

SECOND REGULAR SESSION

# HOUSE BILL NO. 1919

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE TREADWAY.

Read 1<sup>st</sup> time February 13, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4519L.01I

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### AN ACT

To repeal sections 337.500, 337.505, 337.507, 337.510, 337.515, 337.520, 337.525, 337.530, 337.535, 337.540, 337.700, 337.703, 337.706, 337.709, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 337.736, and 337.739, RSMo, and to enact in lieu thereof twenty-four new sections relating to the licensure of mental health professionals, with penalty provisions and a contingent effective date.

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

Section A. Sections 337.500, 337.505, 337.507, 337.510, 337.515, 337.520, 337.525, 337.530, 337.535, 337.540, 337.700, 337.703, 337.706, 337.709, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 337.736, and 337.739, RSMo, are repealed and twenty-four new sections enacted in lieu thereof, to be known as sections 337.300, 337.303, 337.305, 337.306, 337.312, 337.315, 337.318, 337.400, 337.403, 337.406, 337.409, 337.412, 337.415, 337.418, 337.430, 337.433, 337.440, 337.500, 337.505, 337.507, 337.510, 337.515, 337.525, and 337.530, to read as follows:

**337.300. 1. There is hereby created a "Board of Counselors and Therapists", which shall guide, advise, and make recommendations to the division and fulfill all other responsibilities designated by sections 337.400 to 337.440 as such sections pertain to marital and family therapists and sections 337.500 to 337.540 as such sections pertain to licensed professional counselors. The duties and responsibilities of the board of counselors and therapists as such duties and responsibilities pertain to marital and family therapists and licensed professional counselors shall not take full force and effect until such time as the governor appoints the members of the board of counselors and therapists and the**

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

9 appointments are confirmed by the senate. At such time, the powers and duties of the state  
10 committee of marital and family therapists and the committee for professional counselors  
11 shall be merged into the board of counselors and therapists pursuant to section 337.303.

12       2. The board of counselors and therapists shall be appointed by the governor with  
13 the advice and consent of the senate and shall consist of nine members that are United  
14 States citizens and residents of this state. Of these nine members, four shall be licensed  
15 professional counselors who shall constitute the subcommittee for professional counselors,  
16 and four shall be licensed marital and family therapists who shall constitute the  
17 subcommittee for marital and family therapists, and one shall be a voting public member.

18       3. At least one member of each of the subcommittees and the public member of the  
19 initial board shall be appointed by the governor with the advice and consent of the senate  
20 to serve a term of four years, two members of each of the subcommittees shall be appointed  
21 by the governor with the advice and consent of the senate to serve a term of three years and  
22 the remaining members of the initial board shall be appointed for a term of two years.  
23 Thereafter, all members shall be appointed by the governor with the advice and consent  
24 of the senate to serve four-year terms. No person shall be eligible for reappointment that  
25 has served as a member of the board for a total of eight years. The membership of the  
26 board shall reflect the differences in levels of education and work experience with  
27 consideration being given to race, gender, and ethnic origins. No more than one counselor-  
28 educator shall be a member of the board at the same time.

29       4. At the time of appointment, the public member shall be a citizen of the United  
30 States, a resident of this state for a period of at least one year immediately preceding the  
31 appointment, and a registered voter. The public member or the spouse of such member  
32 shall be a person who is not and never was a member of any profession licensed or  
33 regulated by the board of counselors and therapists. The public member and the spouse  
34 of such member shall be a person who does not have and never has had a material financial  
35 interest in the provision of the professional services regulated by the board of counselors  
36 and therapists, or an activity or organization directly related to any professions licensed  
37 or regulated by the board of counselors and therapists.

38       5. Each member of the board shall receive compensation in an amount set by the  
39 division not to exceed fifty dollars for each day devoted to the affairs of the board,  
40 including meeting and conference attendance, meeting preparation and travel, and  
41 activities related to the board and subject to approval by the director of the division. The  
42 division shall provide all staff for the board to include inspectors, investigators, and clerical  
43 support.

337.303. 1. Upon appointment by the governor and confirmation by the senate of

2 the board of counselors and therapists, the committee for professional counselors and the  
3 state committee of marital and family therapists are abolished and their duties and  
4 responsibilities shall merge into the board of counselors and therapists as established  
5 pursuant to section 337.300. The board of counselors and therapists shall be a continuance  
6 of and shall carry out the duties of the committee for professional counselors and the state  
7 committee of marital and family therapists.

8       2. Upon appointment by the governor and confirmation by the senate of the board  
9 of counselors and therapists, all of the powers, duties, and functions of the committee for  
10 professional counselors and the state committee of marital and family therapists are  
11 transferred to, conferred, and imposed upon the board of counselors and therapists. The  
12 board of counselors and therapists shall be the successor in every way to the powers,  
13 duties, and functions of the committee for professional counselors and the state committee  
14 of marital and family therapists.

15       3. Every act performed in the exercise of such powers, duties, and authorities by  
16 or under the authority of the board of counselors and therapists shall be deemed to have  
17 the same force and effect as if performed by the committee for professional counselors or  
18 state committee of marital and family therapists pursuant to sections 337.400 to 337.440  
19 and sections 337.500 to 337.540, including any amendments thereto effective with the  
20 passage of this law or prior to the effective date of this act.

21       4. All rules and regulations of the committee for professional counselors and the  
22 state committee of marital and family therapists and amendments thereto shall continue  
23 to be effective and shall be deemed to be duly adopted rules and regulations of the board  
24 of counselors and therapists until revised, amended, or repealed by the board of counselors  
25 and therapists. The board of counselors and therapists shall review such rules and  
26 regulations and shall adopt new rules and regulations as required for the administration  
27 of the licensure law for professional counselors and marital and family therapists.

