

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 1122

92ND GENERAL ASSEMBLY

2004

4017L.14T

AN ACT

To repeal sections 209.322, 209.323, 317.011, 324.200, 324.203, 324.205, 324.210, 324.215, 324.400, 324.403, 324.409, 324.415, 324.418, 324.421, 324.427, 324.430, 324.433, 328.080, 332.051, 332.071, 332.081, 332.086, 332.111, 332.121, 334.100, 334.506, 334.530, 334.540, 334.550, 334.655, 334.660, 334.665, 335.016, 335.212, 335.245, 337.085, 337.507, 337.615, 337.665, 337.712, 338.013, 338.055, 338.065, 338.220, 345.015, 346.135, 374.700, 374.705, 374.710, 374.715, 374.725, 374.730, 374.735, 374.740, 374.755, 374.757, 374.763, 374.765, 436.200, 436.205, 436.209, 436.212, 620.127, and 620.145, RSMo, and to enact in lieu thereof one hundred two new sections relating to professional licensing, with penalty provisions, with an effective date.

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

Section A. Sections 209.322, 209.323, 317.011, 324.200, 324.203, 324.205, 324.210, 324.215, 324.400, 324.403, 324.409, 324.415, 324.418, 324.421, 324.427, 324.430, 324.433, 328.080, 332.051, 332.071, 332.081, 332.086, 332.111, 332.121, 334.100, 334.506, 334.530, 334.540, 334.550, 334.655, 334.660, 334.665, 335.016, 335.212, 335.245, 337.085, 337.507, 337.615, 337.665, 337.712, 338.013, 338.055, 338.065, 338.220, 345.015, 346.135, 374.700, 374.705, 374.710, 374.715, 374.725, 374.730, 374.735, 374.740, 374.755, 374.757, 374.763, 374.765, 436.200, 436.205, 436.209, 436.212, 620.127, and 620.145, RSMo, are repealed and one hundred two new sections enacted in lieu thereof, to be known as sections 209.322,

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

209.323, 317.011, 324.200, 324.203, 324.205, 324.206, 324.210, 324.215, 324.216, 324.400, 324.402, 324.403, 324.409, 324.415, 324.418, 324.421, 324.427, 324.430, 324.433, 324.526, 328.075, 328.080, 332.032, 332.051, 332.071, 332.081, 332.086, 332.111, 332.121, 332.122, 334.100, 334.506, 334.530, 334.540, 334.550, 334.655, 334.660, 334.665, 335.016, 335.212, 335.245, 337.085, 337.507, 337.615, 337.642, 337.665, 337.712, 338.013, 338.055, 338.065, 338.145, 338.155, 338.220, 345.015, 346.135, 374.695, 374.700, 374.702, 374.705, 374.710, 374.715, 374.716, 374.717, 374.719, 374.730, 374.735, 374.740, 374.755, 374.757, 374.759, 374.763, 374.764, 374.783, 374.784, 374.785, 374.786, 374.787, 374.788, 374.789, 436.215, 436.218, 436.221, 436.224, 436.227, 436.230, 436.233, 436.236, 436.239, 436.242, 436.245, 436.248, 436.251, 436.254, 436.257, 436.260, 436.263, 436.266, 436.269, 436.272, 620.127, and 620.145, to read as follows:

209.322. The board shall recognize the following certificates:

(1) National Registry of Interpreters for the Deaf (NRID) certificates, which include Comprehensive Skills Certificate (CSC), Certificate of Interpreting/Certificate of Transliteration (CI/CT) and Certified Deaf Interpreter (CDI); [and]

(2) National Association of the Deaf (NAD) certificate levels 3, 4 and 5; **and**

(3) A provisional public school certificate.

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

2. Each license issued pursuant to the provisions of sections 209.319 to 209.339 shall expire on the renewal date. The division shall mail a renewal notice to the last known address of each licensee prior to the [registration] **license** renewal date. The license will expire **and renewal may be denied** upon failure **of the licensee** to provide the division with the information required for [registration] **renewal including but not limited to satisfactory evidence of current certification** or to pay the required [registration] **renewal** fee within sixty days of the [registration] **license** renewal date. The license may be reinstated within two years after the [registration] **renewal** date, if the applicant applies for reinstatement and pays the required [registration] **license renewal** fee plus a

delinquency fee as established by the committee **and provides evidence of current certification.**

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

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

317.011. 1. The division of professional registration shall have the power, and it shall be its duty, to accept application for and issue permits to hold professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contests in the state of Missouri, and to charge a fee for the issuance of same in an amount established by rule; such funds to be paid to the division of professional registration which shall pay such funds into the state treasury to be set apart into the athletic fund.

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

3. The division of professional registration shall not grant any permit to hold professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contests in the state of Missouri except:

(1) Where such professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contest is to be held under the auspices of a promoter duly licensed by the division;

(2) Where such contest shall be of not more than fifteen rounds of three minutes each duration per bout; and

(3) Where a fee has been paid for such permit, in an amount established by rule.

4. In such contests a decision shall be rendered by three judges licensed by the division.

5. Specifically exempted from the provisions of chapter 317, are contests or exhibitions for amateur boxing, amateur kick-boxing, amateur wrestling and amateur full-contact karate. However, all amateur boxing, amateur kickboxing, amateur wrestling and amateur full-contact karate must be sanctioned by a nationally recognized amateur

sanctioning body approved by the office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) **Engaged in medical nutritional therapy as defined in subsection 8 of this**

section;

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

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

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

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

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

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

(a) Has completed a minimum of a baccalaureate degree granted by a United States regionally accredited college or university or foreign equivalent;

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

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

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

as determined by the committee on dietetic registration.

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

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

3. The committee shall consist of six members including one public member, appointed by the governor with the advice and consent of the senate. Each member of the committee shall be a citizen of the United States and a resident of this state, and, except as provided in this section and except for the first members appointed, shall be licensed as a

dietitian by this state. Beginning with the first appointments made after August 28, 1998, two members shall be appointed for four years, two members shall be appointed for three years and two members shall be appointed for two years. Thereafter, all members shall be appointed to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the committee for a total of eight years. The membership of the committee shall reflect the differences in levels of education and work experience with consideration being given to race, gender, and ethnic origins. No more than three members shall be from the same political party. The membership shall be representative of the various geographic regions of the state.

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

[4.] 5. Each member of the committee shall receive as compensation an amount set by the division not to exceed fifty dollars, and shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties. The director, in collaboration with the department of economic development, shall establish by rule, guidelines for payment. All staff for the committee shall be provided by the division.

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

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

[7.] 8. The public member shall be at the time of the person's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated by sections 324.200 to 324.225, or the spouse of such a person; and a person who does not have and never has had a material financial interest in either the providing of the professional services regulated by sections 324.200 to 324.225, or an activity or organization directly related to any profession licensed or regulated by sections 324.200 to 324.225. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

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

2. Any person who violates the provisions of subsection 1 of this section is guilty of an infraction.] **Any person who holds a license to practice dietetics in this state may**

use the title "Dietitian" or the abbreviation "L.D.". No other person may use the title "Dietitian" or the abbreviation "L.D.". No other person shall assume any title or use any title or use any abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a licensed dietitian.

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

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

324.206. As long as the person involved does not represent or hold himself or herself out as a dietitian as defined by subdivision (2) of subsection 2 of section 324.200, nothing in sections 324.200 to 324.225 is intended to limit, preclude, or otherwise interfere with:

(1) Self-care by a person or gratuitous care by a friend or family member;
(2) Persons in the military services or working in federal facilities from performing any activities described in sections 324.200 to 324.225 during the course of their assigned duties in the military service or a federal facility;

(3) A licensed healthcare provider performing any activities described in sections 324.200 to 324.225 that are within the scope of practice of the licensee;

(4) A person pursuing an approved educational program leading to a degree or certificate in dietetics at an accredited or approved educational program as long as such person does not provide dietetic services outside the educational program. Such person shall be designated by a title that clearly indicates the person's status as a student;

(5) Individuals who do not hold themselves out as dietitians marketing or distributing food products including dietary supplements as defined by the Food and Drug Administration or engaging in the explanation and education of customers regarding the use of such products;

(6) Any person furnishing general nutrition information as to the use of food, food materials, or dietary supplements, nor prevent in any way the free dissemination of literature; provided, however, no such individual may call himself or herself a dietitian unless he or she is licensed under this chapter.

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

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

(1) The applicant has completed a didactic program in dietetics which is approved or accredited by the commission on [accreditation/approval for dietetic education]

accreditation for dietetics education and a minimum of a baccalaureate degree from an acceptable educational institution accredited by a regional accrediting body or accredited by an accrediting body which has been approved by the United States Department of Education. Applicants who have obtained their education outside of the United States and its territories must have their academic degrees validated as equivalent to the baccalaureate or master's degree conferred by a regionally accredited college or university in the United States. Validation of a foreign degree does not eliminate the need for a verification statement of completion of a didactic program in dietetics;

(2) The applicant has completed a supervised practice requirement from an institution that is certified by a nationally recognized professional organization as having a dietetics specialty or who meets criteria for dietetics education established by the committee. The committee may specify those professional organization certifications which are to be recognized and may set standards for education training and experience required for those without such specialty certification to become dietitians.

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

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

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

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

2. The committee may issue a license to any dietitian who has a valid current license to practice **dietetics or** medical nutrition therapy in any jurisdiction, provided that such person is licensed in a jurisdiction whose requirements for licensure are substantially equal to, or greater than, the requirements for licensure of dietitians in Missouri at the time the applicant applies for licensure.

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

324.216. 1. A licensed dietitian may choose not to renew his or her license

and thereby allow such license to lapse, or may ask to be put on inactive status, provided such person does not practice dietetics during such period that the license is lapsed or the practitioner is on inactive status. If a person with a lapsed license desires to resume the practice of dietetics, the person shall apply for licensure pursuant to the licensing requirements in effect at the time the person applies to resume the practice of dietetics and pay the required fee as established by the committee. If the person desires to maintain such license on an inactive status and in order to avoid lapsing of such license, the person shall pay the required fee as established by the committee for maintaining an inactive license. An inactive license shall be renewed biennially. An inactive license may be reactivated by the committee as provided by rule.

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

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

- (1) "Council", the interior design council created in section 324.406;
- (2) "Department", the department of economic development;
- (3) "Division", the division of professional registration of the department of economic development;
- (4) "Registered [commercial] interior designer", a design professional who provides services including preparation of documents and specifications relative to nonload bearing interior construction, furniture, finishes, fixtures and equipment and who meets the criteria of education, experience and examination as provided in sections 324.400 to 324.439.

324.402. The state or any county, municipality, or other political subdivision shall not require the use of a registered interior designer for any residential building, residential remodeling, residential rehabilitation, or residential construction purposes.

324.403. No person may use the name or title, registered [commercial] interior designer, in this state unless that person is registered as required by sections 324.400 to 324.439. Nothing in sections 324.400 to 324.439 shall be construed as limiting or preventing the practice of a person's profession or restricting a person from providing interior design services, provided such person does not indicate to the public that such person is registered as an interior designer pursuant to the provisions of sections 324.400 to 324.439.

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

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

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

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

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

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

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

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

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

324.418. 1. The certificate of registration issued biennially to a registered [commercial] interior designer pursuant to sections 324.400 to 324.439 shall be renewed on or before the certificate renewal date accompanied by the required fee. The certificate of registration of a registered [commercial] interior designer which is not renewed within three months after the certificate renewal date shall be suspended automatically, subject to the right of the holder to have the suspended certificate of registration reinstated within nine months of the date of suspension if the person pays the required reinstatement fee. Any certificate of registration suspended and not reinstated within nine months of the suspension

date shall expire and be void and the holder of such certificate shall have no rights or privileges provided to holders of valid certificates. Any person whose certificate of registration has expired may, upon demonstration of current qualifications and payment of required fees, be reregistered or reauthorized under the person's original certificate of registration number.

2. Each application for the renewal or reinstatement of a registration shall be on a form furnished to the applicant and shall be accompanied by the required fees and proof of current completion of at least one unit every two years of approved or verifiable continuing education in interior design or architecture, immediately prior to such renewal or reinstatement. Ten contact hours constitutes one continuing education unit. Five contact hours of teaching in interior design or architecture constitutes one continuing education unit. One college course credit in interior design or architecture constitutes one continuing education unit.

324.421. The council shall register without examination, any interior designer certified, licensed or registered in another state or territory of the United States or foreign country if the applicant has qualifications which are at least equivalent to the requirements for registration as a registered [commercial] interior designer in this state and such applicant pays the required fees.

324.427. It is unlawful for any person to advertise or indicate to the public that the person is a registered [commercial] interior designer in this state, unless such person is registered as a registered [commercial] interior designer by the council and is in good standing pursuant to sections 324.400 to 324.439.

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

324.433. The right to use the title of registered [commercial] interior designer shall be deemed a personal right, based upon the qualifications of the individual, evidenced by the person's current certificate of registration and such certificate is not transferable; except that, a registered [commercial] interior designer may perform the interior designer's profession through, or as a member of, or as an employee of, a partnership or corporation.

324.526. 1. Notwithstanding any other law to the contrary, the director of the division of professional registration shall issue a temporary license to practice tattooing, body piercing, or branding under the following requirements:

(1) The applicant for temporary licensure is entering the state for the sole purpose of participating in a state or national convention at which the applicant will be practicing the profession of tattooing, body piercing, or branding;

(2) The applicant files a completed application with the division at least two days prior to the start of the convention and tenders a fee of fifty dollars; and

(3) The applicant is otherwise qualified for licensure under sections 324.520 to 324.526 and the rule promulgated under the authority of this statute.

2. A temporary license to practice tattooing, body piercing, or branding issued under this section shall be valid for a period not to exceed fourteen days and shall not be renewable.

3. Notwithstanding the requirements of sections 620.127 and 620.145, RSMo, an applicant for temporary licensure under this section shall not be required to provide a Social Security number if the application is submitted by a citizen of a foreign country who has not yet been issued a Social Security number and who previously has not been licensed by any other state, United States territory, or federal agency. A citizen of a foreign country who applies for a temporary permit under this section shall provide the division of professional registration with his or her visa or passport identification number in lieu of the Social Security number.

