3 for behavior analysts and assistant behavior analysts and any supporting documentation
4 submitted with the application to the committee and make recommendations to the committee
5 regarding the resolution of the application;

6 (2) Review all complaints made relating to the practice of behavior analysis and make
7 recommendations to the committee regarding investigation of the complaint, referral for
8 discipline or other resolution of the complaint; and

9 (3) Review any entities responsible for certifying behavior analysts and make
10 recommendations to the committee as to approval or disapproval of the certifying entity based
11 on qualifications established by the committee.

12 2. The board shall recommend to the committee rules to be promulgated pertaining to:

13 (1) The form and content of license applications required and the procedures for filing
14 an application for an initial, provisional temporary or renewal license in this state;

15 (2) The establishment of fees;

16 (3) The educational and training requirements for licensed behavior analysts and licensed
17 assistant behavior analysts;

18 (4) The roles, responsibilities, and duties of licensed behavior analysts [and] , licensed
19 assistant behavior analysts, **provisionally licensed behavior analysts, provisionally licensed**
20 **assistant behavior analysts, temporary licensed behavior analysts, and temporary licensed**
21 **assistant behavior analysts;**

22 (5) The characteristics of supervision and supervised clinical practicum experience for
23 [the] licensed behavior analyst [and the] , licensed assistant behavior analyst, **provisionally**
24 **licensed behavior analysts, provisionally licensed assistant behavior analysts, temporary**
25 **licensed behavior analysts, and temporary licensed assistant behavior analysts;**

26 (6) The supervision of licensed assistant behavior analysts, **provisionally licensed**
27 **behavior analysts, provisionally licensed assistant behavior analysts, temporary licensed**
28 **behavior analysts, and temporary licensed assistant behavior analysts;**

29 (7) The requirements for continuing education for licensed behavior analysts and
30 licensed assistant behavior analysts;

31 (8) A code of conduct; and

32 (9) Any other policies or procedures necessary to the fulfillment of the requirements of
33 sections 337.300 to 337.345.

34 3. Only after the board's recommendation and approval by majority vote may the
35 committee make any final decisions related to licensing, rules and regulations, complaint
36 resolution, approval of certifying entities or any actions bearing upon the practice of applied
37 behavior analysis unless otherwise authorized by sections 337.300 to 337.345.

38 4. [Notwithstanding the provisions of subsection 3 of this section, until such time as the
39 governor appoints the board and the board has a quorum, the committee shall review and resolve
40 all applications for licensure as a licensed behavior analyst or licensed assistant behavior analyst.

41 5.] Any rule or portion of a rule, as that term is defined in section 536.010, that is created
42 under the authority delegated in this section shall become effective only if it complies with and
43 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
44 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
45 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule
46 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
47 proposed or adopted after August 28, 2010, shall be invalid and void.

337.315. 1. An applied behavior analysis intervention shall produce socially significant
2 improvements in human behavior through skill acquisition, increase or decrease in behaviors
3 under specific environmental conditions and the reduction of problematic behavior. An applied
4 behavior analysis intervention shall:

5 (1) Be based on empirical research and the identification of functional relations between
6 behavior and environment, contextual factors, antecedent stimuli and reinforcement operations
7 through the direct observation and measurement of behavior, arrangement of events and
8 observation of effects on behavior, as well as other information gathering methods such as record
9 review and interviews; and

10 (2) Utilize changes and arrangements of contextual factors, antecedent stimuli, positive
11 reinforcement, and other consequences to produce behavior change.