28       5. Any person licensed or provisionally licensed as a professional counselor by the  
29 committee for professional counselors or any person licensed by the state committee of  
30 marital and family therapists prior to the appointment by the governor and confirmation  
31 by the senate of the board of counselors and therapists, shall be considered licensed as a  
32 professional counselor, provisionally licensed as a professional counselor, or licensed as a  
33 marital and family therapist by the board of counselors and therapists. Any person  
34 pursuing post-degree experience approved by the committee for professional counselors  
35 or the state committee of marital and family therapists shall be considered approved for  
36 post-degree experience by the board of counselors and therapists.

337.305. Any communication made by any person to a licensed professional

2 counselor or a licensed marital and family therapist in the course of professional services  
3 rendered by the licensed professional counselor or the licensed marital and family therapist  
4 shall be deemed a privileged communication and the licensed professional counselor or the  
5 licensed marital and family therapist shall not be examined or be made to testify to any  
6 privileged communication without the prior consent of the person who received their  
7 professional services.

337.306. 1. There is hereby created in the state treasury a fund to be known as the  
2 "Board of Counselors and Therapists Fund" which shall consist of all moneys collected by  
3 the board of counselors and therapists.

4 2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys  
5 in this fund shall not be transferred and placed to the credit of general revenue until the  
6 amount in the fund at the end of the biennium exceeds three times the amount of the  
7 appropriations from the board of counselors and therapists fund for the preceding fiscal  
8 year. The amount, if any, in the fund that shall lapse is that amount in the fund that  
9 exceeds the appropriate multiple of the appropriations from the board of counselors and  
10 therapists fund for the preceding fiscal year.

11 3. Upon appointment by the governor and confirmation by the senate of the board  
12 of counselors and therapists, all moneys deposited in the committee for professional  
13 counselors fund created in section 337.507 and the marital and family therapists fund  
14 created in section 337.712, shall be transferred to the board of counselors and therapists  
15 fund created in subsection 1 of this section. The committee for professional counselors  
16 fund and the marital and family therapists fund shall be abolished when all moneys are  
17 transferred to the board of counselors and therapists fund.

337.312. 1. No rule or portion of a rule promulgated by the board of counselors  
2 and therapists shall become effective until it has been approved by the joint committee on  
3 administrative rules in accordance with the procedures provided herein, and the delegation  
4 of the legislative authority to enact law by the adoption of such rules is dependent upon the  
5 power of the joint committee on administrative rules to review and suspend rules pending  
6 ratification by the senate and the house of representatives as provided herein.

7 2. Upon filing any proposed rule with the secretary of state, the filing agency shall  
8 concurrently submit such proposed rule to the committee, which may hold hearings upon  
9 any proposed rule or portion thereof at any time.

10 3. A final order of rulemaking shall not be filed with the secretary of state until  
11 thirty days after such final order of rulemaking has been received by the committee. The  
12 committee may hold one or more hearings upon such final order of rulemaking during the  
13 thirty-day period. If the committee does not disapprove such order of rulemaking within

14 the thirty-day period, the filing agency may file such order of rulemaking with the  
15 secretary of state and the order of rulemaking shall be deemed approved.

16 4. The committee may, by majority vote of the members, suspend the order of  
17 rulemaking or portion thereof by action taken prior to the filing of the final order of  
18 rulemaking only for one or more of the following grounds:

19 (1) An absence of statutory authority for the proposed rule;

20 (2) An emergency relating to public health, safety, or welfare;

21 (3) The proposed rule is in conflict with state law;

22 (4) A substantial change in circumstance since enactment of the law upon which the  
23 proposed rule is based.

24 5. If the committee disapproves any rule or portion thereof, the filing agency shall  
25 not file such disapproved portion of any rule with the secretary of state and the secretary  
26 of state shall not publish in the Missouri Register any final order of rulemaking containing  
27 the disapproved portion.

28 6. If the committee disapproves any rule or portion thereof, the committee shall  
29 report its findings to the senate and the house of representatives. No rule or portion of a  
30 rule disapproved by the committee shall take effect so long as the senate and house of  
31 representatives ratify the act of the joint committee by resolution adopted in each house  
32 within thirty legislative days after such rule or portion of the rule has been disapproved  
33 by the joint committee.

34 7. Upon adoption of a rule as provided herein, any such rule or portion thereof may  
35 be suspended or revoked by the general assembly either by bill or, pursuant to section 8,  
36 article IV of the Missouri Constitution, by concurrent resolution upon recommendation  
37 of the joint committee on administrative rules. The committee shall be authorized to hold  
38 hearings and make recommendations pursuant to the provisions of section 536.037, RSMo.  
39 The secretary of state shall publish in the Missouri Register notice of the suspension or  
40 revocation as soon as practicable.

337.315. 1. The division, on behalf of the board, shall promulgate rules and  
2 regulations pertaining to:

3 (1) The form and content of license applications required by the provisions of  
4 sections 337.400 to 337.440 and sections 337.500 to 337.540, and the procedures for filing  
5 an application for an initial or renewal license in this state;

6 (2) Fees required by the provisions of sections 337.400 to 337.440 and sections  
7 337.500 to 337.540;

8 (3) The content, conduct, and administration of the licensing examinations required  
9 by sections 337.415 and 337.510;

10           (4) The characteristics of supervised clinical experience, as that term is used in  
11 section 337.415;

12           (5) The characteristics of acceptable supervised counseling experience, as that term  
13 is used in section 337.510;

14           (6) The equivalent of the basic educational requirements set forth in sections  
15 337.415 and 337.510;

16           (7) The standards and methods to be used in assessing competency as a licensed  
17 marital and family therapist and the standards and methods to be used in assessing  
18 competency as a professional counselor;

19           (8) Establishment and promulgation of procedures for investigating, hearing, and  
20 determining grievances and violations occurring under the provisions of sections 337.400  
21 to 337.440 and sections 337.500 to 337.540;

22           (9) Development of an appeal procedure for the review of decisions and rules of  
23 administrative agencies existing under the constitution or laws of this state;

24           (10) Establishment and promulgation of procedures for licensure by reciprocity  
25 with other states, including states that do not have marital and family therapist licensing  
26 laws or professional counselor licensing laws and states whose licensing laws are not  
27 substantially the same or greater than those of this state;

28           (11) The form and content of ethical standards for marital and family therapists,  
29 as that term is used in subdivision (15) of subsection 2 of section 337.430, and the form and  
30 content of ethical standards for professional counselors as that term is used in subdivision  
31 (15) of subsection 2 of section 337.525;

32           (12) The characteristics of an acceptable educational institution as that term is used  
33 in section 337.510;

34           (13) The characteristics of an acceptable agent for the certification of an exempted  
35 occupation as used in section 337.505; and

36           (14) Any other policies or procedures necessary to the fulfillment of the  
37 requirements of sections 337.400 to 337.440 and sections 337.500 to 337.540.