328.075. 1. Any person desiring to practice as an apprentice for barbering in this state shall apply to the board, registered as an apprentice with the board, and shall pay the appropriate fees prior to beginning their apprenticeship. Barber apprentices shall be of good moral character and shall be at least seventeen years of age.

2. Any person desiring to act as an apprentice supervisor for barbering in this state shall first possess a license to practice the occupation of barbering, apply to the board, pay the appropriate fees, complete an eight-hour apprentice supervision instruction course certified by the board, and be issued a certificate of registration as a barber apprentice supervisor prior to supervising barber apprentices.

3. The board may promulgate rules establishing the criteria for the supervision and training of barber apprentices.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

328.080. 1. Any person desiring to practice barbering in this state shall make

application for a certificate to the board and shall pay the required barber examination fee. He or she shall be present at the next regular meeting of the board for the examination of applicants.

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

(1) Is seventeen years of age or older and of good moral character;

(2) Is free of contagious or infectious diseases;

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

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

(5) Has sufficient knowledge of the common diseases of the face and skin to avoid the aggravation and spread thereof in the practice of barbering.

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

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

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

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

2. **The board may enforce its subpoenas, including subpoena duces tecum, by applying to a circuit court of Cole County, the county of the investigation, hearing, or proceeding, or any county where the person resides or may be found,**

for an order upon any person who shall fail to obey a subpoena to show cause why such subpoena should not be enforced, which such order and a copy of the application therefore shall be served upon the person in the same manner as a summons in a civil action, and if the circuit court shall, after a hearing, determine that the subpoena should be sustained and enforced, such court shall proceed to enforce the subpoena in the same manner as though the subpoena had been issued in a civil case in the circuit court.

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

2. Investigators employed by the board shall, among other duties, have the power in the name of the board to investigate alleged violations of this chapter including the right to inspect, on order of the board, [dental offices, including records, dental laboratories, dental equipment and instruments] **any person licensed to practice dentistry or entity providing dental services in this state, including all facilities and equipment related to the delivery of dental care or the fabrication or adjustment of dental prostheses and all clinical and administrative records related to the dental care of patients** with respect to violations of the provisions of this chapter.

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

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

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

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

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

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

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

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

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

(9) Uses or permits to be used for the person's benefit or for the benefit of any other

person or other entity the following titles or words in connection with the person's name: "Doctor", "Dentist", "Dr.", "D.D.S.", or "D.M.D.", or any other letters, titles, degrees or descriptive matter which directly or indirectly indicate or imply that the person is willing or able to perform any type of dental service for any person or persons, or uses or permits the use of for the person's benefit or for the benefit of any other person or other entity any card, directory, poster, sign or any other means by which the person indicates or implies or represents that the person is willing or able to perform any type of dental services or operation for any person;

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

(11) Controls, influences, attempts to control or influence, or otherwise interferes with the dentist's independent professional judgment regarding the diagnosis or treatment of a dental disease, disorder, or physical condition except that any opinion rendered by any health care professional licensed under this chapter or chapter 330, 331, 334, 335, 336, 337, or 338, RSMo, regarding the diagnosis, treatment, disorder, or physical condition of any patient shall not be construed to control, influence, attempt to control or influence or otherwise interfere with a dentist's independent professional judgement;

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

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

[(13)] **(14)** Advertises, solicits, or offers to or does sell or deliver any substitute described in subdivision [(11)] **(12)** of this section or offers to or does sell the person's services in constructing, reproducing, supplying or repairing the substitute to any person other than a registered and licensed dentist in Missouri;

[(14)] **(15)** Undertakes to do or perform any physical evaluation of a patient in the

person's office or in a hospital, clinic, or other medical or dental facility prior to or incident to the performance of any dental services, dental operations, or dental surgery;

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

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

(1) A legally qualified physician or surgeon, who does not practice dentistry as a specialty, from extracting teeth;

(2) A dentist licensed in a state other than Missouri from making a clinical demonstration before a meeting of dentists in Missouri;

(3) Dental students in any accredited dental school to practice dentistry under the personal direction of instructors;

(4) Dental hygiene students in any accredited dental hygiene school to practice dental hygiene under the personal direction of instructors;

(5) A duly registered and licensed dental hygienist in Missouri to practice dental hygiene as defined in section 332.091;

(6) A dental assistant, certified dental assistant, or expanded functions dental assistant to be delegated duties as defined in section 332.093;

(7) A duly registered dentist or dental hygienist to teach in an accredited dental or dental hygiene school;

(8) A duly qualified anesthesiologist or nurse anesthetist to administer an anesthetic in connection with dental services or dental surgery; or

(9) A person to practice dentistry in or for:

(a) The United States armed forces;

(b) The United States Public Health Service;

(c) Migrant, community, or health care for the homeless health centers provided in section 330 of the Public Health Service Act (42 U.S.C. 254b);

(d) Federally qualified health centers as defined in section 1905(l) (42 U.S.C. 1396d(l)) of the Social Security Act;

(e) Governmental entities, including county health departments; or

(f) The United States Veterans Bureau.

(10) A dentist licensed in a state other than Missouri to evaluate a patient or render an oral, written, or otherwise documented dental opinion when providing testimony or records for the purpose of a civil or criminal action before any judicial or administrative proceeding of this state or other forum in this state.

2. No corporation shall practice dentistry as defined in section 332.071 unless that corporation is organized under the provisions of chapter 355 or 356, RSMo, provided that a corporation organized under the provisions of chapter 355, RSMo, and qualifying as an organization under 26 U.S.C. Section 501(c)(3), may only employ dentists and dental hygienists licensed in this state to render dental services to Medicaid recipients, low-income individuals who have available income below two hundred percent of the federal poverty level, and all participants in the SCHIP program, unless such limitation is contrary to or inconsistent with federal or state law or regulation. This subsection shall not apply to:

(1) A hospital licensed under chapter 197, RSMo, that provides care and treatment only to children under the age of eighteen at which a person regulated under this chapter provides dental care within the scope of his or her license or registration;

(2) A federally qualified health center as defined in Section 1905(l) of the Social Security Act (42 U.S.C. 1396(d)(l)), or a migrant, community, or health care for the homeless health center provided for in Section 330 of the Public Health Services Act (42 U.S.C. 254(b)) at which a person regulated under this chapter provides dental care within the scope of his or her license or registration;

(3) A city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, at which a person regulated under this chapter provides dental care within the scope of his or her license or registration;

(4) A social welfare board organized under section 205.770, RSMo, a city health department operating under a city charter, or a city-county health department at which a person regulated under this chapter provides dental care within the scope of his or her license or registration;

(5) Any entity that has received a permit from the dental board and does not receive compensation from the patient or from any third party on the patient's behalf at which a person regulated under this chapter provides dental care within the scope of his or her license or registration;

(6) Any hospital nonprofit corporation exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, as amended, that engages in its operations and provides dental services at facilities owned by a city, county, or other political subdivision of the state at which a person regulated under this chapter provides dental care within the scope of his or her license or registration.

If any of the entities exempted from the requirements of this subsection are unable to provide services to a patient due to the lack of a qualified provider and a referral to another entity is made, the exemption shall extend to the person or entity that subsequently provides services to the patient.

3. No unincorporated organization shall practice dentistry as defined in section 332.071, RSMo, unless such organization is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and provides dental treatment without compensation from the patient or any third party on their behalf as a part of a broader program of social services including food distribution. Nothing in this chapter shall prohibit organizations under this subsection from employing any person regulated by this chapter.

4. A dentist shall not enter into a contract that allows a person who is not a dentist to influence or interfere with the exercise of the dentist's independent professional judgment.

5. A not-for-profit corporation organized under the provisions of chapter 355, RSMo, and qualifying as an organization under 26 U.S.C. Section 501(c)(3), an unincorporated organization operating pursuant to subsection 3 of this section, or any other person should not direct or interfere or attempt to direct or interfere with a licensed dentist's professional judgment and competent practice of dentistry. Nothing in this subsection shall be so construed as to make it unlawful for not-for-profit organizations to enforce employment contracts, corporate policy and procedure manuals, or quality improvement or assurance requirements.

6. All entities defined in subsection 2 of this section and those exempted under subsection 3 of this section shall apply for a permit to employ dentists and dental hygienists licensed in this state to render dental services, and the entity

shall apply for the permit in writing on forms provided by the Missouri dental board. The board shall not charge a fee of any kind for the issuance or renewal of such permit. The provisions of this subsection shall not apply to a federally qualified health center as defined in Section 1905(l) of the Social Security Act (42 U.S.C. 1396d(l)).

7. Any entity that obtains a permit to render dental services in this state is subject to discipline pursuant to section 332.321. If the board concludes that the person or entity has committed an act or is engaging in a course of conduct that would be grounds for disciplinary action, the board may file a complaint before the administrative hearing commission. The board may refuse to issue or renew the permit of any entity for one or any combination of causes stated in subsection 2 of section 332.321. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

8. A federally qualified health center as defined in Section 1905(l) of the Social Security Act (42 U.S.C. 1396d(l)) shall register with the board. The information provided to the board as part of the registration shall include the name of the health center, the non-profit status of the health center, sites where dental services will be provided, and the names of all persons employed by, or contracting with, the health center who are required to hold a license pursuant to this chapter. The registration shall be renewed every twenty-four months. The board shall not charge a fee of any kind for the issuance or renewal of the registration. The registration of the health center shall not be subject to discipline pursuant to section 332.321. Nothing in this subsection shall prohibit disciplinary action against a licensee of this chapter who is employed by, or contracts with, such health center for the actions of the licensee in connection with such employment or contract. All licensed persons employed by, or contracting with, the health center shall certify in writing to the board at the time of issuance and renewal of the registration that the facility of the health center meets the same operating standards regarding cleanliness, sanitation, and professionalism as would the facility of a dentist licensed by this chapter. The board shall promulgate rules regarding such standards.

9. The board may promulgate rules and regulations to ensure not-for-profit corporations are rendering care to the patient populations as set forth herein, including requirements for covered not-for-profit corporations to report patient census data to the board. The provisions of this subsection shall not apply to a federally qualified health center as defined in Section 1905(l) of the Social Security Act (42 U.S.C. 1396d(l)).

10. All not-for-profit corporations organized or operated pursuant to the provisions of chapter 355, RSMo, and qualifying as an organization under 26 U.S.C. Section 501(c)(3), or the requirements relating to migrant, community, or health care for the homeless health centers provided in Section 330 of the Public Health Service Act (42 U.S.C. 254b) and federally qualified health centers as defined in Section 1905(l) (42 U.S.C. 1396d(l)) of the Social Security Act, that employ persons who practice dentistry or dental hygiene in this state shall do so in accordance with the relevant laws of this state except to the extent that such laws are contrary to, or inconsistent with, federal statute or regulation.

332.086. 1. There is hereby established a five-member "Advisory Commission for Dental Hygienists", composed of dental hygienists appointed by the governor as provided in subsection 2 of this section and the dental hygienist member of the Missouri dental board, which shall guide, advise and make recommendations to the Missouri dental board. The commission shall:

- (1) Recommend the educational requirements to be registered as a dental hygienist;
- (2) Annually review the practice act of dental hygiene;
- (3) Make recommendations to the Missouri dental board regarding the practice, licensure, examination and discipline of dental hygienists; and
- (4) Assist the board in any other way necessary to carry out the provisions of this chapter as they relate to dental hygienists.

2. The members of the commission shall be appointed by the governor with the advice and consent of the senate. Each member of the commission shall be a citizen of the United States and a resident of Missouri for one year and shall be a dental hygienist registered and currently licensed pursuant to this chapter. Members of the commission who are not also members of the Missouri dental board shall be appointed for terms of five years, except for the members first appointed, one of which shall be appointed for a term of two years, one shall be appointed for a term of three years, one shall be appointed for a term of four years and one shall be appointed for a term of five years. The dental hygienist member of the Missouri dental board shall become a member of the commission and shall serve a term concurrent with the member's term on the dental board. All members of the initial commission shall be appointed by April 1, 2002. Members shall be chosen from lists submitted by the director of the division of professional registration. Lists of dental hygienists submitted to the governor may include names submitted to the director of the division of professional registration by the president of the Missouri Dental Hygienists Association.

3. The commission shall hold an annual meeting at which it shall elect from its membership a chairperson and a secretary. The commission shall meet in conjunction with the dental board meetings or no more than fourteen days prior to regularly scheduled dental

board meetings. Additional meetings shall require a majority vote of the commission. A quorum of the commission shall consist of a majority of its members.

4. Members of the commission shall [serve without] **receive as compensation [but] an amount set by the Missouri dental board not to exceed fifty dollars for each day devoted to the duties of the commission and** shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties on the commission and in attending meetings of the Missouri dental board. The Missouri dental board shall provide all necessary staff and support services as required by the commission to hold commission meetings, to maintain records of official acts, and to conduct all other business of the commission.

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

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

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

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

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

Nothing in this subsection shall be so construed as to make it unlawful for not-for-profit organizations to enforce employment contracts, corporate policy and procedure manuals, or quality improvement or assurance requirements.

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

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

332.122. 1. The determination of whether a service provided to a patient is

covered or reimbursable under the terms of a health benefit or dental benefit plan and the creation and management of a health care provider network are:

(1) Deemed not to be the practice of dentistry or other profession governed by this chapter; and

(2) Not in any way subject to the provisions of this chapter.

2. Claims, records, and documents pertaining to the operations of a health carrier, health benefit plan, dental benefit plan, or health care provider network are not clinical and administrative records under section 332.051.

3. Nothing in subsection 1 or 2 of this section shall be construed as affecting the obligations of a health carrier, under chapters 354 and 376, RSMo, as health carrier is defined in section 376.1350, RSMo.