12 2. Each person wishing to practice as a licensed behavior analyst shall:

13 (1) Submit a complete application on a form approved by the committee;

14 (2) Pay all necessary fees as set by the committee;

15 (3) Submit a two-inch or three-inch photograph or passport photograph taken no more
16 than six months prior to the application date;

17 (4) Provide two classified sets of fingerprints for processing by the Missouri state
18 highway patrol under section 43.543. One set of fingerprints shall be used by the highway patrol
19 to search the criminal history repository and the second set shall be forwarded to the Federal
20 Bureau of Investigation for searching the federal criminal history files;

21 (5) Have passed an examination and been certified as a board-certified behavior analyst
22 by a certifying entity, as defined in section 337.300;

23 (6) Provide evidence of active status as a board-certified behavior analyst; and

24 (7) If the applicant holds a license as a behavior analyst in another state, a statement from
25 all issuing states verifying licensure and identifying any disciplinary action taken against the
26 license holder by that state.

27 3. Each person wishing to practice as a licensed assistant behavior analyst shall:

28 (1) Submit a complete application on a form approved by the committee;

29 (2) Pay all necessary fees as set by the committee;

30 (3) Submit a two-inch or three-inch photograph or passport photograph taken no more
31 than six months prior to the application date;

32 (4) Provide two classified sets of fingerprints for processing by the Missouri state
33 highway patrol under section 43.543. One set of fingerprints shall be used by the highway patrol
34 to search the criminal history repository and the second set shall be forwarded to the Federal
35 Bureau of Investigation for searching the federal criminal history files;

36 (5) Have passed an examination and been certified as a board-certified assistant behavior
37 analyst by a certifying entity, as defined in section 337.300;

38 (6) Provide evidence of active status as a board-certified assistant behavior analyst;

39 (7) If the applicant holds a license as an assistant behavior analyst in another state, a
40 statement from all issuing states verifying licensure and identifying any disciplinary action taken
41 against the license holder by that state; and

42 (8) Submit documentation satisfactory to the committee that the applicant will be directly
43 supervised by a licensed behavior analyst in a manner consistent with the certifying entity.

44 4. The committee shall be authorized to issue a temporary license to an applicant for a
45 behavior analyst license or assistant behavior analyst license upon receipt of a complete
46 application, **submission of a fee as set by the committee by rule** for behavior analyst or
47 assistant behavior analyst [or] , **and** a showing of valid licensure as a behavior analyst **or**
48 **assistant behavior analyst** in another state, only if the applicant has submitted fingerprints and
49 no disqualifying criminal history appears on the family care safety registry. The temporary
50 license shall expire upon issuance of a license or denial of the application but no later than ninety
51 days from issuance of the temporary license. Upon written request to the committee, the holder
52 of a temporary license shall be entitled to one extension of ninety days of the temporary license.

53 5. **(1) The committee shall, in accordance with rules promulgated by the committee,**
54 **issue a provisional behavior analyst license or a provisional assistant behavior analyst**
55 **license upon receipt by the committee of a complete application, appropriate fee as set by**
56 **the committee by rule, and proof of satisfaction of requirements under subsections 2 and**
57 **3 of this section, respectively, and other requirements established by the committee by rule,**
58 **except that applicants for a provisional license as either a behavior analyst or assistant**
59 **behavior analyst need not have passed an examination and been certified as a board-**
60 **certified behavior analyst or a board-certified assistant behavior analyst to obtain a**
61 **provisional behavior analyst or provisional assistant behavior analyst license.**

62 **(2) A provisional license issued under this subsection shall only authorize and**
63 **permit the licensee to render behavior analysis under the supervision and the full**
64 **professional responsibility and control of such licensee's licensed supervisor.**

65 **(3) A provisional license shall automatically terminate upon issuance of a**
66 **permanent license, upon a finding of cause to discipline after notice and hearing under**
67 **section 337.330, upon termination of supervision by a licensed supervisor, or upon the**
68 **expiration of one year from the date of issuance of the provisional license, whichever first**
69 **occurs. The provisional license may be renewed after one year, with a maximum issuance**
70 **of two years. Upon a showing of good cause, the committee by rule shall provide**

71 **procedures for exceptions and variances from the requirement of a maximum issuance of**
72 **two years.**

73 **6.** No person shall hold himself or herself out to be licensed behavior analysts or LBA,
74 **provisionally licensed behavior analyst or PLBA, provisionally licensed assistant behavior**
75 **analyst or PLABA, temporary licensed behavior analyst or TLBA, or temporary licensed**
76 **assistant behavior analyst or TLaBA,** licensed assistant behavior analysts or LaBA in the state
77 of Missouri unless they meet the applicable requirements.