38           2. No rule or portion of a rule promulgated under the authority of sections 337.400  
39 to 337.440 and sections 337.500 to 337.540 shall become effective unless it has been  
40 promulgated pursuant to the provisions of chapter 536, RSMo, and section 337.312.

          337.318. As used in sections 337.300 to 337.318, sections 337.400 to 337.440, and  
2 sections 337.500 to 337.540, the following terms mean:

3           (1) "Board", the board of counselors and therapists established in section 337.300;

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

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

6 Missouri department of economic development;

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

8 (5) "Fund", the board of counselors and therapists fund created by section 337.306.  
337.400. As used in sections 337.400 to 337.440 the following terms mean:

2 (1) "Licensed marital and family therapist", a person to whom a license has been  
3 issued pursuant to the provisions of sections 337.400 to 337.440, whose license is in force  
4 and not suspended or revoked;

5 (2) "Marital and family therapy", the use of scientific and applied marriage and  
6 family theories, methods, and procedures for the purpose of describing, evaluating, and  
7 modifying marital, family, and individual behavior within the context of marital and  
8 family systems, including the context of marital formation and dissolution. Marital and  
9 family therapy is based on systems theories, marriage and family development, normal and  
10 dysfunctional behavior, human sexuality, and psychotherapeutic marital and family  
11 therapy theories and techniques and includes the use of marriage and family therapy  
12 theories and techniques in the evaluation, assessment, and treatment of intrapersonal or  
13 interpersonal dysfunctions within the context of marriage and family systems. Marital and  
14 family therapy may also include clinical research into more effective methods for the  
15 treatment and prevention of the above-named conditions;

16 (3) "Practice of marital and family therapy", the rendering of professional marital  
17 and family therapy services to individuals, family groups, and marital pairs, singly or in  
18 groups, whether such services are offered directly to the general public or through  
19 organizations, either public or private, for a fee, monetary or otherwise.

337.403. No person shall use the title of licensed marital and family therapist or  
2 engage in the practice of marital and family therapy in this state unless the person is  
3 licensed pursuant to sections 337.400 to 337.440. Sections 337.400 to 337.440 shall not  
4 apply to:

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

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

14 (3) Duly ordained ministers or clergy, religious workers and volunteers, or

15 **Christian Science Practitioners.**

2       **337.406.** No person may engage in marital and family therapy for compensation or  
3 hold themselves out as a licensed marital and family therapist unless the person complies  
4 with all educational and examination requirements of section 337.400 to 337.440 and is  
5 licensed pursuant to the provisions of sections 337.400 to 337.440.

6       **337.409.** No provision of sections 337.400 to 337.440 shall be construed to require  
7 any agency, corporation, or organization, to employ licensed marital and family therapists  
8 if they are not otherwise required by law to do so.

9       **337.412. 1.** Applications for licensure as a marital and family therapist shall be in  
10 writing and submitted to the board on forms prescribed by the board and furnished to the  
11 applicant. The application shall contain the applicant's statements showing the applicant's  
12 education, experience, and such other information as the board may require. Each  
13 application shall contain a statement that is made under oath or affirmation that the  
14 information contained in the application is true and correct to the best knowledge and  
15 belief of the applicant, subject to the penalties provided for the making of a false affidavit  
16 or declaration. Each application shall be accompanied by the fees required by the board.  
17       **2.** The division shall mail a renewal notice to the last known address of each  
18 licensee prior to the license renewal date. Notwithstanding this notice requirement, the  
19 failure to receive a license renewal notification from the division does not excuse the  
20 licensee from renewing his or her license as required by law. Failure to provide the board  
21 with the information required for license renewal, or failure to pay the license renewal fee  
22 within a period of sixty days from the license renewal date shall cause the license to expire.  
23 The license shall be restored if the applicant submits written application and the payment  
24 of the licensure fee and a delinquency fee within two years of the license renewal date. If  
25 a license issued by the board has expired for more than two years and the applicant has not  
26 held a valid, unrevoked, unsuspended license as a marital and family therapist in another  
27 state at the time of application to the board, the applicant shall pay the required fee and  
28 obtain continuing education relating to the practice of marital and family therapy as  
defined by board rule. Continuing education required for the renewal of an expired license  
shall not exceed twenty hours of continuing education credit.

3       **3.** A new certificate to replace any certificate lost, destroyed, or mutilated may be  
4 issued subject to the rules of the board, upon payment of a fee, if the board requires such  
5 fee.

6       **4.** The board shall set the amount of the fees authorized by sections 337.400 to  
7 337.440. The fees shall be set at a level to produce revenue that shall not substantially  
8 exceed the cost and expense of administering the provisions of sections 337.400 to 337.440.



29 All fees required pursuant to sections 337.400 to 337.440 shall be collected by the director  
30 who shall deposit the same with the state treasurer in the board of counselors and  
31 therapists fund.