334.100. 1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to this chapter 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 any certificate, registration or authority, 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 therefore, 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 any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or 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 any profession licensed or regulated by this chapter;

(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 any profession licensed or regulated pursuant to this chapter, 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 pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

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

(a) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for visits to the physician's office which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

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

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

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

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

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

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

(h) Signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an

ailment, physical infirmity or disease, except as authorized in section 334.104;

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

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

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

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

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

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

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

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

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

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

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

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by this chapter by another state,

territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the practice of medicine while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed forces of the United States of America, insurance company, court, agency of the state or federal government, or employer;

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

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter; or knowingly performing any act which in any way aids, assists, procures, advises, or encourages any person to practice medicine who is not registered and currently eligible to practice pursuant to this chapter. A physician who works in accordance with standing orders or protocols or in accordance with the provisions of section 334.104 shall not be in violation of this subdivision;

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

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

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

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

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

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

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

(18) Failure or refusal to properly guard against contagious, infectious or

communicable diseases or the spread thereof; maintaining an unsanitary office or performing professional services under unsanitary conditions; or failure to report the existence of an unsanitary condition in the office of a physician or in any health care facility to the board, in writing, within thirty days after the discovery thereof;

(19) Any candidate for licensure or person licensed to practice as a physical therapist, paying or offering to pay a referral fee or, **notwithstanding section 334.010 to the contrary**, practicing or offering to practice professional physical therapy independent of the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a dentist pursuant to chapter 332, RSMo, or as a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing;

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

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

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

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

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

(25) Being unable to practice as a physician and surgeon or with a specialty with reasonable skill and safety to patients by reasons of medical or osteopathic incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result

of any mental or physical condition. The following shall apply to this subdivision:

(a) In enforcing this subdivision the board shall, after a hearing by the board, upon a finding of probable cause, require a physician to submit to a reexamination for the purpose of establishing his or her competency to practice as a physician or surgeon or with a specialty conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the pattern and practice of such physician's or surgeon's professional conduct, or to submit to a mental or physical examination or combination thereof by at least three physicians, one selected by the physician compelled to take the examination, one selected by the board, and one selected by the two physicians so selected who are graduates of a professional school approved and accredited as reputable by the association which has approved and accredited as reputable the professional school from which the licentiate graduated. However, if the physician is a graduate of a medical school not accredited by the American Medical Association or American Osteopathic Association, then each party shall choose any physician who is a graduate of a medical school accredited by the American Medical Association or the American Osteopathic Association;

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

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

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

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

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

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

4. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, warn, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years, or may suspend the person's license, certificate or permit for a period not to exceed three years, or restrict or limit the person's license, certificate or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling or treatment of physicians designated by the board at the expense of the individual to be examined, or require the person to attend such continuing educational courses and pass such examinations as the board may direct.

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

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

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

334.506. 1. Nothing in this chapter shall prevent a physical therapist, whose license is in good standing, from providing educational resources and training, developing fitness or wellness programs for asymptomatic persons, or providing screening or consultative services within the scope of physical therapy practice without the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a

chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing, except that no physical therapist shall initiate treatment for a new injury or illness without the prescription or direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing.

2. Nothing in this chapter shall prevent a physical therapist, whose license is in good standing, from examining and treating, without the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing, any person with a recurring, self-limited injury within one year of diagnosis by a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing, or any person with a chronic illness that has been previously diagnosed by a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing, except that a physical therapist shall contact the patient's current physician, chiropractor, dentist, or podiatrist, within seven days of initiating physical therapy services, pursuant to this subsection, shall not change an existing physical therapy referral available to the physical therapist without approval of the patient's current physician, chiropractor, dentist, or podiatrist, and shall refer to a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing, any patient whose medical condition should, at the time of examination or treatment, be determined to be beyond the scope of practice of physical therapy. A physical therapist shall refer to a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or as a podiatrist pursuant to chapter

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

3. The provision of physical therapy services of evaluation and screening pursuant to this section, shall be limited to a physical therapist, and any authority for evaluation and screening granted within this section, may not be delegated. Upon each reinitiation of physical therapy services, a physical therapist shall provide a full physical therapy evaluation prior to the reinitiation of physical therapy treatment. Physical therapy treatment provided pursuant to the provisions of subsection 2 of this section, may be delegated by physical therapists to physical therapist assistants only if the patient's current physician, chiropractor, dentist, or podiatrist has been so informed as part of the physical therapist's seven-day notification upon reinitiation of physical therapy services as required in subsection 2 of this section. Nothing in this subsection shall be construed as to limit the ability of physical therapists or physical therapist assistants to provide physical therapy services in accordance with the provisions of this chapter, and upon the referral of a physician and surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing. Nothing in this subsection shall prohibit a person licensed or registered as a physician or surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing, from acting within the scope of their practice as defined by the applicable chapters of RSMo.

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

334.530. 1. A candidate for license to practice as a physical therapist shall be at least

twenty-one years of age. A candidate shall furnish evidence of such person's good moral character and the person's educational qualifications by submitting satisfactory evidence of completion of a program of physical therapy education approved as reputable by the board. A candidate who presents satisfactory evidence of the person's graduation from a school of physical therapy approved as reputable by the American Medical Association or, if graduated before 1936, by the American Physical Therapy Association, or if graduated after 1988, the Commission on Accreditation for Physical Therapy Education or its successor, is deemed to have complied with the educational qualifications of this subsection.

2. Persons desiring to practice as physical therapists in this state shall appear before the board at such time and place as the board may direct and be examined as to their fitness to engage in such practice. Applications for examination shall be in writing, on a form furnished by the board and shall include evidence satisfactory to the board that the applicant possesses the qualifications set forth in subsection 1 of this section. Each application shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the statement, subject to the penalties of making a false affidavit or declaration. [The board shall not issue a permanent license to practice as a physical therapist or allow any person to sit for the Missouri state board examination for physical therapists who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.]

3. The board shall not issue a permanent license to practice as a physical therapist or allow any person to sit for the Missouri state board examination for physical therapists who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.

4. The board may waive the provisions of subsection 3 if the applicant has met one of the following provisions:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada;

(2) The applicant has failed the licensure examination three times or more and then obtains a professional degree in physical therapy at a level higher than previously completed, the applicant can sit for the licensure examination three additional times.

5. The examination of qualified candidates for licenses to practice physical therapy

shall include a written examination and shall embrace the subjects taught in reputable programs of physical therapy education, sufficiently strict to test the qualifications of the candidates as practitioners. [The examination shall be given by the board at least once each year and shall be administered to all candidates, and the examination given at any particular time shall be the same for all candidates and the same subjects shall be included and the same questions shall be asked. Candidates shall be required to achieve a passing score, as determined by the board, on an examination before being issued a license.

4.] **6.** The examination shall embrace, in relation to the human being, the subjects of anatomy, chemistry, kinesiology, pathology, physics, physiology, psychology, physical therapy theory and procedures as related to medicine, surgery and psychiatry, and such other subjects, including medical ethics, as the board deems useful to test the fitness of the candidate to practice physical therapy.

[5. Examination grades or scores shall be preserved by the board subject to public inspection. Examination papers retained by the board shall be subject to public inspection for a period of three years, after which they may be destroyed.]

334.540. 1. The board shall issue a license to any physical therapist who is licensed in another jurisdiction and who has had no violations, suspensions or revocations of a license to practice physical therapy in any jurisdiction, provided that, such person is licensed in a jurisdiction whose requirements are substantially equal to, or greater than, the requirements for licensure of physical therapists in Missouri at the time the applicant applies for licensure.

2. Every applicant for a license pursuant to this section, upon making application and showing the necessary qualifications as provided in subsection 1 of this section, shall be required to pay the same fee as the fee required to be paid by applicants who apply to take the examination before the board. Within the limits provided in this section, the board may negotiate reciprocal compacts with licensing boards of other states for the admission of licensed practitioners from Missouri in other states.

3. Notwithstanding the provisions of subsections 1 and 2 of this section, the board shall not issue a license to any applicant who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.

4. The board may waive the provisions of subsection 3 if the applicant has met one of the following provisions:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada;

(2) The applicant has failed the licensure examination three times or more and then obtains a professional degree in physical therapy at a level higher than previously completed, the applicant can sit for the licensure examination three additional times.

334.550. [1. Upon the applicant paying a temporary license fee, the board shall issue without examination a temporary license to practice physical therapy for a period of time not to extend beyond the time when the results of the next examination are announced to any person who meets the qualifications of subsection 1 of section 334.530; provided that, the applicant has not previously been examined in one or more states or territories of the United States or the District of Columbia. The temporary license may be renewed at the discretion of the board and payment of the temporary license fee.

2. The board may once renew a temporary license issued pursuant to this section if the licensee fails to sit for the next scheduled examination; provided that, the applicant shows good and exceptional cause for failing to sit for the examination. The applicant shall state the good and exceptional cause in writing and shall verify such statement by oath. The board shall define good and exceptional cause by rules and regulations.

3. The board may issue a temporary license to any first-time applicant for licensure by examination if such person submits an agreement-to-supervise form which is signed by the applicant's supervising physical therapist.] **An applicant who has not been previously examined in another jurisdiction and meets the qualifications of subsection 1 of section 334.530, may pay a temporary license fee and submit an agreement-to-supervise form, which is signed by the applicant's supervising physical therapist, to the board and obtain without examination a nonrenewable temporary license.** Such temporary licensee may only engage in the practice of physical therapy under the supervision of a licensed physical therapist. The board shall define the scope of such supervision by rules and regulations. **The temporary license shall expire on either the date the applicant receives the results of the applicant's initial examination or within ninety days of its issuance, whichever occurs first.**

334.655. 1. A candidate for licensure to practice as a physical therapist assistant shall be at least nineteen years of age. A candidate shall furnish evidence of the person's good moral character and of the person's educational qualifications. The educational requirements for licensure as a physical therapist assistant are:

(1) A certificate of graduation from an accredited high school or its equivalent; and
(2) Satisfactory evidence of completion of an associate degree program of physical therapy education accredited by the commission on accreditation of physical therapy education.

2. Persons desiring to practice as a physical therapist assistant in this state shall appear before the board at such time and place as the board may direct and be examined as

to the person's fitness to engage in such practice. Applications for examination shall be in writing, on a form furnished by the board and shall include evidence satisfactory to the board that the applicant possesses the qualifications provided in subsection 1 of this section. Each application shall contain a statement that the statement is made under oath of affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the statement, subject to the penalties of making a false affidavit or declaration.

3. The examination of qualified candidates for licensure to practice as physical therapist assistants shall embrace a written examination and which shall cover the curriculum taught in accredited associate degree programs of physical therapy assistant education. Such examination shall be sufficient to test the qualification of the candidates as practitioners. [The examination shall be given by the board at least once each year. The board shall not issue a license to practice as a physical therapist assistant or allow any person to sit for the Missouri state board examination for physical therapist assistants who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia. The examination given at any particular time shall be the same for all candidates and the same curriculum shall be included and the same questions shall be asked.]

4. The board shall not issue a license to practice as a physical therapist assistant or allow any person to sit for the Missouri state board examination for physical therapist assistants who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.

5. The board may waive the provisions of subsection 4 if the applicant has met one of the following provisions:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada.

6. The examination shall include, as related to the human body, the subjects of anatomy, kinesiology, pathology, physiology, psychology, physical therapy theory and procedures as related to medicine and such other subjects, including medical ethics, as the board deems useful to test the fitness of the candidate to practice as a physical therapist assistant.

[5. Examination grades or scores shall be preserved by the board subject to public inspection. Examination papers retained by the board shall be subject to public inspection

for a period of three years and thereafter may be destroyed.

6.] 7. The board shall license without examination any legally qualified person who is a resident of this state and who was actively engaged in practice as a physical therapist assistant on August 28, 1993. The board may license such person pursuant to this subsection until ninety days after the effective date of this section.

[7.] 8. A candidate to practice as a physical therapist assistant who does not meet the educational qualifications may submit to the board an application for examination if such person can furnish written evidence to the board that the person has been employed in this state for at least three of the last five years under the supervision of a licensed physical therapist and such person possesses the knowledge and training equivalent to that obtained in an accredited school. The board may license such persons pursuant to this subsection until ninety days after rules developed by the state board of healing arts regarding physical therapist assistant licensing become effective.

334.660. 1. The board shall license without examination legally qualified persons who hold certificates of licensure, registration or certification in any state or territory of the United States or the District of Columbia, who have had no violations, suspensions or revocations of such license, registration or certification, if such persons have passed a written examination to practice as a physical therapist assistant that was substantially equal to the examination requirements of this state and in all other aspects, including education, the requirements for such certificates of licensure, registration or certification were, at the date of issuance, substantially equal to the requirements for licensure in this state. [The board shall not issue a license to any applicant who has failed three or more times any physical therapist assistant licensing examination administered in one or more states or territories of the United States or the District of Columbia.]

2. Board shall not issue a license to any applicant who has failed three or more times any physical therapist assistant licensing examination administered in one or more states or territories of the United States or the District of Columbia.

3. The board may waive the provisions of subsection 1 if the applicant has met one of the following provisions:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada.

4. Every applicant for a license pursuant to this section, upon making application and providing documentation of the necessary qualifications as provided in this section, shall pay

the same fee required of applicants to take the examination before the board. Within the limits of this section, the board may negotiate reciprocal contracts with licensing boards of other states for the admission of licensed practitioners from Missouri in other states.