78 [6.] **7.** No persons shall practice applied behavior analysis unless they are:

79 (1) Licensed behavior analysts;

80 (2) Licensed assistant behavior analysts working under the supervision of a licensed
81 behavior analyst;

82 (3) An individual who has a bachelor's or graduate degree and completed course work
83 for licensure as a behavior analyst and is obtaining supervised field experience under a licensed
84 behavior analyst pursuant to required supervised work experience for licensure at the behavior
85 analyst or assistant behavior analyst level; [or]

86 (4) Licensed psychologists practicing within the rules and standards of practice for
87 psychologists in the state of Missouri and whose practice is commensurate with their level of
88 training and experience;

89 **(5) Provisionally licensed behavior analysts;**

90 **(6) Provisionally licensed assistant behavior analysts;**

91 **(7) Temporary licensed behavior analysts; or**

92 **(8) Temporary licensed assistant behavior analysts.**

93 [7.] **8.** Notwithstanding the provisions in subsection 6 of this section, any licensed or
94 certified professional may practice components of applied behavior analysis, as defined in
95 section 337.300 if he or she is acting within his or her applicable scope of practice and ethical
96 guidelines.

97 [8.] **9.** All licensed behavior analysts and licensed assistant behavior analysts shall be
98 bound by the code of conduct adopted by the committee by rule.

99 [9.] **10.** Licensed assistant behavior analysts shall work under the direct supervision of
100 a licensed behavior analyst as established by committee rule.

101 [10.] **11.** Persons who provide services under the Individuals with Disabilities Education
102 Act (IDEA), 20 U.S.C. Section 1400, et seq., or Section 504 of the federal Rehabilitation Act of
103 1973, 29 U.S.C. Section 794, or are enrolled in a course of study at a recognized educational
104 institution through which the person provides applied behavior analysis as part of supervised
105 clinical experience shall be exempt from the requirements of this section.

106 [11.] 12. A violation of this section shall be punishable by probation, suspension, or loss
107 of any license held by the violator.

337.325. A licensed behavior analyst [and] , licensed assistant behavior analyst,
2 **provisionally licensed behavior analyst, provisionally licensed assistant behavior analyst,**
3 **temporary licensed behavior analyst and temporary licensed assistant behavior analyst**
4 shall limit his or her practice to demonstrated areas of competence as documented by relevant
5 professional education, training, or experience. A licensed behavior analyst [and] , licensed
6 assistant behavior analyst, **provisionally licensed behavior analyst, provisionally licensed**
7 **assistant behavior analyst, temporary licensed behavior analyst and temporary licensed**
8 **assistant behavior analyst** trained in one area shall not practice in another area without
9 obtaining additional relevant professional education, training, and experience.

337.347. For reimbursement and billing purposes of section 376.1224, services
2 **provided by a provisionally licensed assistant behavior analyst, a provisionally licensed**
3 **behavior analyst, or a temporary licensed behavior analyst shall be billed by the**
4 **supervising board-certified behavior analyst.**

337.647. 1. The committee shall develop a school social work program verification
2 **and acknowledgment of completion for individuals who have met the requirements set**
3 **forth in this section.**

4 **2. The committee shall issue a document similar to the document described in**
5 **subsection 2 of section 173.1400 to any individual who:**

6 **(1) Submits an application to the board;**

7 **(2) Holds a credential in school social work issued by a nationally recognized**
8 **credentialing organization in social work, or demonstrates competency in school social**
9 **work by successful passage of a school social worker exam approved by the committee;**