337.415. 1. Each applicant for licensure as a marital and family therapist shall  
2 furnish evidence to the board that:

3 (1) The applicant has a master's degree or a doctoral degree in marital and family  
4 therapy or its equivalent from an acceptable educational institution accredited by a  
5 regional accrediting body or accredited by an accrediting body that has been approved by  
6 the federal Department of Education;

7 (2) The applicant has twenty-four months of postgraduate supervised clinical  
8 experience acceptable to the board, as the board determines by rule;

9 (3) Upon examination, the applicant possesses the requisite knowledge of the  
10 profession, including techniques and applications, research and its interpretation, and  
11 professional affairs and ethics;

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

15 2. Any person holding a current, unrevoked license, certificate, or registration from  
16 another state or territory of the United States having substantially the same or greater  
17 licensing requirements as this state for marital and family therapists, as determined by the  
18 board, may be granted a license to practice as a marital and family therapist in this state  
19 upon application to the board accompanied by the appropriate fee as established by the  
20 board pursuant to section 337.412.

21 3. Any person who previously held a valid, unrevoked, and unsuspended license as  
22 a marital and family therapist in this state and who holds a valid license as a marital and  
23 family therapist in another state at the time of application to the board shall be granted a  
24 license to engage in marital and family therapy in this state upon application to the board  
25 accompanied by the appropriate fee as established by the board.

26 4. The board shall issue a license to each person who files an application and fee as  
27 required by the provisions of sections 337.400 to 337.440, and who furnishes evidence  
28 satisfactory to the board that the applicant has complied with the provisions of subsection  
29 1 or 2 of this section.

337.418. 1. Each license issued pursuant to the provisions of sections 337.400 to  
2 337.440 shall expire on the renewal date established by the director. The term of licensure  
3 shall be twenty-four months; however, the director may establish a shorter term for the  
4 licenses issued pursuant to sections 337.400 to 337.440 during the first year after the

5 creation of the board. The board shall renew any license upon application for renewal and  
6 upon payment of the fee established by the board pursuant to the provisions of section  
7 337.412.

8 2. The board may issue temporary permits to practice under extenuating  
9 circumstances as determined by the board and defined by rule.

337.430. 1. The board may refuse to issue or renew any license required by the  
2 provisions of sections 337.400 to 337.440 for one or any combination of causes stated in  
3 subsection 2 of this section. The board shall notify the applicant in writing of the reasons  
4 for the refusal and shall advise the applicant of the applicant's right to file a complaint  
5 with the administrative hearing commission as provided by chapter 621, RSMo.

6 2. The board may cause a complaint to be filed with the administrative hearing  
7 commission as provided by chapter 621, RSMo, against any holder of any license required  
8 by sections 337.400 to 337.440 or any person who has failed to renew or has surrendered  
9 the person's license for any one or any combination of the following causes:

10 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic  
11 beverage to an extent that such use impairs a person's ability to engage in the occupation  
12 of marital and family therapist; except the fact that a person has undergone treatment for  
13 past substance or alcohol abuse or has participated in a recovery program shall not by  
14 itself be cause for refusal to issue or renew a license;

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

21 (3) Use of fraud, deception, misrepresentation, or bribery in securing any license  
22 issued pursuant to the provisions of sections 337.400 to 337.440 or in obtaining permission  
23 to take any examination given or required pursuant to the provisions of sections 337.400  
24 to 337.440;

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

27 (5) Incompetence, misconduct, gross negligence, fraud, misrepresentation, or  
28 dishonesty in the performance of the functions or duties of a licensed marital and family  
29 therapist;

30 (6) Violation of or assisting or enabling any person to violate any provision of  
31 sections 337.400 to 337.440 or of any lawful rule or regulation adopted pursuant to sections

32 **337.400 to 337.440;**

33 **(7) Impersonation of any person holding a license or allowing any person to use the**  
34 **person's license or diploma from any school;**

35 **(8) Disciplinary action against the holder of a license or other right to practice**  
36 **marital and family therapy granted by another state, territory, federal agency, or country**  
37 **upon grounds for which discipline is authorized in this state;**

38 **(9) Final adjudication as incapacitated by a court of competent jurisdiction;**

39 **(10) Assisting or enabling any person to practice or offer to practice marital and**  
40 **family therapy who is not licensed and is not currently eligible to practice under the**  
41 **provisions of sections 337.400 to 337.440;**

42 **(11) Obtaining a license based upon a material mistake of fact;**

43 **(12) Failure to display a valid license if so required by sections 337.400 to 337.440**  
44 **or any rule promulgated thereunder;**

45 **(13) Violation of any professional trust or confidence;**

46 **(14) Use of any advertisement or solicitation that is false, misleading, or deceptive**  
47 **to the general public or persons to whom the advertisement or solicitation is primarily**  
48 **directed; or**

49 **(15) Violation of the ethical standards for marital and family therapists as defined**  
50 **by board rule.**

51 **3. Any person, organization, association, or corporation reporting or providing**  
52 **information to the board pursuant to the provisions of sections 337.400 to 337.440 and who**  
53 **does so in good faith shall not be subject to an action for civil damages as a result thereof.**

54 **4. After the filing of such complaint, the proceedings shall be conducted in**  
55 **accordance with the provisions of chapter 621, RSMo. Upon a finding by the**  
56 **administrative hearing commission that the grounds provided in subsection 2 of this**  
57 **section for disciplinary action are met, the board may censure or place the person named**  
58 **in the complaint on probation on such terms and conditions as the board deems**  
59 **appropriate for a period not to exceed five years, suspend the license for a period not to**  
60 **exceed three years, or revoke the license.**

**337.433. 1. Violation of any provision of sections 337.400 to 337.440 is a class B**  
2 **misdemeanor.**

3 **2. All fees or other compensation received for services that are rendered in violation**  
4 **of sections 337.400 to 337.440 shall be refunded.**

5 **3. The division, on behalf of the board, may sue in its own name in any court in this**  
6 **state. The division shall inquire as to any violation of sections 337.400 to 337.440, may**  
7 **institute actions for penalties prescribed, and shall enforce generally the provisions of**

8 sections 337.400 to 337.440.