334.665. [Upon the applicant paying a temporary fee, the board shall issue, without examination, a temporary license to practice as a physical therapist assistant for a period of time not to exceed beyond the time when the results of the next examination are announced to any person who meets the qualifications of section 334.655. The temporary license may be renewed at the discretion of the board and upon payment of a temporary license fee.] **An applicant who has not been previously examined in another jurisdiction and meets the qualifications of subsection 1 of section 334.655 may pay a temporary license fee and submit an agreement-to-supervise form which is signed by the applicant's supervising physical therapist to the board and obtain without examination a nonrenewable temporary license. Such temporary licensee may only practice under the supervision of a licensed physical therapist. A licensed physical therapist shall supervise no more than one temporary licensee. The board shall define the scope of such supervision by rules and regulations. The temporary license shall expire on either the date the applicant receives the results of the applicant's initial examination or within ninety days of its issuance, whichever occurs first.**

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

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

(2) "Advanced practice nurse", a nurse who has had education beyond the basic nursing education and is certified by a nationally recognized professional organization as having a nursing specialty, or who meets criteria for advanced practice nurses established by the board of nursing. The board of nursing may promulgate rules specifying which professional nursing organization certifications are to be recognized as advanced practice nurses, and may set standards for education, training and experience required for those without such specialty certification to become advanced practice nurses. **Advanced practice nurses and only such individuals may use the title "Advanced Practice Registered Nurse" and the abbreviation "APRN";**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

335.212. As used in sections 335.212 to 335.242, the following terms mean:

(1) "Board", the Missouri state board of nursing;

(2) "Department", the Missouri department of health and senior services;

(3) "Director", director of the Missouri department of health and senior services;

(4) "Eligible student", a resident who has made application to be a full-time student in a formal course of instruction leading to an associate degree, a diploma, a bachelor of science, or a master of science in nursing or leading to the completion of educational requirements for a licensed practical nurse;

(5) "Participating school", an institution within this state which is approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242, having a nursing department and offering a course of instruction based on nursing theory and clinical nursing experience;

(6) "Qualified applicant", an eligible student approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242;

(7) "Qualified employment", employment on a full-time basis in Missouri in a position requiring licensure as a licensed practical nurse or registered professional nurse in any **hospital as defined in section 197.020, RSMo,** or public or nonprofit agency, institution, or organization located in an area of need as determined by the department of health and senior services. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section;

(8) "Resident", any person who has lived in this state for one or more years for any purpose other than the attending of an educational institution located within this state.

335.245. As used in sections 335.245 to 335.259, the following terms mean:

(1) "Department", the Missouri department of health and senior services;

(2) "Eligible applicant", a Missouri licensed nurse who has attained either an associate degree, a diploma, a bachelor of science, or graduate degree in nursing from an accredited institution approved by the board of nursing or a student nurse in the final year of a full-time baccalaureate school of nursing leading to a baccalaureate degree or graduate nursing program leading to a master's degree in nursing and has agreed to serve in an area of defined need as established by the department;

(3) "Participating school", an institution within this state which grants an associate degree in nursing, grants a bachelor or master of science degree in nursing or provides a diploma nursing program which is accredited by the state board of nursing, or a regionally accredited institution in this state which provides a bachelor of science completion program for registered professional nurses;

(4) "Qualified employment", employment on a full-time basis in Missouri in a position requiring licensure as a licensed practical nurse or registered professional nurse in any **hospital as defined in section 197.020, RSMo,** or public or nonprofit agency, institution, or organization located in an area of need as determined by the department of health and

senior services. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section.

337.085. 1. There is hereby established in the state treasury a fund to be known as the "State Committee of Psychologists Fund". All fees of any kind and character authorized under sections 337.010 to 337.090 to be charged by the committee or division shall be collected by the director of the division of professional registration and shall be transmitted to the department of revenue for deposit in the state treasury for credit to this fund. Such funds, upon appropriation, shall be disbursed only in payment of expenses of maintaining the committee and for the enforcement of the provisions of law concerning professions regulated by the committee. No other money shall be paid out of the state treasury for carrying out these provisions. Warrants shall be issued on the state treasurer for payment out of the fund.

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

3. All funds pertaining to the Missouri state committee of psychologists deposited in the state treasury to the credit of the committee of registration for the healing arts fund shall be transferred from that fund to the state committee of psychologists fund by the division director.

337.507. 1. Applications for examination and licensure as a professional counselor shall be in writing, submitted to the division on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing his education, experience and such other information as the division may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the committee.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the registration renewal date. Failure to provide the division with the information required for registration, or to pay the registration fee after such notice shall effect a revocation of the license after a period of sixty days from the registration renewal date. The

license shall be restored if, within two years of the registration date, the applicant provides written application and the payment of the registration fee and a delinquency fee.

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

4. The committee shall set the amount of the fees which sections 337.500 to 337.540 authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 337.500 to 337.540. All fees provided for in sections 337.500 to 337.540 shall be collected by the director who shall deposit the same with the state treasurer in a fund to be known as the "Committee of Professional Counselors Fund".

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

6. The committee shall hold public examinations at least two times per year, at such times and places as may be fixed by the committee, notice of such examinations to be given to each applicant at least ten days prior thereto.

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

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

(2) The applicant has twenty-four months of supervised clinical experience acceptable to the committee, as defined by rule;

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

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

2. Any person [not a resident of this state] holding a valid unrevoked and unexpired license, certificate or registration from another state or territory of the United States having

substantially the same requirements as this state for clinical social workers may be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.612.

3. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.600 to 337.639 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of this section. The committee shall issue a provisional clinical social worker license to any applicant who meets all requirements of subdivisions (1), (3) and (4) of subsection 1 of this section, but who has not completed the twenty-four months of supervised clinical experience required by subdivision (2) of subsection 1 of this section, and such applicant may reapply for licensure as a clinical social worker upon completion of the twenty-four months of supervised clinical experience.

337.642. No official, employee, board, commission, or agency of the state of Missouri, any county, any municipality, any school district, or any other political subdivision shall discriminate between persons licensed under section 337.600 to 337.689, when promulgating regulations or when requiring or recommending services that legally may be performed by persons licensed under sections 337.600 to 337.689.

337.665. 1. Each applicant for licensure as a baccalaureate social worker shall furnish evidence to the committee that:

(1) The applicant has a baccalaureate degree in social work from an accredited social work degree program approved by the council of social work education;

(2) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be determined by the state committee for social work;

(3) The applicant has completed three thousand hours of supervised baccalaureate experience with a licensed clinical social worker or licensed baccalaureate social worker in no less than twenty-four and no more than forty-eight consecutive calendar months;

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

(5) The applicant has submitted a written application on forms prescribed by the state board;

(6) The applicant has submitted the required licensing fee, as determined by the division.

2. Any applicant who answers in the affirmative to any question on the application

that relates to possible grounds for denial of licensure pursuant to section 337.680 shall submit a sworn affidavit setting forth in detail the facts which explain such answer and copies of appropriate documents related to such answer.

3. Any person [not a resident of this state] holding a valid unrevoked and unexpired license, certificate or registration from another state or territory of the United States having substantially the same requirements as this state for baccalaureate social workers may be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.662.

4. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.650 to 337.689 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subsection 1 of this section or with the provisions of subsection 2 of this section. The committee shall issue a one-time provisional baccalaureate social worker license to any applicant who meets all requirements of subdivisions (1), (2), (4), (5) and (6) of subsection 1 of this section, but who has not completed the supervised baccalaureate experience required by subdivision (3) of subsection 1 of this section, and such applicant may apply for licensure as a baccalaureate social worker upon completion of the supervised baccalaureate experience.

337.712. 1. Applications for licensure as a marital and family therapist shall be in writing, submitted to the division on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other information as the division may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the division.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the licensure renewal date. Failure to provide the division with the information required for license, or to pay the licensure fee after such notice shall effect a revocation of the license after a period of sixty days from the licensure renewal date. The license shall be restored if, within two years of the licensure date, the applicant provides written application and the payment of the licensure fee and a delinquency fee.

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

4. The division shall set the amount of the fees authorized. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 337.700 to 337.739. All fees provided for in sections 337.700 to 337.739 shall be collected by the director who shall deposit the same with the

state treasurer to a fund to be known as the "Marital and Family Therapists' Fund".

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

338.013. 1. Any person desiring to assist a pharmacist in the practice of pharmacy as defined in this chapter shall apply to the board of pharmacy for registration as a pharmacy technician. [Such applicant shall not have engaged in conduct or behavior determined to be grounds for discipline pursuant to this chapter.] Such applicant shall **be, at a minimum, legal working age and shall** forward to the board the appropriate fee and written application on a form provided by the board. ~~Such registration shall be the sole authorization permitted to allow persons to assist licensed pharmacists in the practice of pharmacy as defined in this chapter.~~

2. **The board may refuse to issue a certificate of registration as a pharmacy technician to an applicant that has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, to a violation of any state, territory or federal drug law, or to any felony or has violated any provision of subsection 2 of section 338.055. Alternately, the board may issue such person a registration, but may authorize the person to work as a pharmacy technician provided that person adheres to certain terms and conditions imposed by the board. The board shall place on the employment disqualification list the name of an applicant who the board has refused to issue a certificate of registration as a pharmacy technician, or the name of a person who the board has issued a certificate of registration as a pharmacy technician but has authorized to work under certain terms and conditions. The board shall notify the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.**

3. If an applicant has submitted the required fee and an application for registration to the board of pharmacy, the applicant for registration as a pharmacy technician may assist a licensed pharmacist in the practice of pharmacy as defined in this chapter for a period of up to ninety days prior to the issuance of a certificate of registration. The applicant shall keep a copy of the submitted application on the premises where the applicant is employed. **When the board refuses to issue a certificate of registration as a**

pharmacy technician to an applicant, the applicant shall immediately cease assisting a licensed pharmacist in the practice of pharmacy.

[3.] 4. A certificate of registration issued by the board shall be conspicuously displayed in the pharmacy or place of business where the registrant is employed.

[4.] 5. Every pharmacy technician who desires to continue to be registered as provided in this section shall, within thirty days before the registration expiration date, file an application for the renewal, accompanied by the fee prescribed by the board. No registration as provided in this section shall be valid if the registration has expired and has not been renewed as provided in this subsection.

[5.] 6. The board shall maintain an employment disqualification list [of the names of all pharmacy technicians who have been adjudicated and found guilty, or have entered a plea of guilty or nolo contendere to violation of any state, territory or federal drug law, been found guilty, pled guilty or nolo contendere to any felony or have violated any provision of subdivision (2), (3), (4), (6), (7), (11), (12) or (15) of subsection 2 of section 338.055]. **No person whose name appears on the employment disqualification list shall work as a pharmacy technician, except as otherwise authorized by the board. The board may authorize a person whose name appears on the employment disqualification list to work or continue to work as a pharmacy technician provided the person adheres to certain terms and conditions imposed by the board.**

7. The board may place on the employment disqualification list the name of a pharmacy technician who has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, to a violation of any state, territory of federal drug law, or to any felony or has violated any provision of subsection 2 of section 338.055.

[6.] 8. After an investigation and a determination has been made to place a person's name on the employment disqualification list, the board shall notify such person in writing mailed to the person's last known address that:

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

(2) Such person's name [will be included] **has been added** in the employment disqualification list of the board;

(3) The consequences to the person of being listed and the length of time the person's name will be on the list; and

(4) The person's right[s and the procedure to challenge the inclusion of the person's name on the disqualification list] **to file a complaint with the administrative hearing commission as provided in chapter 621, RSMo.**

[7.] 9. [If no reply has been received by the board within thirty days after the board mailed the notice, the board may include the name of such person on such disqualification

list.] The length of time a person's name shall remain on the disqualification list shall be determined by the board. [The board may, also, provide for alternative sanctions, including, but not limited to, conditional employment based on a requirement that the person submit certain documentation within a certain period of time. Any person who receives notice that the board intends to place the person's name on the employment disqualification list may file an appeal with the administrative hearing commission as provided in chapter 621, RSMo.]

[8.] **10.** No hospital or licensed pharmacy shall knowingly employ any person whose name appears on the employee disqualification list, **except that a hospital or licensed pharmacy may employ a person whose name appears on the employment disqualification list but the board has authorized to work under certain terms and conditions. Any hospital or licensed pharmacy shall report to the board any final disciplinary action taken against a pharmacy technician or the voluntary resignation of a pharmacy technician against whom any complaints or reports have been made which might have led to final disciplinary action that can be a cause of action for discipline by the board as provided for in subsection 2 of section 338.055.** Compliance with the foregoing sentence may be interposed as an affirmative defense by the employer. **Any hospital or licensed pharmacy which reports to the board in good faith shall not be liable for civil damages.**

338.055. 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter 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 his **or her** right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

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 any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his **or her** certificate of registration or authority, permit or 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 any profession licensed or regulated by this chapter;

(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 any profession licensed or regulated under this chapter, 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 pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

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

(5) [Incompetency] **Incompetence**, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

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

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license, or diploma from any school;

(8) **Denial of licensure to an applicant or** disciplinary action against **an applicant or** the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency, or country **whether or not voluntarily agreed to by the licensee or applicant, including but not limited to, surrender of the license** upon grounds for which [revocation or suspension] **denial or discipline** is authorized in this state;

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

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

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

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

(13) Violation of any professional trust or confidence;

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

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

(16) The intentional act of substituting or otherwise changing the content, formula or brand of any drug prescribed by written or oral prescription without prior written or oral approval from the prescriber for the respective change in each prescription; provided, however, that nothing contained herein shall prohibit a pharmacist from substituting or changing the brand of any drug as provided under section 338.056, and any such substituting or changing of the brand of any drug as provided for in section 338.056 shall not be deemed

unprofessional or dishonorable conduct unless a violation of section 338.056 occurs;

(17) Personal use or consumption of any controlled substance unless it is prescribed, dispensed, or administered by a health care provider who is authorized by law to do so.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit. The board may impose additional discipline on a licensee, registrant, or permittee found to have violated any disciplinary terms previously imposed under this section or by agreement. The additional discipline may include, singly or in combination, censure, placing the licensee, registrant, or permittee named in the complaint on additional probation on such terms and conditions as the board deems appropriate, which additional probation shall not exceed five years, or suspension for a period not to exceed three years, or revocation of the license, certificate, or permit.

4. If the board concludes that a **[pharmacist] licensee or registrant** has committed an act or is engaging in a course of conduct which would be grounds for disciplinary action which constitutes a clear and present danger to the public health and safety, the board may file a complaint before the administrative hearing commission requesting an expedited hearing and specifying the activities which give rise to the danger and the nature of the proposed restriction or suspension of the **[pharmacist's] licensee's or registrant's** license. Within fifteen days after service of the complaint on the **[pharmacist] licensee or registrant**, the administrative hearing commission shall conduct a preliminary hearing to determine whether the alleged activities of the **[pharmacist] licensee or registrant** appear to constitute a clear and present danger to the public health and safety which justify that the **[pharmacist's] licensee's or registrant's license or registration** be immediately restricted or suspended. The burden of proving that **the actions of a [pharmacist is] licensee or registrant constitute** a clear and present danger to the public health and safety shall be upon the state board of pharmacy. The administrative hearing commission shall issue its decision immediately after the hearing and shall either grant to the board the authority to suspend or restrict the license or dismiss the action.