10 **(3) Holds a license issued by the committee; and**

11 **(4) Submits the fee as required by rule of the committee.**

12 **3. The committee shall promulgate rules and shall charge fees necessary to**
13 **implement this section. Any rule or portion of a rule, as that term is defined in section**
14 **536.010, that is created under the authority delegated in this section shall become effective**
15 **only if it complies with and is subject to all of the provisions of chapter 536 and, if**
16 **applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**
17 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
18 **the effective date, or to disapprove and annul a rule are subsequently held**
19 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
20 **after August 28, 2012, shall be invalid and void.**

21 **4. Notwithstanding any provision of law to the contrary, any school social work**
22 **program verification and acknowledgment of completion issued by the committee under**
23 **subsection 2 of this section shall not be deemed a license, certificate, registration or permit**
24 **for any purpose, and such documents convey no authority to practice social work in**
25 **Missouri and convey no authority to use any social work title in Missouri. Each school**
26 **social work program verification and acknowledgment of completion issued by the**
27 **committee under subsection 2 of this section shall state on its face that it:**

- 28 **(1) Is not a license, certificate, registration or permit;**
29 **(2) Conveys no authority to practice social work in Missouri; and**
30 **(3) Conveys no authority to use any social work title in Missouri.**

31 **5. Notwithstanding any provision of law to the contrary, school social work**
32 **program verification and acknowledgment of completion issued by the committee under**
33 **subsection 2 of this section shall not:**

- 34 **(1) Expire;**
35 **(2) Be subject to renewal;**
36 **(3) Be subject to denial or discipline under section 337.630;**
37 **(4) Be subject to suspension under section 324.010; or**
38 **(5) Be subject to any other action to which professional licenses may be subjected.**

338.315. 1. Except as otherwise provided by the board by rule, it shall be unlawful
2 **for any pharmacist, pharmacy owner or person employed by a pharmacy to knowingly purchase**
3 **or receive any legend drugs under 21 U.S.C. Section 353 from other than a licensed or registered**
4 **drug distributor or licensed pharmacy. Any person who violates the provisions of this section**
5 **shall, upon conviction, be adjudged guilty of a class A misdemeanor. Any subsequent conviction**
6 **shall constitute a class D felony.**

7 **2. Notwithstanding any other provision of law to the contrary, the sale, purchase,**
8 **or trade of a prescription drug by a pharmacy to other pharmacies is permissible if the**
9 **total dollar volume of such sales, purchases, or trades are in compliance with the rules of**
10 **the board and do not exceed five percent of the pharmacy's total annual prescription drug**
11 **sales.**

12 **3. Pharmacies shall establish and maintain inventories and records of all**
13 **transactions regarding the receipt and distribution or other disposition of legend drugs.**
14 **Such records shall be maintained for two years and be readily available upon request by**
15 **the board or its representatives.**

16 **4. The board shall promulgate rules to implement the provisions of this section.**
17 **Any rule or portion of a rule, as that term is defined in section 536.010, that is created**
18 **under the authority delegated in this section shall become effective only if it complies with**

19 and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
20 This section and chapter 536 are nonseverable and if any of the powers vested with the
21 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
22 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
23 rulemaking authority and any rule proposed or adopted after August 28, 2012, shall be
24 invalid and void.

338.320. 1. There is hereby established the "Missouri Electronic Prior
2 Authorization Committee" in order to facilitate, monitor, and report to the general
3 assembly on Missouri-based efforts to contribute to the establishment of national electronic
4 prior authorization standards. Such efforts shall include the Missouri-based electronic
5 prior authorization pilot program established under subsection 5 of this section and the
6 study and dissemination of information by the committee of the efforts of the National
7 Council on Prescription Drug Programs (NCPDP) to develop national electronic prior
8 authorization standards. The committee shall advise the general assembly and the
9 department of insurance, financial institutions and professional registration as to whether
10 there is a need for administrative rules to be promulgated by the department of insurance,
11 financial institutions and professional registration as soon as practically possible.