9       **4. Upon application by the board, the attorney general may, on behalf of the board,**  
10 **request a court of competent jurisdiction to grant an injunction, restraining order, or other**  
11 **order as may be appropriate to enjoin a person from:**

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

16       **(2) Engaging in any practice of business authorized by a certificate of registration**  
17 **or authority, permit, or license issued pursuant to sections 337.400 to 337.440 upon a**  
18 **showing that the holder presents a substantial probability of serious harm to the health,**  
19 **safety, or welfare of any resident of this state or client or patient of the licensee.**

20       **5. Any action brought pursuant to this section shall be commenced either in the**  
21 **county in which such conduct occurred or in the county in which the defendant resides.**

22       **6. Any action brought pursuant to this section may be in addition to or in lieu of**  
23 **any penalty pursuant to sections 337.400 to 337.440 and may be brought concurrently with**  
24 **other actions to enforce the provisions of sections 337.400 to 337.440.**

**337.440. 1. The division, on behalf of the board, may issue subpoenas duces tecum**  
2 **and require production of documents and records. A person authorized to serve**  
3 **subpoenas of courts of record shall serve the subpoenas duces tecum. In lieu of requiring**  
4 **attendance of a person to produce original documents in response to a subpoena duces**  
5 **tecum, the board may require sworn copies of such documents to be filed with it or**  
6 **delivered to its designated representative.**

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

16       **3. Failure of a licensee to comply with the requirements of a validly enforced**  
17 **subpoena duces tecum shall constitute grounds for disciplinary action as defined in section**  
18 **338.055.**

**337.500. As used in sections 337.500 to 337.540, unless the context clearly requires**

2 otherwise, the following words and phrases mean:

3 (1) ["Committee", the committee for professional counselors;

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

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

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

8 (5)] "Licensed professional counselor", any person who offers to render professional  
9 counseling services to individuals, groups, organizations, institutions, corporations, government  
10 agencies or the general public for a fee, monetary or otherwise, implying that the person is  
11 trained, experienced, and licensed in counseling, and who holds a current, valid license to  
12 practice counseling;

13 [(6)] (2) "Practice of professional counseling", rendering, offering to render, or  
14 supervising those who render to individuals, couples, groups, organizations, institutions,  
15 corporations, schools, government agencies, or the general public any counseling service  
16 involving the application of counseling procedures, and the principles and methods thereof, to  
17 assist in achieving more effective intrapersonal or interpersonal, marital, decisional, social,  
18 educational, vocational, developmental, or rehabilitative adjustments;

19 [(7)] (3) "Professional counseling", includes, but is not limited to:

20 (a) The use of verbal or nonverbal counseling or both techniques, methods, or procedures  
21 based on principles for assessing, understanding, or influencing behavior [( ), such as principles  
22 of learning, conditioning, perception, motivation, thinking, emotions, or social systems( )];

23 (b) Appraisal or assessment, which means selecting, administering, scoring, or  
24 interpreting instruments designed to assess a person's or group's aptitudes, intelligence, attitudes,  
25 abilities, achievement, interests, and personal characteristics;

26 (c) The use of referral or placement techniques or both which serve to further the goals  
27 of counseling;

28 (d) Therapeutic vocational or personal or both rehabilitation in relation to coping with  
29 or adapting to physical disability, emotional disability, or intellectual disability or any  
30 combination of the three;

31 (e) Designing, conducting, and interpreting research;

32 (f) The use of group methods or techniques to promote the goals of counseling;

33 (g) The use of informational and community resources for career, personal, or social  
34 development;

35 (h) Consultation on any item in paragraphs (a) through (g) above; and

36 (i) No provision of sections 337.500 to 337.540, or of chapter 354 or 375, RSMo, shall  
37 be construed to mandate benefits or third-party reimbursement for services of professional

38 counselors in the policies or contracts of any insurance company, health services corporation or  
39 other third-party payer;

40       [(8)] (4) "Provisional licensed professional counselor", any person who is a graduate of  
41 an acceptable educational institution, as defined by division rules, with at least a master's degree  
42 with a major in counseling, or its equivalent, and meets all requirements of a licensed  
43 professional counselor, other than the supervised counseling experience prescribed by  
44 subdivision (1) of section 337.510, and who is supervised by a person who is qualified for the  
45 practice of professional counseling.

337.505. No person shall use the title of "professional counselor", "counselor" or  
2 "provisional licensed professional counselor" or engage in the practice of professional counseling  
3 in this state unless the person is licensed as required by the provisions of sections 337.500 to  
4 337.540. Sections 337.500 to 337.540 do not apply to:

5       (1) Any person registered, certificated or licensed by this state, another state, or any  
6 recognized national certification agent, acceptable to the [committee] **board**, to practice any  
7 other occupation or profession while rendering counseling service in the performance of the  
8 occupation or profession for which the person is registered, certificated, or licensed, including  
9 but not limited to physicians, psychologists and attorneys;

10       (2) School counselors, school administration personnel, or classroom teachers, so long  
11 as they are performing their assigned duties within the scope of their employment by a board of  
12 education or private school;

13       (3) Counselors in postsecondary educational institutions so long as they are practicing  
14 within the scope of their employment;

15       (4) Student interns or trainees in counseling procedures pursuing a course of study in  
16 counseling in an institution of higher education or training institution if such activities and  
17 services constitute a part of their course of study and provided that such persons are designated  
18 as "counselor interns";

19       (5) Professionals employed by postsecondary educational institutions as counselor  
20 educators so long as they are practicing counseling within the scope of their employment;

21       (6) Duly ordained ministers [or], clergy [or], religious workers **or staff counselors** while  
22 functioning in their ministerial capacity **or in a religious institution or religious counseling**  
23 **ministries program**;

24       (7) Alcoholism counselors so long as they serve only individuals with alcohol related  
25 concerns;