5. If the administrative hearing commission grants temporary authority to the board to restrict or suspend the **[pharmacist's] licensee's or registrant's** license, such temporary authority of the board shall become final authority if there is no request by the **[pharmacist] licensee or registrant** for a full hearing within thirty days of the preliminary hearing. The administrative hearing commission shall, if requested by the **[pharmacist] licensee or registrant** named in the complaint, set a date to hold a full hearing under the provisions

of chapter 621, RSMo, regarding the activities alleged in the initial complaint filed by the board.

6. If the administrative hearing commission dismisses the action filed by the board pursuant to subsection 4 of this section, such dismissal shall not bar the board from initiating a subsequent action on the same grounds.

338.065. 1. [After August 28, 1990,] At such time as the final trial proceedings are concluded whereby a licensee or registrant, **or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license**, has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony prosecution pursuant to the laws of the state of Missouri, the laws of any other state, territory, or the laws of the United States of America for any offense reasonably related to the qualifications, functions or duties of a licensee, **permittee**, or registrant pursuant to this chapter or any felony offense, an essential element of which is fraud, dishonesty or an act of violence, or for any felony offense involving moral turpitude, whether or not sentence is imposed, the board of pharmacy may hold a disciplinary hearing to singly or in combination censure or place the licensee, **permittee**, or registrant named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, registration or permit.

2. Anyone who has been revoked or denied a license, permit or certificate to practice in another state may automatically be denied a license or permit to practice in this state. However, the board of pharmacy may establish other qualifications by which a person may ultimately be qualified and licensed to practice in Missouri.

338.145. 1. **The president of the board may, upon majority vote of the board, administer oaths, issue subpoenas duces tecum, and require production of documents and records from any person or entity not licensed by the board when such documents and records are not otherwise available to the board pursuant to the board's inspection authority granted in sections 338.100 and 338.150. Subpoenas duces tecum shall be served by a person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce original documents in response to a subpoena duces tecum, the board may require sworn copies of such documents to be filed with it or delivered to its designated representative.**

2. **The board may enforce its subpoenas duces tecum by applying to the circuit court of Cole County, the county of the investigation, hearing or proceeding, or any county where the records reside or may be found, for an order upon any person who shall fail to obey a subpoena duces tecum to show cause why such subpoena duces tecum should not be enforced, which such order and a copy**

of the application therefore shall be served upon the person in the same manner as a summons in a civil action. If the circuit court shall, after a hearing, determine that the subpoena duces tecum should be sustained and enforced, such court shall proceed to enforce the subpoena duces tecum in the same manner as though the subpoena had been issued in a civil case in the circuit court.

338.155. 1. Any person who in good faith and without malice reports, provides information, or cooperates in any manner with the board, or assists the board in any manner, including, but not limited to, any applicant or licensee, whether or not the applicant or licensee is the subject of an investigation, record custodians, consultants, attorneys, board members, agents, employees, staff or expert witnesses, in the course of any investigation, hearing or other proceeding conducted by or before the board pursuant to the provisions of this chapter shall not be subject to an action for civil damages as a result of providing such information and cooperating with the board.

2. No physician or other authorized prescriber who, in good faith, cooperates with the board by writing a prescription or drug order at the request of the board pursuant to a routine inspection or a lawful investigation, shall, by virtue of that cooperation, be in violation of this chapter or any drug laws of this state and shall be acting as an agent of the state and, as such, shall have sovereign immunity for those actions.

3. No licensee, registrant, permit holder, or other individual or entity subject to the board's jurisdiction who, in good faith, fills a prescription presented by the board as part of an inspection or investigation shall, by virtue of that act, be in violation of this chapter or the drug laws of this state, provided the prescription is otherwise prepared and dispensed in a lawful manner.

338.220. 1. It shall be unlawful for any person, copartnership, association, corporation or any other business entity to open, establish, operate, or maintain any pharmacy, as defined by statute without first obtaining a permit or license to do so from the Missouri board of pharmacy. The following classes of pharmacy permits or licenses are hereby established:

- (1) Class A: Community/ambulatory;
- (2) Class B: Hospital outpatient pharmacy;
- (3) Class C: Long-term care;
- (4) Class D: [Home health care] **Nonsterile compounding**;
- (5) Class E: Radio pharmaceutical;
- (6) Class F: Renal dialysis;
- (7) Class G: Medical gas;
- (8) Class H: Sterile product compounding;

(9) Class I: Consultant services;

(10) Class J: Shared service;

(11) Class K: Internet.

2. Application for such permit or license shall be made upon a form furnished to the applicant; shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration; and shall be accompanied by a permit or license fee. The permit or license issued shall be renewable upon payment of a renewal fee. Separate applications shall be made and separate permits or licenses required for each pharmacy opened, established, operated, or maintained by the same owner.

3. All permits, licenses or renewal fees collected pursuant to the provisions of sections 338.210 to 338.370 shall be deposited in the state treasury to the credit of the Missouri board of pharmacy fund, to be used by the Missouri board of pharmacy in the enforcement of the provisions of sections 338.210 to 338.370, when appropriated for that purpose by the general assembly.

345.015. As used in sections 345.010 to 345.080, the following terms mean:

(1) "Audiologist", a person who is licensed as an audiologist pursuant to sections 345.010 to 345.080 to practice audiology;

(2) "Audiology aide", a person who is registered as an audiology aide by the board, who does not act independently but works under the direction and supervision of a licensed audiologist. Such person assists the audiologist with activities which require an understanding of audiology but do not require formal training in the relevant academics. To be eligible for registration by the board, each applicant shall submit a registration fee, be of good moral and ethical character; and:

(a) Be at least eighteen years of age;

(b) Furnish evidence of the person's educational qualifications which shall be at a minimum:

a. Certification of graduation from an accredited high school or its equivalent; and

b. On-the-job training;

(c) Be employed in a setting in which direct and indirect supervision are provided on a regular and systematic basis by a licensed audiologist. However, the aide shall not administer or interpret hearing screening or diagnostic tests, fit or dispense hearing instruments, make ear impressions, make diagnostic statements, determine case selection, present written reports to anyone other than the supervisor without the signature of the supervisor, make referrals to other professionals or agencies, use a title other than speech-language pathology aide or clinical audiology aide, develop or modify treatment plans, discharge clients from treatment or terminate treatment, disclose clinical information, either

orally or in writing, to anyone other than the supervising speech-language pathologist/audiologist, or perform any procedure for which he or she is not qualified, has not been adequately trained or both;

(3) "Board", the state board of registration for the healing arts;

(4) "Clinical fellowship", the supervised professional employment period following completion of the academic and practicum requirements of an accredited training program as defined in sections 345.010 to 345.080;

(5) "Commission", the advisory commission for speech-language pathologists and audiologists;

(6) "Hearing instrument" or "hearing aid", any wearable device or instrument designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories, including ear molds, but excluding batteries, cords, receivers and repairs;

(7) "Person", any individual, organization, or corporate body, except that only individuals may be licensed pursuant to sections 345.010 to 345.080;

(8) "Practice of audiology":

(a) The application of accepted audiologic principles, methods and procedures for the measurement, testing, interpretation, appraisal and prediction related to disorders of the auditory system, balance system or related structures and systems;

(b) Provides consultation, counseling to the patient, client, student, their family or interested parties;

(c) Provides academic, social and medical referrals when appropriate;

(d) Provides for establishing goals, implementing strategies, methods and techniques, for habilitation, rehabilitation or aural rehabilitation, related to disorders of the auditory system, balance system or related structures and systems;

(e) Provides for involvement in related research, teaching or public education;

(f) Provides for rendering of services or participates in the planning, directing or conducting of programs which are designed to modify audition, communicative, balance or cognitive disorder, which may involve speech and language or education issues;

(g) Provides and interprets behavioral and neurophysiologic measurements of auditory balance, cognitive processing and related functions, including intraoperative monitoring;

(h) Provides involvement in any tasks, procedures, acts or practices that are necessary for evaluation of audition, hearing, training in the use of amplification or assistive listening devices;

(i) Provides selection and assessment of hearing instruments;

(j) Provides for taking impressions of the ear, making custom ear molds, ear plugs, swim molds and industrial noise protectors;

(k) Provides assessment of external ear and cerumen management;

(l) Provides advising, fitting, mapping assessment of implantable devices such as cochlear or auditory brain stem devices;

(m) Provides information in noise control and hearing conservation including education, equipment selection, equipment calibration, site evaluation and employee evaluation;

(n) Provides performing basic speech-language screening test;

(o) Provides involvement in social aspects of communication, including challenging behavior and ineffective social skills, lack of communication opportunities;

(p) Provides support and training of family members and other communication partners for the individual with auditory balance, cognitive and communication disorders;

(q) Provides aural rehabilitation and related services to individuals with hearing loss and their families;

(r) Evaluates, collaborates and manages audition problems in the assessment of the central auditory processing disorders and providing intervention for individuals with central auditory processing disorders;

(s) Develops and manages academic and clinical problems in communication sciences and disorders;

(t) Conducts, disseminates and applies research in communication sciences and disorders;

(9) "Practice of speech-language pathology":

(a) Provides screening, identification, assessment, diagnosis, treatment, intervention, including but not limited to, prevention, restoration, amelioration and compensation, and follow-up services for disorders of:

a. Speech: articulation, fluency, voice, including respiration, phonation and resonance;

b. Language, involving the parameters of phonology, morphology, syntax, semantics and pragmatic; and including disorders of receptive and expressive communication in oral, written, graphic and manual modalities;

c. Oral, pharyngeal, cervical esophageal and related functions, such as, dysphagia, including disorders of swallowing and oral functions for feeding; orofacial myofunctional disorders;

d. Cognitive aspects of communication, including communication disability and other functional disabilities associated with cognitive impairment;

e. Social aspects of communication, including challenging behavior, ineffective social skills, lack of communication opportunities;

(b) Provides consultation and counseling and makes referrals when appropriate;

(c) Trains and supports family members and other communication partners of individuals with speech, voice, language, communication and swallowing disabilities;

(d) Develops and establishes effective augmentative and alternative communication techniques and strategies, including selecting, prescribing and dispensing of argumentative aids and devices; and the training of individuals, their families and other communication partners in their use;

(e) Selects, fits and establishes effective use of appropriate prosthetic/adaptive devices for speaking and swallowing, such as tracheoesophageal valves, electrolarynges, speaking valves;

(f) Uses instrumental technology to diagnose and treat disorders of communication and swallowing, such as videofluoroscopy, nasendoscopy, ultrasonography and stroboscopy;

(g) Provides aural rehabilitative and related counseling services to individuals with hearing loss and to their families;

(h) Collaborates in the assessment of central auditory processing disorders in cases in which there is evidence of speech, language or other cognitive communication disorders; provides intervention for individuals with central auditory processing disorders;

(i) Conducts pure-tone air conduction hearing screening and screening tympanometry for the purpose of the initial identification or referral;

(j) Enhances speech and language proficiency and communication effectiveness, including but not limited to, accent reduction, collaboration with teachers of English as a second language and improvement of voice, performance and singing;

(k) Trains and supervises support personnel;

(l) Develops and manages academic and clinical programs in communication sciences and disorders;

(m) Conducts, disseminates and applies research in communication sciences and disorders;

(n) Measures outcomes of treatment and conducts continuous evaluation of the effectiveness of practices and programs to improve and maintain quality of services;

(10) "Speech-language pathologist", a person who is licensed as a speech-language pathologist pursuant to sections 345.010 to 345.080; who engages in the practice of speech-language pathology as defined in sections 345.010 to 345.080;

(11) "Speech-language pathology aide", a person who is registered as a speech-language aide by the board, who does not act independently but works under the direction and supervision of a licensed speech-language pathologist. Such person assists the speech-language pathologist with activities which require an understanding of speech-language pathology but do not require formal training in the relevant academics. To be eligible for registration by the board, each applicant shall submit a registration fee, be of good moral and ethical character; and:

(a) Be at least eighteen years of age;

(b) Furnish evidence of the person's educational qualifications which shall be at a

minimum:

- a. Certification of graduation from an accredited high school or its equivalent; and
- b. On-the-job training;

(c) Be employed in a setting in which direct and indirect supervision is provided on a regular and systematic basis by a licensed speech-language pathologist. However, the aide shall not administer or interpret hearing screening or diagnostic tests, fit or dispense hearing instruments, make ear impressions, make diagnostic statements, determine case selection, present written reports to anyone other than the supervisor without the signature of the supervisor, make referrals to other professionals or agencies, use a title other than speech-language pathology aide or clinical audiology aide, develop or modify treatment plans, discharge clients from treatment or terminate treatment, disclose clinical information, either orally or in writing, to anyone other than the supervising speech-language pathologist/audiologist, or perform any procedure for which he or she is not qualified, has not been adequately trained or both;

(12) "Speech-language pathology assistant", a person who is registered as a speech-language pathology assistant by the board, who does not act independently but works under the direction and supervision of a licensed speech-language pathologist and whose activities require both academic and practical training in the field of speech-language pathology although less training than those established by sections 345.010 to 345.080 as necessary for licensing as a speech-language pathologist. To be eligible for registration by the board, each applicant shall submit the registration fee, be of good moral character[;] and[;

(a)] furnish evidence of the person's educational qualifications which meet the following:

[a.] (a) Hold a bachelor's level degree in speech-language pathology [or an associate's degree as a speech-language pathology assistant] from an institution accredited or approved by the Council on Academic Accreditation of the American Speech-Language-Hearing Association in the area of speech- language pathology; and

[b.] (b) Submit official transcripts from one or more accredited colleges or universities presenting evidence of the completion of bachelor's [or associate's] level course work and clinical practicum requirements equivalent to that required or approved by the Council on Academic Accreditation of the American Speech-Language-Hearing Association[;

(b) The requirements of paragraph (a) of this subdivision shall be the minimum requirements for a speech-language pathology assistant until January 1, 2005. After January 1, 2005, to be eligible for registration by the board, each applicant shall submit the registration fee, be of good moral character and furnish evidence of the person's educational qualifications which meet the following:

- a. Hold a minimum of an associate's degree as a speech-language pathology assistant

from an institution accredited or approved by the Council on Academic Accreditation of the American Speech-Language-Hearing Association; and

b. Submit official transcripts from one or more accredited colleges or universities presenting evidence of the completion of course work and clinical practicum requirements equivalent to that required or approved by the Council on Academic Accreditation of the American Speech-Language- Hearing Association;

(c) Furnish evidence of successful completion of a uniform, functionally based proficiency evaluation as determined by the board;

(d) The individuals meeting the requirements prior to January 1, 2005, may be granted continued registration from the board provided the individual meets the following:

a. Furnish evidence of employment in which direct and indirect supervision have been provided on a regular and systematic basis by a licensed speech-language pathologist; and

b. The individual is in good standing with the board with regard to practice prior to January 1, 2005].