12 2. The Missouri electronic prior authorization committee shall consist of the
13 following members:

14 (1) Two members of the senate, appointed by the president pro tempore of the
15 senate;

16 (2) Two members of the house of representatives, appointed by the speaker of the
17 house of representatives;

18 (3) One member from an organization of licensed physicians in the state;

19 (4) One member who is a physician licensed in Missouri pursuant to chapter 334;

20 (5) One member who is a representative of a Missouri pharmacy benefit
21 management company;

22 (6) One member from an organization representing licensed pharmacists in the
23 state;

24 (7) One member from the business community representing businesses on health
25 insurance issues;

26 (8) One member from an organization representing the leading research-based
27 pharmaceutical and biotechnology companies;

28 (9) One member from an organization representing the largest generic
29 pharmaceutical trade association;

30 (10) One patient advocate;

31 **(11) One member from an electronic prescription network that facilitates the secure**
32 **electronic exchange of clinical information between physicians, pharmacies, payers, and**
33 **pharmacy benefit managers and other health care providers;**

34 **(12) One member from a Missouri-based electronic health records company;**

35 **(13) One member from an organization representing the largest number of**
36 **hospitals in the state;**

37 **(14) One member from a health carrier as such term is defined under section**
38 **376.1350;**

39 **(15) One member from an organization representing the largest number of health**
40 **carriers in the state, as such term is defined under section 376.1350;**

41 **(16) The director of the department of social services, or the director's designee;**

42 **(17) The director of the department of insurance, financial institutions and**
43 **professional registration, who shall be chair of the committee.**

44 **3. All of the members, except for the members from the general assembly, shall be**
45 **appointed by the governor no later than September 1, 2012, with the advice and consent**
46 **of the senate. The staff of the department of insurance, financial institutions and**
47 **professional registration shall provide assistance to the committee.**

48 **4. The duties of the committee shall be as follows:**

49 **(1) Before February 1, 2019, monitor and report to the general assembly on the**
50 **Missouri-based electronic prior authorization pilot program created under subsection 5**
51 **of this section including a report of the outcomes and best practices developed as a result**
52 **of the pilot program and how such information can be used to inform the national**
53 **standard-setting process;**

54 **(2) Obtain specific updates from the NCPDP and other pharmacy benefit managers**
55 **and vendors that are currently engaged in pilot programs working toward national**
56 **electronic prior authorization standards;**

57 **(3) Correspond and collaborate with the NCPDP and other such pilots through the**
58 **exchange of information and ideas;**

59 **(4) Assist, when asked by the pharmacy benefit manager, with the development of**
60 **the pilot program created under subsection 5 of this section with an understanding of**
61 **information on the success and failures of other pilot programs across the country;**

62 **(5) Prepare a report at the end of each calendar year to be distributed to the**
63 **general assembly and governor with a summary of the committee's progress and plans for**
64 **the next calendar year, including a report on Missouri-based efforts to contribute to the**
65 **establishment of national electronic prior authorization standards. Such annual report**
66 **shall continue until such time as the NCPDP has established national electronic prior**

67 **authorization standards or this section has expired, whichever is sooner. The first report**
68 **shall be completed before January 1, 2013;**

69 **(6) Upon the adoption of national electronic prior authorization standards by the**
70 **NCPDP, prepare a final report to be distributed to the general assembly and governor that**
71 **identifies the appropriate Missouri administrative regulations, if any, that will need to be**
72 **promulgated by the department of insurance, financial institutions and professional**
73 **registration, in order to make those standards effective as soon as practically possible, and**
74 **advise the general assembly and governor if there are any legislative actions necessary to**
75 **the furtherance of that end.**