26       (8) Any nonresident temporarily employed in this state to render counseling services for  
27 not more than thirty days in any year, if in the opinion of the [committee] **board** the person  
28 would qualify for a license pursuant to the provisions of sections 337.500 to 337.540, and if the

29 person holds a license required for counselors in the person's home state or country;

30 (9) Duly accredited Christian Science practitioners, so long as they are practicing within  
31 the scope of Christian Science principles;

32 (10) Counselors employed by the Missouri state department of elementary and secondary  
33 education or the Missouri state bureau for the blind while rendering counseling services in the  
34 performance of their state assigned duties;

35 (11) Professionals employed by vocational and medical rehabilitation facilities  
36 accredited by the commission on the accreditation of rehabilitation facilities, the joint committee  
37 on accreditation of hospitals or other agents acceptable to the [committee] **board** while rendering  
38 counseling services in the performance of their assigned duties, and so long as they do not use  
39 the title of "counselor";

40 (12) Employees or volunteers of sheltered workshops who are providing meaningful  
41 employment services for handicapped workers, so long as they do not use the "counselor" title;

42 (13) [Marital therapists or family therapists or both, certified by the American  
43 Association of Marriage and Family Therapists or an agent acceptable to the committee, and their  
44 supervisees, so long as they serve only individuals with marital or family systems concerns, and,  
45 so long as they do not use the titles of "counselor" or "counseling";

46 (14) Staff counselors employed by religious institutions in a religious counseling  
47 ministries program;

48 (15)] Drug abuse counselors certified by the department of mental health as meeting  
49 standards in rules promulgated pursuant to section 630.655, RSMo, certified by the Missouri  
50 substance abuse counselors certification board, or by an agent acceptable to the committee, so  
51 long as such counselors are practicing consistent with such standards, and they are serving only  
52 individuals with drug-related concerns;

53 [(16) Social workers, certified by the National Association of Social Workers, Inc., or  
54 by an agent acceptable to the committee, or workers under their supervision so long as they are  
55 doing work consistent with their training and with a code of ethics of the social work profession,  
56 and so long as they do not use the title of "professional counselor";

57 (17)] (14) Professionals in the employ of a governmental agency while rendering  
58 services in the performance of their duties;

59 [(18) Any person performing counseling, as defined in sections 337.500 to 337.540,  
60 without receiving compensation, monetary or otherwise, and so long as they do not use the title  
61 of "professional counselor";

62 (19)] (15) Employment counselors and interviewers, personnel officers, personnel  
63 analysts and consultants and related workers who in the normal course of their duties and  
64 responsibilities as employees of this state may engage in the screening, examination, assessment,

65 referral or selection of individuals for employment or for consideration for employment;

66 [(20)] **(16)** Counselors and employees of employee assistance programs [which] **that** are  
67 members of the Association of Labor-Management Administrators and Consultants on  
68 Alcoholism, Inc., a Wisconsin corporation, or its successors or such other accrediting body for  
69 EAP Programs acceptable to the [committee] **board** who provide evaluation, assessment,  
70 information, and referral services so long as they are performing their assigned duties within the  
71 scope of their employment; provided, however, that this exemption shall not apply to individuals  
72 employed by employee assistance programs who provide direct long-term therapy and counseling  
73 services, as may be defined by regulation, so long as they do not use the title of counselor or  
74 counseling;

75 [(21)] **(17)** Individuals who are duly certified by the employee assistance certification  
76 commission as administered by the Association of Labor-Management Administrators and  
77 Consultants on Alcoholism, Inc., a Wisconsin corporation, or its successor; so long as the  
78 individual is an employee of a generally recognized employee assistance program and so long  
79 as such individual is performing services within the scope of such individual's employment and  
80 education;

81 [(22)] **(18)** Weight loss or weight control consultants or advisors in recognized,  
82 legitimate programs or business environments so long as they serve only individuals or groups  
83 who have weight related concerns and discuss only weight improvement issues and do not use  
84 the titles of "counselor" or "counseling" without using an adjective which describes to the  
85 ordinary person that the counseling is limited to weight loss or weight control;

86 [(23)] **(19)** Activity therapists as certified or licensed by their respective professional  
87 organizations including, but not limited to art, music, dance, recreation, and occupation, and who  
88 have received certification or licensure by their respective professional organizations by January  
89 1, 1994, so long as they do not use the titles of "counselor" or "counseling";

90 [(24)] **(20)** Professionals certified by the American Board of Medical Psychotherapists  
91 and who have received certification from the American Board of Medical Psychotherapists by  
92 January 1, 1994, so long as they do not use the titles of "counselor" or "counseling"; [and

93 (25) Transactional analysts certified by the International Transactional Analysis  
94 Association and who have received certification from the International Transactional Analysis  
95 Association as a level one transactional analyst, specializing in clinical application by January  
96 1, 1994, so long as they do not use the titles of "counselor" or "counseling";] or

97 [(26)] **(21)** Any person with a doctoral degree in anthropology received on or prior to  
98 December 31, 1989, and which was from an educational institution accredited by one of the  
99 regional accrediting associations approved by the council on postsecondary accreditation;  
100 provided further that said individual has completed at least twenty-four months of supervised



101 clinical experience in psychotherapy under the supervision of a physician.

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

9 2. The division shall mail a renewal notice to the last known address of each licensee  
10 prior to the [registration] **license** renewal date. **Notwithstanding this notice requirement, the**  
11 **failure to receive a license renewal notification from the division does not excuse the**  
12 **licensee from renewing his or her license as required by law.** Failure to provide the division  
13 with the information required for [registration] **license renewal**, or to pay the [registration fee  
14 after such notice shall effect a revocation of the license after] **license renewal fee within a**  
15 **period of sixty days from the [registration] license renewal date shall cause the license to**  
16 **expire.** The license shall be restored if, within two years of the [registration] **license renewal**  
17 **date, the applicant [provides] submits** written application and the payment of the [registration]  
18 **licensure** fee and a delinquency fee.