346.135. 1. All fees and charges payable pursuant to this chapter shall be collected by the division and transmitted to the department of revenue for deposit in the state treasury to the credit of the fund to be known as the "Hearing Instrument Specialist Fund", which is hereby created. Money in the hearing instrument specialist fund shall be available by appropriation to the council to pay its expenses in administering sections 346.010 to 346.250.

2. Money in the hearing instrument specialist fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the council's funds for the preceding fiscal year **or, if the division requires by rule renewal less frequently than yearly then three times the appropriation from the fund for the preceding fiscal year**. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriation from the council's funds for the preceding year.

374.695. Sections 374.695 to 374.789 may be known and shall be cited as the "Professional Bail Bondsman and Surety Recovery Agent Licensure Act".

374.700. As used in sections [374.700 to 374.775] **374.695 to 374.789**, the following terms shall mean:

(1) "Bail bond agent", a surety agent or an agent of a property bail bondsman who is duly licensed [under] **pursuant to** the provisions of sections [374.700 to 374.775] **374.695 to 374.789**, is employed by and is working under the authority of a licensed general bail bond agent;

(2) "**Bail bond or appearance bond**", a bond for a specified monetary amount which is executed by the defendant and a qualified licensee pursuant to sections **374.695 to 374.789**, and which is issued to a court or authorized officer as security

for the subsequent court appearance of the defendant upon the defendant's release from actual custody pending the appearance;

[2] (3) "Department", the department of insurance of the state of Missouri;

[3] (4) "Director", the director of the department of insurance;

[4] (5) "General bail bond agent", a surety agent or a property bail bondsman, as defined in sections 374.700 to 374.775, who is licensed in accordance with sections 374.700 to 374.775 and who devotes at least fifty percent of his working time to the bail bond business in this state;

(6) "Insurer", any surety insurance company which is qualified by the department to transact surety business in Missouri;

(7) "Licensee", a bail bond agent or a general bail bond agent;

[5] (8) "Property bail bondsman", a person who pledges United States currency, United States postal money orders or cashier's checks or other property as security for a bail bond in connection with a judicial proceeding, and who receives or is promised therefor money or other things of value;

[6] (9) "Surety bail bond agent", any person appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings, and who receives or is promised money or other things of value therefor;

[7] (10) "Surety recovery agent", a person not performing the duties of a sworn peace officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a bail bond agreement, excluding a bail bond agent or general bail bond agent;

(11) "Taking a bail" or "take bail", the acceptance by a person authorized to take bail of the undertaking of a sufficient surety for the appearance of the defendant according to the terms of the undertaking or that the surety will pay to the court the sum specified. Taking of bail or take bail does not include the fixing of the amount of bail and no person other than a competent court shall fix the amount of bail.

374.702. 1. No person shall engage in the bail bond business as a bail bond agent or a general bail bond agent without being licensed as provided in sections 374.695 to 374.775.

2. No judge, attorney, court official, law enforcement officer, state, county, or municipal employee who is either elected or appointed shall be licensed as a bail bond agent or a general bail bond agent.

3. A licensed bail bond agent shall not execute or issue an appearance bond in this state without holding a valid appointment from a general bail bond agent and without attaching to the appearance bond an executed and prenumbered power of attorney referencing the general bail bond agent or insurer.

4. A person licensed as an active bail bond agent shall hold the license for at least two years prior to owning or being an officer of a licensed general bail bond agent.

5. A general bail bond agent shall not engage in the bail bond business:

(1) Without having been licensed as a general bail bond agent pursuant to sections 374.695 to 374.775; or

(2) Except through an agent licensed as a bail bond agent pursuant to sections 374.695 to 374.775.

6. A general bail bond agent shall not permit any unlicensed person to solicit or engage in the bail bond business on the general bail bond agent's behalf, except for individuals who are employed solely for the performance of clerical, stenographic, investigative, or other administrative duties which do not require a license pursuant to sections 374.695 to 374.789.

7. Any person who is convicted of a violation of this section is guilty of a class A misdemeanor. For any subsequent convictions, a person who is convicted of a violation of this section is guilty of a class D felony.

374.705. 1. The department shall administer and enforce the provisions of sections [374.700 to 374.775] **374.695 to 374.789**, prescribe the duties of its officers and employees with respect to sections [374.700 to 374.775] **374.695 to 374.789**, and promulgate, pursuant to section 374.045 and chapter 536, RSMo, such rules and regulations within the scope and purview of the provisions of sections [374.700 to 374.775] **374.695 to 374.789** as the director considers necessary and proper for the effective administration and interpretation of the provisions of sections [374.700 to 374.775] **374.695 to 374.789**.

2. The director shall set the amount of all fees authorized and required by the provisions of sections [374.700 to 374.775] **374.695 to 374.789** by rules and regulations promulgated pursuant to chapter 536, RSMo. All such fees shall be set at a level designed to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections [374.700 to 374.775] **374.695 to 374.789**. However, such fees shall not exceed one hundred fifty dollars every two years for biennial licenses and renewable licenses for general bail bond agents as provided for in section 374.710.

374.710. 1. Except as otherwise provided in sections [374.700 to 374.775] **374.695 to 374.775**, no person or other entity shall practice as a bail bond agent or general bail bond agent, as defined in section 374.700, in Missouri unless and until the department has issued to him or her a license, to be renewed [each year] every two years as hereinafter provided, to practice as a bail bond agent or general bail bond agent.

2. An applicant for a bail bond and general bail bond agent license shall submit with the application proof that he or she has received twenty-four hours

of initial basic training in areas of instruction in subjects determined by the director deemed appropriate to professionals in the bail bonds profession. Bail bond agents and general bail bond agents who are licensed at the date which this act becomes law shall be exempt from such twenty-four hours of initial basic training.

3. In addition to the twenty-four hours of initial basic training to become a bail bond agent or general bail bond agent, there shall be eight hours of biennial continuing education for all bail bond agents and general bail bond agents to maintain their state license. The director shall determine said appropriate areas of instruction for said biennial continuing education. The director shall determine which institutions, organizations, associations, and individuals shall be eligible to provide the initial basic training and the biennial continuing education instruction. The department may allow state institutions, organizations, associations, or individuals to provide courses for the initial basic training and the biennial continuing education training. The cost shall not exceed two hundred dollars for the initial basic training and one hundred fifty dollars for biennial continuing education.

4. Upon completion of said basic training or biennial continuing education and the licensee meeting the other requirements as provided under sections 374.695 to 374.789, the director shall issue a two-year license for the bail bond agent or general bail bond agent for a fee not to exceed one hundred fifty dollars.

5. Nothing in sections [374.700 to 374.775] 374.695 to 374.775 shall be construed to prohibit any person from posting or otherwise providing a bail bond in connection with any legal proceeding, provided that such person receives no fee, remuneration or consideration therefor.

374.715. 1. Applications for examination and licensure as a bail bond agent or general bail bond agent shall be in writing and on forms prescribed and furnished by the department, and shall contain such information as the department requires. Each application shall be accompanied by proof satisfactory to the department that the applicant is a citizen of the United States, is at least twenty-one years of age, **has a high school diploma or general education development certificate (GED)**, is of good moral character, and meets the qualifications for surety on bail bonds as provided by supreme court rule. Each application shall be accompanied by the examination and application fee set by the department. **Individuals currently employed as bail bond agents and general bail bond agents shall not be required to meet the education requirements needed for licensure pursuant to this section.**

2. In addition, each applicant for licensure as a general bail bond agent shall furnish proof satisfactory to the department that the applicant[,] or, if the applicant is a corporation

[or partnership], that each officer [or partner] thereof has completed at least two years as a bail bond agent[, as defined in sections 374.700 to 374.775], and that the applicant possesses liquid assets of at least ten thousand dollars, along with a duly executed assignment of ten thousand dollars to the state of Missouri[, which]. **The assignment shall become effective upon the applicant's violating any provision of sections [374.700 to 374.775] 374.695 to 374.789.** The assignment required by this section shall be in the form[,] and executed in the manner[,] prescribed by the department. **The director may require by regulation conditions by which additional assignments of assets of the general bail bond agent may occur when the circumstances of the business of the general bail bond agent warrants additional funds. However, such additional funds shall not exceed twenty-five thousand dollars.**

374.716. 1. Every bail bond agent shall account for each power of attorney assigned by the general bail bond agent on a weekly basis and remit all sums collected and owed to the general bail bond agent pursuant to his or her written contract. The general bail bond agent shall maintain the weekly accounting and remittance records for a period of three years. Such records shall be subject to inspection by the director or his or her designee during regular business hours or at other reasonable times.

2. For every bond written in this state, the licensee shall provide to the principal a copy of the bail contract.

374.717. No insurer or licensee, court, or law enforcement officer shall:

(1) Pay a fee or rebate or give or promise anything of value in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond to:

(a) A jailer, police officer, peace officer, committing judge, or any other person who has power to arrest or to hold in custody any person; or

(b) Any public official or public employee;

(2) Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(3) Pay a fee or rebate or give anything of value to the principal or anyone on the principal's behalf;

(4) Accept anything of value from a principal except the premium and expenses incurred, provided that the licensee shall be permitted to accept collateral security of other indemnity from the principal in accordance with the provisions of section 374.719.

374.719. 1. A licensee may accept collateral security from the principal in a fiduciary capacity, which collateral shall be returned upon final termination of liability on the bond. When a licensee accepts collateral, the licensee shall provide

a prenumbered written receipt, which shall include a detailed account of the collateral received by the licensee. The acceptance of collateral security by a bail bond agent shall be reported to the general bail bond agent.

2. The collateral security required by the licensee shall be reasonable in relation to the amount of the bond.

3. If a failure to appear, absconding or attempting to abscond, or a judgment of forfeiture on the bond has occurred, the collateral security may be used to reimburse the licensee for any costs and expenses incurred associated with the forfeiture.

4. The general bail bond agent shall retain records of the acceptance, return, or judgment of forfeiture resulting in the use of the collateral to reimburse the licensee for a period of three years.

374.730. All licenses issued to bail bond agents and general bail bond agents under the provisions of sections 374.700 to 374.775 shall be renewed [annually] **biennially**, which renewal shall be in the form and manner prescribed by the department and shall be accompanied by the renewal fee set by the department.

374.735. 1. The department may, in its discretion, grant a license without requiring an examination to a bail bond agent who has been licensed in another state immediately preceding his **or her** applying to the department, if the department is satisfied by proof adduced by the applicant that [his]:

(1) The qualifications **of the other state** are at least equivalent to the requirements for initial licensure as a bail bond agent in [Missouri under] **this state pursuant to** the provisions of sections [374.700 to 374.775] **374.695 to 374.775, provided that the other state licenses Missouri residents in the same manner; and**

(2) **The applicant has no suspensions or revocations of a license to engage in the bail bond or fugitive recovery business in any jurisdiction.**

2. Every applicant for a license pursuant to this section, upon showing the necessary qualifications as provided in this section, shall be required to pay the same fee as the fee required to be paid by resident applicants.

3. Within the limits provided in this section, the department may negotiate reciprocal compacts with licensing entities of other states for the admission of licensed bail bond agents from Missouri in other states.

4. All applicants applying for licenses in this state after the enactment of said act shall complete the education requirement as stated in section 374.710. If the bail bond agent or general bail bond agent has been licensed in another state and has a license in Missouri at the time said act becomes law, said individual shall not be required to complete the twenty-four hours of initial basic training.

374.740. Any person applying to be licensed as a nonresident [bail bond agent or

nonresident] general bail bond agent who has been licensed in another state shall devote fifty percent of his **or her** working time in the state of Missouri and shall file proof with the director of insurance as to his **or her** compliance, and accompany his **or her** application with the fees set by the [board] **director by regulation** and, if applying for a nonresident general bail bond agent's license, with a duly executed assignment of twenty-five thousand dollars to the state of Missouri, which assignment shall become effective upon the applicant's violating any provision of sections [374.700 to 374.775] **374.695 to 374.789**. Failure to comply with this section will result in revocation of the nonresidence license. The assignment required by this section shall be in the form and executed in the manner prescribed by the department. All licenses issued [under] **pursuant to** this section shall be subject to the same renewal requirements set for other licenses issued [under] **pursuant to** sections [374.700 to 374.775] **374.695 to 374.789**.