76 **5. The department of insurance, financial institutions and professional registration**
77 **and the Missouri electronic prior authorization committee shall recruit a Missouri-based**
78 **pharmacy benefits manager doing business nationally to volunteer to conduct an electronic**
79 **prior authorization pilot program in Missouri. The pharmacy benefits manager**
80 **conducting the pilot program shall ensure that there are adequate Missouri licensed**
81 **physicians and an electronic prior authorization vendor capable and willing to participate**
82 **in a Missouri-based pilot program. Such pilot program established under this section shall**
83 **be operational by January 1, 2014. The department and the committee may provide advice**
84 **or assistance to the pharmacy benefit manager conducting the pilot program but shall not**
85 **maintain control or lead with the direction of the pilot program.**

86 **6. Pursuant to section 23.253 of the Missouri sunset act:**

87 **(1) The provisions of the new program authorized under this section shall sunset**
88 **automatically six years after the effective date of this section unless reauthorized by an act**
89 **of the general assembly; and**

90 **(2) If such program is reauthorized, the program authorized under this section**
91 **shall sunset automatically twelve years after the effective date of the reauthorization of this**
92 **section; and**

93 **(3) This section shall terminate on September first of the calendar year immediately**
94 **following the calendar year in which the program authorized under this section is sunset.**

338.333. 1. **Except as otherwise provided by the board of pharmacy by rule in the**
2 **event of an emergency or to alleviate a supply shortage,** no person or distribution outlet shall
3 act as a wholesale drug distributor or pharmacy distributor without first obtaining license to do
4 so from the Missouri board of pharmacy and paying the required fee. The board may grant
5 temporary licenses when the wholesale drug distributor or pharmacy distributor first applies for
6 a license to operate within the state. Temporary licenses shall remain valid until such time as
7 the board shall find that the applicant meets or fails to meet the requirements for regular
8 licensure. No license shall be issued or renewed for a wholesale drug distributor or pharmacy

9 distributor to operate unless the same shall be operated in a manner prescribed by law and
10 according to the rules and regulations promulgated by the board of pharmacy with respect
11 thereto. Separate licenses shall be required for each distribution site owned or operated by a
12 wholesale drug distributor or pharmacy distributor, unless such drug distributor or pharmacy
13 distributor meets the requirements of section 338.335.

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

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

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

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

660.315. 1. After an investigation and a determination has been made to place a person's
2 name on the employee disqualification list, that person shall be notified in writing mailed to his
3 or her last known address that:

4 (1) An allegation has been made against the person, the substance of the allegation and
5 that an investigation has been conducted which tends to substantiate the allegation;

6 (2) The person's name will be included in the employee disqualification list of the
7 department;

8 (3) The consequences of being so listed including the length of time to be listed; and

9 (4) The person's rights and the procedure to challenge the allegation.

10 2. If no reply has been received within thirty days of mailing the notice, the department
11 may include the name of such person on its list. The length of time the person's name shall
12 appear on the employee disqualification list shall be determined by the director or the director's
13 designee, based upon the criteria contained in subsection 9 of this section.

14 3. If the person so notified wishes to challenge the allegation, such person may file an
15 application for a hearing with the department. The department shall grant the application within
16 thirty days after receipt by the department and set the matter for hearing, or the department shall
17 notify the applicant that, after review, the allegation has been held to be unfounded and the
18 applicant's name will not be listed.

19 4. If a person's name is included on the employee disqualification list without the
20 department providing notice as required under subsection 1 of this section, such person may file
21 a request with the department for removal of the name or for a hearing. Within thirty days after
22 receipt of the request, the department shall either remove the name from the list or grant a
23 hearing and set a date therefor.

24 5. Any hearing shall be conducted in the county of the person's residence by the director
25 of the department or the director's designee. The provisions of chapter 536 for a contested case
26 except those provisions or amendments which are in conflict with this section shall apply to and
27 govern the proceedings contained in this section and the rights and duties of the parties involved.
28 The person appealing such an action shall be entitled to present evidence, pursuant to the
29 provisions of chapter 536, relevant to the allegations.

30 6. Upon the record made at the hearing, the director of the department or the director's
31 designee shall determine all questions presented and shall determine whether the person shall
32 be listed on the employee disqualification list. The director of the department or the director's
33 designee shall clearly state the reasons for his or her decision and shall include a statement of
34 findings of fact and conclusions of law pertinent to the questions in issue.