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

21 4. The [committee] **board** shall set the amount of the fees [which] **authorized by**  
22 sections 337.500 to 337.540 [authorize and require by rules and regulations promulgated  
23 pursuant to section 536.021, RSMo]. The fees shall be set at a level to produce revenue [which]  
24 **that** shall not substantially exceed the cost and expense of administering the provisions of  
25 sections 337.500 to 337.540. All fees provided for in sections 337.500 to 337.540 shall be  
26 collected by the director who shall deposit the same with the state treasurer in [a fund to be  
27 known as the "Committee of Professional Counselors Fund"] **the board of counselors and**  
28 **therapists fund.**

29 5. [The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in  
30 this fund shall not be transferred and placed to the credit of general revenue until the amount in  
31 the fund at the end of the biennium exceeds two times the amount of the appropriation from the  
32 committee's fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse  
33 is that amount in the fund which exceeds the appropriate multiple of the appropriations from the  
34 committee's fund for the preceding fiscal year.

35 6. The committee shall hold public examinations at least two times per year, at such

36 times and places as may be fixed by the committee, notice of such examinations to be given to  
37 each applicant at least ten days prior thereto] **The board shall designate an examination as**  
38 **defined by rule for applicants seeking licensure as professional counselors or marital and**  
39 **family therapists.**

40 **6. If a license has expired for more than two years and the applicant does not hold**  
41 **a valid, unrevoked, unsuspended license as a professional counselor in another state at the**  
42 **time of application to the board, the applicant shall pay the required fee and obtain**  
43 **continuing education relating to the practice of counseling as defined by board rule.**  
44 **Continuing education required pursuant to this subsection shall not exceed twenty hours**  
45 **of continuing education credit.**

337.510. 1. Each applicant for licensure as a professional counselor shall furnish  
2 evidence to the [committee] **board** that:

3 (1) The applicant has met any one of the three following education-experience  
4 requirements:

5 (a) The applicant has received a doctoral degree with a major in counseling, or its  
6 equivalent, from an acceptable educational institution, as defined by division rules, and has  
7 completed at least one year of acceptable supervised counseling experience subsequent to receipt  
8 of the doctoral degree; or

9 (b) The applicant has received a specialist's degree with a major in counseling, or its  
10 equivalent, from an acceptable educational institution, as defined by division rules, and has  
11 completed at least one year of acceptable supervised counseling experience subsequent to receipt  
12 of the specialist's degree; or

13 (c) The applicant has received at least a master's degree with a major in counseling, or  
14 its equivalent, from an acceptable educational institution as defined by division rules, and has  
15 completed two years of acceptable supervised counseling experience subsequent to receipt of the  
16 master's degree. An applicant may substitute thirty semester hours of post-master's graduate  
17 study, or [their] **the** equivalent, for one of the two required years of acceptable supervised  
18 counseling experience, if such hours are clearly related to the field of professional counseling  
19 and are earned from an acceptable educational institution.

20 (2) Upon examination, the applicant is possessed of requisite knowledge of the  
21 profession, including techniques and applications, research and its interpretation, and  
22 professional affairs and ethics.

23 2. Any person holding a [valid] **current** unrevoked[,] **and** unsuspended [and unexpired]  
24 license, **certificate, or registration** as a professional counselor issued by a state **or territory of**  
25 **the United States** having substantially the same **or greater** licensing requirements as this state  
26 shall be granted a license to [engage in the person's] **practice the occupation of a professional**

27 **counselor** in this state upon application to the [committee] **board** accompanied by the  
28 appropriate fee as established by the [committee] **board** pursuant to section 337.507.

29 3. Any person who previously held a valid unrevoked, unsuspended license as a  
30 professional counselor in this state and who held a valid license **as a professional counselor** in  
31 another state at the time of application to the [committee] **board** shall be granted a license to  
32 engage in professional counseling in this state upon application to the [committee] **board**  
33 accompanied by the appropriate fee as established by the [committee] **board** pursuant to section  
34 337.507.

35 4. The [committee] **board** shall issue a license to each person who files an application  
36 and fee as required by the provisions of sections 337.500 to 337.540 and who furnishes evidence  
37 satisfactory to the [committee] **board** that the applicant has complied with the provisions of  
38 subdivisions (1) and (2) of subsection 1 of this section or with the provisions of subsection 2 or  
39 3 of this section. The division shall issue a provisional professional counselor license to any  
40 applicant who meets all requirements of subdivisions (1) and (2) of subsection 1 of this section,  
41 but who has not completed the required one or two years of acceptable supervised counseling  
42 experience required by paragraphs (a) to (c) of subdivision (1) of subsection 1 of this section, and  
43 such applicant may reapply for licensure as a professional counselor upon completion of such  
44 acceptable supervised counseling experience.

337.515. Each license issued pursuant to the provisions of sections 337.500 to 337.540  
2 shall expire on the renewal date. The division shall renew any license upon application for  
3 renewal and upon payment of the fee established by the [committee] **board** pursuant to the  
4 provisions of section 337.507.

337.525. 1. The [committee] **board** may refuse to issue or renew any license required  
2 by the provisions of sections 337.500 to 337.540 for one or any combination of causes stated in  
3 subsection 2 of this section. The [committee] **board** shall notify the applicant in writing of the  
4 reasons for the refusal and shall advise the applicant of [his] **their** right to file a complaint with  
5 the administrative hearing commission as provided by chapter 621, RSMo.