374.755. 1. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections [374.700 to 374.775] **374.695 to 374.775** or any person 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 the profession licensed under sections [374.700 to 374.775] **374.695 to 374.775**;

(2) [Having entered a plea of guilty or having been found guilty of a felony] **Final adjudication or a plea of guilty or nolo contendere within the past fifteen years in a criminal prosecution under any state or federal law for a felony or a crime involving moral turpitude whether or not a sentence is imposed, prior to issuance of license date**;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license [issued pursuant to sections 374.700 to 374.775] or in obtaining permission to take any examination [given or] required pursuant to sections [374.700 to 374.775] **374.695 to 374.775**;

(4) Obtaining or attempting to obtain any compensation as a member of the profession licensed by sections [374.700 to 374.775] **374.695 to 374.775** by means of fraud, deception or misrepresentation;

(5) **Misappropriation of the premium, collateral, or other things of value given to a bail bond agent or a general bail bond agent for the taking of bail, incompetency, misconduct, gross negligence, fraud, or misrepresentation [or dishonesty] in the performance of the functions or duties of the profession licensed or regulated by sections [374.700 to 374.775] 374.695 to 374.775**;

(6) Violation of[, or assisting or enabling any other person to violate, any provision

of sections 374.700 to 374.775 or of any lawful rule or regulation promulgated pursuant to sections 374.700 to 374.775] **any provision of or any obligation imposed by the laws of this state, department of insurance rules and regulations, or aiding or abetting other persons to violate such laws, orders, rules or regulations, or subpoenas;**

(7) Transferring a license or permitting another person to use a license of the licensee;

(8) Disciplinary action against the holder of a license or other right to practice the profession regulated by sections [374.700 to 374.775] **374.695 to 374.789** granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Being finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice the profession licensed or regulated by sections [374.700 to 374.775] **374.695 to 374.789** who is not currently licensed and eligible to practice [under] **pursuant to** sections [374.700 to 374.775] **374.695 to 374.789;**

(11) [Paying a fee or rebate, or giving or promising anything of value, to a jailer, policeman, peace officer, judge or any other person who has the power to arrest or to hold another person in custody, or to any public official or employee, in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond or estreatment thereof] **Acting in the capacity of an attorney at a trial or hearing of a person for whom the attorney is acting as surety;**

(12) [Paying a fee or rebate, or giving anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(13) Paying a fee or rebate, or giving or promising anything of value, to the principal or anyone in his behalf;

(14) Participating in the capacity of an attorney at a trial or hearing of one on whose bond he is surety] **Failing to provide a copy of the bail contract, renumbered written receipt for acceptance of money, or other collateral for the taking of bail to the principal, if requested by any person who is a party to the bail contract, or any person providing funds or collateral for bail on the principal's behalf.**

2. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that one or more of the causes stated in subsection 1 of this section have been met, the [department] **director** may [do any or all of the following:

(1) Censure the person involved;

(2) Place the person involved on probation on such terms and conditions as the department deems appropriate for a period not to exceed ten years;

(3) Suspend, for a period not to exceed three years, the license of the person involved;

(4) Revoke the license of the person involved] **suspend or revoke the license or enter into an agreement for a monetary or other penalty pursuant to section 374.280.**

3. In lieu of filing a complaint at the administrative hearing commission, the director and the bail bond agent or general bail bond agent may enter into an agreement for a monetary or other penalty pursuant to section 374.280.

4. In addition to any other remedies available, the director may issue a cease and desist order or may seek an injunction in a court of competent jurisdiction pursuant to the provisions of section 374.046 whenever it appears that any person is acting as a bail bond agent or general bail bond agent without a license or violating any other provisions of sections 374.695 to 374.789.

374.757. 1. Any agent licensed by sections [374.700 to 374.775] **374.695 to 374.775** who intends to apprehend any person in this state shall inform law enforcement authorities in the city or county in which such agent intends such apprehension, before attempting such apprehension. Such agent shall present to the local law enforcement authorities a certified copy of the bond and all other appropriate paperwork identifying the principal and the person to be apprehended. Local law enforcement may accompany the agent. Failure of any agent to whom this section applies to comply with the provisions of this section shall be a class A misdemeanor for the first violation and a class D felony for subsequent violations; and shall also be a violation of section 374.755 and may in addition be punished pursuant to that section.

2. The surety recovery agent shall inform the local law enforcement in the county or city where such agent is planning to enter a residence. Such agent shall have a certified copy of the bond and all appropriate paperwork to identify the principal. Local law enforcement, when notified, may accompany the surety recovery agent to that location to keep the peace if an active warrant is effective for a felony or misdemeanor. If a warrant is not active, the local law enforcement officers may accompany the surety recovery agent to such location. Failure to report to the local law enforcement agency is a class A misdemeanor. For any subsequent violations, failure to report to the local law enforcement agency is a class D felony.

374.759. 1. Any bail bond agent licensed in the state of Missouri shall have access to all publicly available court records of the defendant by available means to make a realistic assessment of defendant's probability of attending all court dates as set in his or her charges relating to bond request.

2. Any defendant shall have free access to any bail bond agent via one phone call so long as the call is made to a local phone number. All other numbers may be available as a collect call to any nonlocal number.

3. All Missouri licensed bail bond agents or licensed general agents shall be

qualified, without further requirements, in all jurisdictions of this state, as provided in rules promulgated by the supreme court of Missouri and not by any circuit court rule.

374.763. 1. If any final judgment ordering forfeiture of a defendant's bond is not paid within [the] **a six-month** period of time [ordered by the court], the court shall **extend the judgment date or** notify the department of the failure to satisfy such judgment. The director shall draw upon the assets of the surety, remit the sum to the court, and obtain a receipt of such sum from the court. The director may take action as provided by section 374.755 [or 374.430], regarding the license of the surety and any bail bond agents writing upon the surety's liability.

2. The department shall furnish to the presiding judge of each circuit court of this state, on at least a monthly basis, a list of all duly licensed and qualified bail bond agents and general bail bond agents whose licenses are not subject to pending suspension or revocation proceedings, and who are not subject to unsatisfied bond forfeiture judgments. In lieu of such list, the department may provide this information to each presiding judge in an electronic format.

3. All duly licensed and qualified bail bond agents and general bail bond agents shall be qualified, without further requirement, to write bail upon a surety's liability in all courts of this state as provided in rules promulgated by the supreme court of Missouri and not by any circuit court rule.

374.764. 1. The director shall examine and inquire into all alleged violations or complaints filed with the department of insurance of the bail bond law of the state, and inquire into and investigate the bail bond business transacted in the state by any bail bond agent, general bail bond agent, or surety recovery agent.

2. The director or any of his or her duly appointed agents may compel the attendance before him or her, and may examine, under oath, the directors, officers, bail bond agents, general bail bond agents, surety recovery agents, employees, or any other person in reference to the condition, affairs, management of the bail bond or surety recovery business, or any matters relating thereto. He or she may administer oaths or affirmations and shall have power to summon and compel the attendance of witnesses and to require and compel the production of records, books, papers, contracts, or other documents if necessary.

3. The director may make and conduct the investigation in person or the director may appoint one or more persons to make and conduct the investigation. If made by a person other than the director, the person duly appointed by the director shall have the same powers as granted to the director pursuant to this section. A certificate of appointment under the official seal of the director shall be sufficient authority and evidence thereof for the person to act. For the purpose

of making the investigations, or having the same made, the director may employ the necessary clerical, actuarial, and other assistance.

374.783. 1. No person shall hold himself or herself out as being a surety recovery agent in this state, unless such person is licensed in accordance with the provisions of sections 374.783 to 374.789. Licensed bail bond agents and general bail bond agents may perform fugitive recovery without being licensed as a surety recovery agent.

2. The director shall have authority to license all surety recovery agents in this state. The director shall have control and supervision over the licensing of such agents and the enforcement of the terms and provisions of sections 374.783 to 374.789.

3. The director shall have the power to:

(1) Set and determine the amount of the fees authorized and required pursuant to sections 374.783 to 374.789. The fees shall be set at a level sufficient to produce revenue which shall not substantially exceed the cost and expense of administering sections 374.783 to 374.789. However, such fees shall not exceed one hundred fifty dollars for a two-year license; and

(2) Determine the sufficient qualifications of applicants for a license.

4. The director shall license for a period of two years all surety recovery agents in this state who meet the requirements of sections 374.783 to 374.789.

374.784. 1. Applications for examination and licensure as a surety recovery agent shall be submitted on forms prescribed by the department and shall contain such information as the department requires, along with a copy of the front and back of a photographic identification card.

2. Each application shall be accompanied by proof satisfactory to the director that the applicant is a citizen of the United States, is at least twenty-one years of age, and has a high school diploma or a general educational development certificate (GED). An applicant shall furnish evidence of such person's qualifications by completing an approved surety recovery agent course with at least twenty-four hours of initial minimum training. The director shall determine which institutions, organizations, associations, and individuals shall be eligible to provide said training. Said instructions and fees associated therewith shall be identical or similar to those prescribed in section 374.710 for bail bond agents and general bail bond agents.

3. In addition to said twenty-four hours of initial minimum training, licensees shall be required to receive eight hours of biennial continuing education of which said instructions and fees shall be identical or similar to those prescribed in section 374.710 for bail bond agents and general bail bond agents.

4. Applicants for surety recovery agents licensing shall be exempt from said requirements of the twenty-four hours of initial minimum training if applicants provide proof of prior training as a law enforcement officer with at least two years of such service within the ten years prior to the application being submitted to the department.

5. The director may refuse to issue any license pursuant to sections 374.783 to 374.789, for any one or any combination of causes stated in section 374.787. The director shall notify the applicant in writing of the reason or reasons for refusal and shall advise the applicant of the right to file a complaint with the administrative hearing commission to appeal the refusal as provided by chapter 621, RSMo.

374.785. 1. The director shall issue a license for a period of two years to any surety recovery agent who is licensed in another jurisdiction and who:

(1) Has no violations, suspensions, or revocations of a license to engage in fugitive recovery in any jurisdiction; and

(2) Is licensed in a jurisdiction whose requirements are substantially equal to or greater than the requirements for a surety recovery agent license in Missouri at the time the applicant applies for a license.

2. Any surety recovery agent who is licensed in another state shall also be subject to the same training requirements as in-state surety recovery agents prescribe to under section 374.784.

3. For the purpose of surrender of the defendant, a surety recovery agent may apprehend the defendant anywhere within the state of Missouri before or after the forfeiture of the undertaking without personal liability for false imprisonment or may empower any surety recovery agent to make apprehension by providing written authority endorsed on a certified copy of the undertaking and paying the lawful fees.

4. Every applicant for a license pursuant to this section, upon making application and showing the necessary qualifications as provided in this section, shall be required to pay the same fee as required of resident applicants. Within the limits provided in this section, the director may negotiate reciprocal compacts with licensing entities of other states for the admission of licensed surety recovery agents from Missouri in other states.

374.786. 1. Every person licensed pursuant to sections 374.783 to 374.789 shall, before the license renewal date, apply to the director for renewal for the ensuing licensing period. The application shall be made on a form furnished to the applicant and shall state the applicant's full name, the applicant's business address, the address at which the applicant resides, the date the applicant first

received a license, and the applicant's surety recovery agent identification number, if any.

2. A renewal form shall be mailed to each person licensed in this state at the person's last known address. The failure to mail the renewal form or the failure of a person to receive it does not relieve any person of the duty to be licensed and to pay the license fee required nor exempt such person from the penalties provided for failure to be licensed.

3. Each applicant for renewal shall accompany such application with a renewal fee to be paid to the department for the licensing period for which renewal is sought.

4. The director may refuse to renew any license required pursuant to sections 374.783 to 374.789, for any one or any combination of causes stated in section 374.787. The director shall notify the applicant in writing of the reasons for refusal to renew and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

374.787. 1. The director may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any surety recovery agent or any person who has failed to renew or has surrendered his or her license for any one or any combination of the following causes:

(1) Violation of any provisions of, or any obligations imposed by, the laws of this state, the department of insurance rules and regulations, or aiding or abetting other persons to violate such laws, orders, rules, or regulations;

(2) Final adjudication or a plea of guilty or nolo contendere in a criminal prosecution under state or federal law for a felony or a crime involving moral turpitude, whether or not a sentence is imposed;

(3) Using fraud, deception, misrepresentation, or bribery in securing a license or in obtaining permission to take any examination required by sections 374.783 to 374.789;

(4) Obtaining or attempting to obtain any compensation as a surety recovery agent by means of fraud, deception, or misrepresentation;

(5) Acting as a surety recovery agent or aiding or abetting another in acting as a surety recovery agent without a license;

(6) Incompetence, misconduct, gross negligence, fraud, or misrepresentation in the performance of the functions or duties of a surety recovery agent;

(7) Having a license revoked or suspended that was issued by another state.

2. After the filing of the complaint, the proceedings shall be conducted in accordance with the provision of chapter 621, RSMo. Upon a finding by the

administrative hearing commission that one or more of the causes stated in subsection 1 of this section have been met, the director may suspend or revoke the license or enter into an agreement for a monetary or other penalty pursuant to section 374.280.

3. In lieu of filing a complaint with the administrative hearing commission, the director and the surety recovery agent may enter into an agreement for a monetary or other penalty pursuant to section 374.280.

4. In addition to any other remedies available, the director may issue a cease and desist order or may seek an injunction in a court of law pursuant to section 374.046 whenever it appears that any person is acting as a surety recovery agent without a license.

374.788. 1. A bail bond agent having probable grounds to believe a subject free on his or her bond has failed to appear as directed by a court, has breached the terms of the subject's surety agreement, or has taken a substantial step toward absconding, may utilize all lawful means to apprehend the subject. To surrender a subject to a court, a licensed bail bond or surety recovery agent having probable grounds to believe the subject is free on his or her bond may:

(1) Detain the subject in a lawful manner, for a reasonable time, provided that in the event travel from another state is involved, the detention period may include reasonable travel time not to exceed seventy-two hours;

(2) Transport a subject in a lawful manner from state to state and county to county to a place of authorized surrender; and

(3) Enter upon private or public property in a lawful manner to execute apprehension of a subject.

2. A surety recovery agent who apprehends a subject pursuant to the provisions of subsection 1 of this section shall surrender custody of the subject to the court of jurisdiction.

3. When a surety recovery agent is in the process of performing fugitive recovery, a photographic identification card shall be prominently displayed on his or her person.

374.789. 1. A person is guilty of a class D felony if he or she does not hold a valid surety recovery agent license or a bail bond license and commits any of the following acts:

(1) Holds himself or herself out to be a licensed surety recovery agent within this state;

(2) Claims that he or she can render surety recovery agent services; or

(3) Engages in fugitive recovery in this state.

2. Any person who engages in fugitive recovery in this state and wrongfully

causes damage to any person or property, including, but not limited to, unlawful apprehension, unlawful detainment, or assault, shall be liable for such damages and may be liable for punitive damages.