35 7. A person aggrieved by the decision following the hearing shall be informed of his or
36 her right to seek judicial review as provided under chapter 536. If the person fails to appeal the
37 director's findings, those findings shall constitute a final determination that the person shall be
38 placed on the employee disqualification list.

39 8. A decision by the director shall be inadmissible in any civil action brought against a
40 facility or the in-home services provider agency and arising out of the facts and circumstances
41 which brought about the employment disqualification proceeding, unless the civil action is
42 brought against the facility or the in-home services provider agency by the department of health
43 and senior services or one of its divisions.

44 9. The length of time the person's name shall appear on the employee disqualification
45 list shall be determined by the director of the department of health and senior services or the
46 director's designee, based upon the following:

- 47 (1) Whether the person acted recklessly or knowingly, as defined in chapter 562;
- 48 (2) The degree of the physical, sexual, or emotional injury or harm; or the degree of the
49 imminent danger to the health, safety or welfare of a resident or in-home services client;
- 50 (3) The degree of misappropriation of the property or funds, or falsification of any
51 documents for service delivery of an in-home services client;
- 52 (4) Whether the person has previously been listed on the employee disqualification list;
- 53 (5) Any mitigating circumstances;
- 54 (6) Any aggravating circumstances; and

55 (7) Whether alternative sanctions resulting in conditions of continued employment are
56 appropriate in lieu of placing a person's name on the employee disqualification list. Such
57 conditions of employment may include, but are not limited to, additional training and employee
58 counseling. Conditional employment shall terminate upon the expiration of the designated
59 length of time and the person's submitting documentation which fulfills the department of health
60 and senior services' requirements.

61 10. The removal of any person's name from the list under this section shall not prevent
62 the director from keeping records of all acts finally determined to have occurred under this
63 section.

64 11. The department shall provide the list maintained pursuant to this section to other
65 state departments upon request and to any person, corporation, organization, or association who:

66 (1) Is licensed as an operator under chapter 198;

67 (2) Provides in-home services under contract with the department;

68 (3) Employs nurses and nursing assistants for temporary or intermittent placement in
69 health care facilities;

70 (4) Is approved by the department to issue certificates for nursing assistants training;

71 (5) Is an entity licensed under chapter 197; [or]

72 (6) Is a recognized school of nursing, medicine, or other health profession for the
73 purpose of determining whether students scheduled to participate in clinical rotations with
74 entities described in subdivision (1), (2), or (5) of this subsection are included in the employee
75 disqualification list; or

76 **(7) Is a consumer reporting agency regulated by the federal Fair Credit Reporting**
77 **Act that conducts employee background checks on behalf of entities listed in subdivisions**
78 **(1), (2), (5), or (6) of this subsection. Such a consumer reporting agency shall conduct the**
79 **employee disqualification list check only upon the initiative or request of an entity**
80 **described in subdivisions (1), (2), (5), or (6) of this subsection when the entity is fulfilling**
81 **its duties required under this section. The information shall be disclosed only to the**
82 **requesting entity.**

83

84 The department shall inform any person listed above who inquires of the department whether or
85 not a particular name is on the list. The department may require that the request be made in
86 writing. **No person, corporation, organization, or association who is entitled to access the**
87 **employee disqualification list may disclose the information to any person, corporation,**
88 **organization, or association who is not entitled to access the list. Any person, corporation,**
89 **organization, or association who is entitled to access the employee disqualification list who**

90 **discloses the information to any person, corporation, organization, or association who is**
91 **not entitled to access the list shall be guilty of an infraction.**

92 12. No person, corporation, organization, or association who received the employee
93 disqualification list under subdivisions (1) to [(5)] (7) of subsection 11 of this section shall
94 knowingly employ any person who is on the employee disqualification list. Any person,
95 corporation, organization, or association who received the employee disqualification list under
96 subdivisions (1) to [(5)] (7) of subsection 11 of this section, or any person responsible for
97 providing health care service, who declines to employ or terminates a person whose name is
98 listed in this section shall be immune from suit by that person or anyone else acting for or in
99 behalf of that person for the failure to employ or for the termination of the person whose name
100 is listed on the employee disqualification list.