436.215. Sections 436.215 to 436.272 may be cited as the "Uniform Athlete Agents Act".

436.218. As used in sections 436.215 to 436.272, the following terms mean:

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

(2) "Athlete agent", an individual who enters into an agency contract with a student-athlete or directly or indirectly recruits or solicits a student-athlete to enter into an agency contract. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization. The term includes an individual who represents to the public that the individual is an athlete agent;

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

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

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

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

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

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

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

(10) "Professional-sports-services contract", an agreement under which an

individual is employed or agrees to render services as a player on a professional sports team, with a professional sports organization, or as a professional athlete;

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

(12) "Registration", registration as an athlete agent under sections 436.215 to 436.272;

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

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

436.221. 1. The director shall administer the provisions of sections 436.215 to 436.272.

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

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

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

436.224. 1. Except as otherwise provided in subsection 2 of this section, an individual may not act as an athlete agent in this state before being issued a

certificate of registration under section 436.230 or 436.236.

2. An individual with a temporary license under section 436.236 may act as an athlete agent before being issued a certificate of registration for all purposes except signing an agency contract if:

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

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

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

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

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

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

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

(4) A description of the applicant's:

(a) Formal training as an athlete agent;

(b) Practical experience as an athlete agent; and

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

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

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

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

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

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

(8) Whether the applicant or any other person named under subdivision (7) of this subsection has been convicted of a crime that if committed in this state

would be a felony or other crime involving moral turpitude, and a description of the crime;

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

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

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

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

436.230. 1. Except as otherwise provided in subsection 2 of this section, the director shall issue a certificate of registration to an individual who complies with subsection 1 of section 436.227.

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

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

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

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

(4) Engaged in conduct prohibited by section 436.254;

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

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

(7) Engaged in conduct that significantly adversely reflects on the

applicant's credibility, honesty, or integrity.

3. In making a determination under subsection 3 of this section, the director shall consider:

- (1) How recently the conduct occurred;
- (2) The nature of the conduct and the context in which it occurred; and
- (3) Any other relevant conduct of the applicant.

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

5. A certificate of registration or a renewal of a registration is valid for two years.

436.233. 1. The director may revoke, suspend, or refuse to renew any certificate of registration required under this chapter for one or any combination of causes stated in subsection 2 of this section. The director 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.

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

(1) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties under this chapter, 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;

(2) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration under this chapter;

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

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

(b) Attempting directly or indirectly by way of intimidation, coercion or

deception, to obtain consultation;

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

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

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

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

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

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

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

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

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

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

436.236. The director may issue a temporary certificate of registration valid for sixty days while an application for registration or renewal is pending.

436.239. 1. An application for registration or renewal of registration shall be accompanied by a fee which shall be determined by the director and established by rule. All fees payable under the provisions of this section shall be collected by the division of professional registration and transmitted to the department of revenue for deposit in the state treasury to the credit of the fund to be known as the "Athlete Agent Fund" which is hereby established. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in the athlete agent fund shall not be transferred and placed to the credit of general revenue until the amount in the athlete agent fund at the end of the biennium exceeds two times the amount of the appropriations from such fund for the preceding fiscal year or, if the director allows renewal of registration less frequently than yearly, then three times the appropriations from such fund for the preceding fiscal year; provided that no amount from such fund may be transferred to the credit of general revenue earlier than two years following the effective date of this section. The amount if any which may be transferred to the credit of general revenue after two years following the effective date of this section is that amount in the athlete agent fund which exceeds the appropriate multiple of the appropriations from such fund for the preceding fiscal year.

2. The director may promulgate rules to authorize and file athlete agent documents as that term is defined in section 536.010, RSMo. Any rule promulgated under the authority in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

436.242. 1. An agency contract must be in a record signed by the parties.

2. An agency contract must state or contain:

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

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

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

- (4) A description of the services to be provided to the student-athlete;
- (5) The duration of the contract; and
- (6) The date of execution.

3. An agency contract shall contain in close proximity to the signature of the student-athlete a conspicuous notice in boldface type in capital letters stating: **"WARNING TO STUDENT-ATHLETE IF YOU SIGN THIS CONTRACT: (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT; (2) BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL YOUR ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO AN AGENCY CONTRACT; AND (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY."**

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

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

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

2. Within seventy-two hours after entering into an agency contract or before the next athletic event in which the student-athlete may participate whichever occurs first the student-athlete shall in writing inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract.

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

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

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

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

- (1) The name and address of each individual represented by the athlete

agent;

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

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

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

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

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

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

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

2. An athlete agent may not intentionally:

(1) Initiate contact with a student-athlete unless registered under sections 436.215 to 436.272;

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

(3) Violate section 436.224 by failing to register;

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

(5) Predate or postdate an agency contract; or

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

436.257. The commission of any act prohibited by section 436.254 by an athlete agent is a class B misdemeanor.

436.260. 1. An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of sections 436.215 to 436.272. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.

2. Damages of an educational institution under subsection 1 of this section include losses and expenses incurred because as a result of the activities of an athlete agent or former student-athlete the educational institution was injured by a violation of sections 436.215 to 436.272 or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable

self-imposed disciplinary action taken to mitigate sanctions.

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

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

5. Sections 436.215 to 436.272 do not restrict rights, remedies, or defenses of any person under law or equity.

436.263. Any person who violates any provisions of sections 436.215 to 436.269 is guilty of a class A misdemeanor.

436.266. In applying and construing sections 436.215 to 436.272, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of sections 436.215 to 436.272 among states that enact it.

436.269. If any provision of sections 436.215 to 436.272 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of sections 436.215 to 436.272 which can be given effect without the invalid provision or application, and to this end the provisions of sections 436.215 to 436.272 are severable.

436.272. Any moneys collected by the director under section 436.263 shall immediately be transferred to the department of revenue for deposit in the state treasury to the credit of general revenue.

620.127. Notwithstanding any provision of law to the contrary, every application for a license, certificate, **registration**, or permit, or renewal of a license, certificate, **registration**, or permit issued in this state shall contain the Social Security number of the applicant. This provision shall not apply to an original application for a license, certificate, registration, or permit submitted by a citizen of a foreign country who has never been issued a Social Security number and who previously has not been licensed by any other state, United States territory, or federal agency. A citizen of a foreign country applying for licensure with the division of professional registration shall be required to submit his or her visa or passport identification number in lieu of the Social Security number.

620.145. [1.] The division of professional registration shall maintain, for each board in the division, a registry of each person holding a current license, permit or certificate issued by that board. The registry shall contain the name, Social Security number and address of each person licensed or registered together with other relevant information as determined by the board. The registry for each board shall at all times be available to the board and copies shall be supplied to the board on request. Copies of the registry, except for the

registrant's Social Security number, shall be available from the division or the board to any individual who pays the reasonable copying cost. Any individual may copy the registry during regular business hours. The information in the registry shall be furnished upon request to the division of child support enforcement. Questions concerning the currency of license of any individual shall be answered, without charge, by the appropriate board. Each year each board may publish, or cause to be published, a directory containing the name and address of each person licensed or registered for the current year together with any other information the board deems necessary. Any expense incurred by the state relating to such publication shall be charged to the board. An official copy of any such publication shall be filed with the director of the department of economic development.

[2. Notwithstanding any provision of law to the contrary, each board shall require each person applying for a license, permit or certificate, or a renewal of a license, permit or certificate to furnish the board with the applicant's Social Security number.]

[374.725. Any person who, on September 28, 1983, is acting in any capacity which would be classified as practicing as a bail bond agent or general bail bond agent under the provisions of sections 374.700 to 374.775 may continue to act in such capacity without being licensed under sections 374.700 to 374.775 for a period of twelve months from September 28, 1983.]

[374.765. 1. Any person who practices as a bail bond agent or general bail bond agent, or who purports to be a bail bond agent, or general bail bond agent, as defined in section 374.700, without being duly licensed under sections 374.700 to 374.775 is:

(1) For the first such offense, guilty of an infraction;
(2) For the second and each subsequent offense, guilty of a class A misdemeanor.

2. Any licensed bail bond agent who knowingly violates the provisions of one or more of subdivisions (3), (4), (10), (11), (12), (13), (14), or (15) of subsection 1 of section 374.755 shall be guilty of a class B misdemeanor.]

[436.200. As used in this act the following terms shall mean:

(1) "Agent contract", any contract or agreement pursuant to which a student athlete authorizes an athlete agent to represent him in the marketing of his athletic ability or reputation in a sport;

(2) "Athlete agent", a person that, for compensation, directly or indirectly recruits or solicits a student athlete to enter into an agent contract, financial services contract or professional sports services contract;

(3) "Financial services contract", any contract or agreement pursuant to which a student athlete authorizes an athlete agent to provide financial services for the student athlete, including but not limited to the making and execution of investment and other financial decisions by the athlete agent on behalf of the student athlete;

(4) "Person", an individual, company, corporation, association, partnership or other entity;

(5) "Professional sports services contract", any contract or agreement pursuant to which a student athlete authorizes an athlete agent to obtain employment for the student athlete with a professional sports team or as a professional athlete;

(6) "Student athlete", any athlete who practices for or otherwise participates in intercollegiate athletics at any college or university located within this state.]

[436.205. 1. Each athlete agent must register biennially with the secretary of state on forms to be provided by the secretary of state and, at the same time, pay to the secretary of state a registration fee of five hundred dollars for which the secretary of state shall issue a registration certificate entitling the holder to operate as an athlete agent for a period of two years.

2. When the business address of any athlete agent operating in this state is changed, the athlete agent must notify the secretary of state within thirty days after the change of address.

3. It is unlawful for any person to operate as an athlete agent unless he is registered as provided in this section. Failure of the athlete agent to register is a class B misdemeanor.

4. The secretary of state may suspend or revoke the registration of any athlete agent for failing to comply with the provisions of this section. The suspension or revocation of any registration may be reviewed by a court of competent jurisdiction.]

[436.209. 1. A student athlete who is subject to the rules and regulations of the National Collegiate Athletic Association, the National Association for Intercollegiate Athletics, or the National Junior College Athletic Association, and who enters into an agent contract, financial services contract or professional sports services contract with an athlete agent must provide written notification to the athletic director or the president of the college or university in which he is enrolled that he has entered into such a contract. Written notification must be given prior to practicing for or participating in any athletic event on behalf of any college or university or within seventy-two hours after entering into the contract, whichever occurs first. Failure of the student athlete to provide this notification is an infraction.

2. An athlete agent who enters into an agent contract, financial services contract or professional sports services contract with a student athlete who is subject to the rules and regulations of the National Collegiate Athletic Association, the National Association for Intercollegiate Athletics, or the National Junior College Athletic Association must provide written notification to the athletic director or the president of the college or university in which the student athlete is enrolled that the student athlete has entered into such a contract. Written notification of such a contract must be given prior to the student athlete's practicing for or participating in

any athletic event on behalf of any college or university or within seventy-two hours after entering into said contract, whichever occurs first. Failure of the athlete agent to provide this notification is a class B misdemeanor.

3. An agent contract, financial services contract or professional sports services contract between a student athlete and an athlete agent must have a notice printed near the space for the student athlete's signature which must contain the following statement in ten-point boldfaced type: "WARNING: IF YOU AS A STUDENT ATHLETE SIGN THIS CONTRACT, YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE IN INTERCOLLEGIATE ATHLETICS. Pursuant to MISSOURI LAW, YOU MUST NOTIFY THE ATHLETIC DIRECTOR OR PRESIDENT OF YOUR COLLEGE OR UNIVERSITY IN WRITING PRIOR TO PRACTICING FOR OR PARTICIPATING IN ANY ATHLETIC EVENT ON BEHALF OF ANY COLLEGE OR UNIVERSITY OR WITHIN SEVENTY-TWO HOURS AFTER ENTERING INTO THIS CONTRACT, WHICHEVER OCCURS FIRST. FAILURE TO PROVIDE THIS NOTICE IS A CRIMINAL OFFENSE."

4. An agent contract, financial services contract or professional sports services contract entered into between a student athlete and an athlete agent which fails to provide the notification required by this section is null, void and unenforceable.

5. Any student athlete or athlete agent who enters into an agent contract, financial services contract or professional sports services contract and fails to provide the notification required by this section, is liable to the college or university in which the student athlete is enrolled for damages that result from the student athlete's subsequent ineligibility. In addition to any damages awarded pursuant to this section, additional damages may be assessed in an amount equal to three times the value of the athletic scholarship furnished by the institution to the student athlete during the student athlete's period of eligibility.

6. Within ten days after the date on which the contractual relationship between the athlete agent and the student athlete arises or after notification of such contractual relationship is received by the athletic director or president of the college or university in which the student is enrolled, whichever occurs later, the student athlete shall have the right to rescind the contract or any contractual relationship with the athlete agent by giving notice in writing of his intent to rescind. The student athlete may not under any circumstances effect a waiver of his right to rescind, and any attempt to do so shall be null, void and unenforceable.]

[436.212. 1. An athlete agent shall not publish or cause to be published false or misleading information or advertisements, nor give any false information or make false promises to a student athlete concerning employment.

2. An athlete agent shall not accept as a client a student athlete referred by an employee of or a coach for a college or university located within this state in

exchange for any consideration.

3. An athlete agent shall not enter into any agreement, written or oral, by which the athlete agent offers anything of value to any employee of or a coach for a college or university located within this state in return for the referral of any student athlete clients by that employee or coach.

4. An athlete agent shall not offer anything of value to induce a student athlete to enter into an agent contract, financial services contract, professional sports services contract or other agreement by which the athlete agent will represent the student athlete. Negotiations regarding the athlete agent's fee shall not be considered an inducement.

5. A person shall not conduct business as an athlete agent if he is not registered or if his registration is suspended or revoked.

6. Violation of any provision of this section is a class B misdemeanor.]

Section B. The repeal and reenactment of sections 374.700, 374.705, 374.710, 374.715, 374.730, 374.735, 374.740, 374.755, 374.757, and 374.763, and the enactment of sections 374.695, 374.702, 374.716, 374.717, 374.719, 374.759, 374.764, 374.785, 374.786, 374.787, 374.788, and 374.789, shall become effective January 1, 2005.

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