101 13. Any employer who is required to discharge an employee because the employee was
102 placed on a disqualification list maintained by the department of health and senior services after
103 the date of hire shall not be charged for unemployment insurance benefits based on wages paid
104 to the employee for work prior to the date of discharge, pursuant to section 288.100.

105 14. Any person who has been listed on the employee disqualification list may request
106 that the director remove his or her name from the employee disqualification list. The request
107 shall be written and may not be made more than once every twelve months. The request will be
108 granted by the director upon a clear showing, by written submission only, that the person will
109 not commit additional acts of abuse, neglect, misappropriation of the property or funds, or the
110 falsification of any documents of service delivery to an in-home services client. The director
111 may make conditional the removal of a person's name from the list on any terms that the director
112 deems appropriate, and failure to comply with such terms may result in the person's name being
113 relisted. The director's determination of whether to remove the person's name from the list is not
114 subject to appeal.

2 [337.345. 1. Prior to August 28, 2012, each person desiring to obtain a
3 provisional license shall make application to the committee upon such forms and
4 in such manner as may be prescribed by the committee and shall pay the required
5 application fee. The application fee shall not be refundable. Each application
6 shall contain a statement that it is made under oath or affirmation and that its
7 representations are true and correct to the best knowledge and belief of the person
8 signing the application, subject to the penalties of making a false affidavit or
9 declaration.

9 2. For a provisional behavior analyst license, the applicant shall:

10 (1) Submit a two-inch or three-inch photograph or passport photograph
11 taken no more than six months prior to the application date, and only if the
12 applicant has submitted fingerprints and no disqualifying criminal history appears
13 on the family care safety registry;

- 14 (2) Have passed an examination and been certified as a board-certified
15 behavior analyst by the Behavior Analyst Certification Board or a certifying
16 entity listed in subdivision (3) of section 337.300; and
17 (3) Provide evidence of active status as a board-certified behavior
18 analyst.
- 19 3. For a provisional assistant behavior analyst license, the applicant shall:
20 (1) Submit a two-inch or three-inch photograph or passport photograph
21 taken no more than six months prior to the application date, and only if the
22 applicant has submitted fingerprints and no disqualifying criminal history appears
23 on the family care safety registry;
24 (2) Have passed an examination and been certified as a board-certified
25 assistant behavior analyst by a certifying entity listed in subdivision (3) of section
26 337.300;
27 (3) Provide evidence of active status as a board-certified assistant
28 behavior analyst; and
29 (4) Submit documentation satisfactory to the board that the applicant will
30 be directly supervised by a licensed behavior analyst in a manner consistent with
31 the certifying entity.
- 32 4. Each applicant for provisional licensure shall meet the applicable
33 requirements of section 337.315 within three months of the date of issuance of
34 the provisional license.
- 35 5. The provisional license shall be effective only until the later to occur
36 of:
37 (1) Grant or rejection of a license pursuant to section 337.315; or
38 (2) August 28, 2012. The holder of a provisional license which has not
39 expired, been suspended, or revoked shall be deemed to be the holder of a license
40 issued under section 337.315 until such provisional license expires, is suspended,
41 or revoked.]
42

Section B. Because of the need to provide school social work program verification and
2 acknowledgment of completion before the start of the 2012-2013 school year, the enactment of
3 section 173.1400 of this act is deemed necessary for the immediate preservation of the public
4 health, welfare, peace and safety, and is hereby declared to be an emergency act within the
5 meaning of the constitution, and the enactment of section 173.1400 of this act shall be in full
6 force and effect upon its passage and approval.

✓