6 2. The [committee] **board** may cause a complaint to be filed with the administrative  
7 hearing commission as provided by chapter 621, RSMo, against any holder of any license  
8 required by sections 337.500 to 337.540 or any person who has failed to renew or has  
9 surrendered [his] **their** license for any one or any combination of the following causes:

10 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic  
11 beverage to an extent that such use impairs a person's ability to engage in the occupation of  
12 professional counselor; **except the fact that a person has undergone treatment for past**  
13 **substance abuse or alcohol abuse or has participated in a recovery program shall not by**  
14 **itself be cause for refusal to issue or renew a license;**

- 15           (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty  
16 or nolo contendere, in a criminal prosecution under the laws of any state or of the United States,  
17 for any offense reasonably related to the qualifications, functions or duties of a professional  
18 counselor; for any offense an essential element of which is fraud, dishonesty or an act of  
19 violence; or for any offense involving moral turpitude, whether or not sentence is imposed;
- 20           (3) Use of fraud, deception, misrepresentation or bribery in securing any license issued  
21 pursuant to the provisions of sections 337.500 to 337.540 or in obtaining permission to take any  
22 examination given or required pursuant to the provisions of sections 337.500 to 337.540;
- 23           (4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by  
24 fraud, deception or misrepresentation;
- 25           (5) [Incompetency] **Incompetence**, misconduct, **gross negligence**, fraud,  
26 misrepresentation or dishonesty in the performance of the functions or duties of a professional  
27 counselor;
- 28           (6) Violation of, or assisting or enabling any person to violate, any provision of sections  
29 337.500 to 337.540, or of any lawful rule or regulation adopted pursuant to sections 337.500 to  
30 337.540;
- 31           (7) Impersonation of any person holding a license or allowing any person to use his or  
32 her license or diploma from any school;
- 33           (8) [Revocation or suspension] **Disciplinary action against the holder** of a license or  
34 other right to practice counseling granted by another state, territory, federal agency or country  
35 upon grounds for which [revocation or suspension] **discipline** is authorized in this state;
- 36           (9) [A person is finally adjudged] **Final adjudication as** incapacitated by a court of  
37 competent jurisdiction;
- 38           (10) Assisting or enabling any person to practice or offer to practice professional  
39 counseling who is not licensed and currently eligible to practice under the provisions of sections  
40 337.500 to 337.540;
- 41           (11) [Issuance of] **Obtaining** a license based upon a material mistake of fact;
- 42           (12) Failure to display a valid license if so required by sections 337.500 to 337.540 or  
43 any rule promulgated hereunder;
- 44           (13) Violation of any professional trust or confidence;
- 45           (14) Use of any advertisement or solicitation [which] **that** is false, misleading or  
46 deceptive to the general public or persons to whom the advertisement or solicitation is primarily  
47 directed;
- 48           (15) [Being guilty of unethical conduct as defined in] **Violation** the ethical standards for  
49 **professional** counselors [adopted by the division and filed with the secretary of state] **as defined**  
50 **by board rule.**

51           3. Any person, organization, association or corporation [who reports or provides]  
52 **reporting or providing** information to the [committee] **board** pursuant to the provisions of [this  
53 chapter] **sections 337.500 to 337.540** and who does so in good faith shall not be subject to an  
54 action for civil damages as a result thereof.

55           4. After the filing of such complaint, the proceedings shall be conducted in accordance  
56 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing  
57 commission that the grounds, provided in subsection 2 of this section, for disciplinary action are  
58 met, the [committee] **board** may censure or place the person named in the complaint on  
59 probation on such terms and conditions as the [committee] **board** deems appropriate for a period  
60 not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the  
61 license.

                  337.530. 1. Violation of any provision of sections 337.500 to 337.540 shall be a class  
2 B misdemeanor.

3           2. All fees or other compensation received for services rendered in violation of sections  
4 337.500 to 337.540 shall be refunded.

5           3. The [department] **division, on behalf of the board**, may sue in its own name in any  
6 court in this state. The [department] **division** shall inquire diligently as to any violation of  
7 sections 337.500 to 337.540, [shall] **may** institute actions for penalties herein prescribed, and  
8 shall enforce generally the provisions of sections 337.500 to 337.540.

9           4. Upon application by the [committee] **board**, the attorney general may on behalf of the  
10 [committee] **board** request that a court of competent jurisdiction grant an injunction, restraining  
11 order or other order as may be appropriate to enjoin a person from:

12           (1) Offering to engage or engaging in the performance of any acts or practices for which  
13 a certificate of registration or authority, permit or license is required **pursuant to sections**  
14 **337.500 to 337.540**, upon a showing that such acts or practices were performed or offered to be  
15 performed without a certificate of registration or authority, permit or license; or

16           (2) Engaging in any practice or business authorized by a certificate of registration or  
17 authority, permit or license issued pursuant to [this chapter] **section 337.500 to 337.540** upon  
18 a showing that the holder presents a substantial probability of serious harm to the health, safety  
19 or welfare of any resident of this state or client or patient of the licensee.

20           5. Any action brought pursuant to [the provisions of] this section shall be commenced  
21 either in the county in which such conduct occurred or in the county in which the defendant  
22 resides.

23           6. Any action brought [under] **pursuant to** this section may be in addition to or in lieu  
24 of any penalty provided by [this chapter] **sections 337.500 to 337.540**, and may be brought  
25 concurrently with other actions to enforce [this chapter] **sections 337.500 to 337.540**.

[337.520. 1. The division shall promulgate rules and regulations pertaining to:

(1) The form and content of license applications required by the provisions of sections 337.500 to 337.540 and the procedures for filing an application for an initial or renewal license in this state;

(2) Fees required by the provisions of sections 337.500 to 337.540;

(3) The content, conduct and administration of the licensing examination required by section 337.510;

(4) The characteristics of "acceptable supervised counseling experience" as that term is used in section 337.510;

(5) The equivalent of the basic educational requirements set forth in section 337.510;

(6) The standards and methods to be used in assessing competency as a professional counselor;

(7) Establishment and promulgation of procedures for investigating, hearing and determining grievances and violations occurring under the provisions of sections 337.500 to 337.540;

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

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

(10) The characteristics of "an acceptable educational institution" as that term is used in section 337.510;

(11) The characteristics of an acceptable agent for the certification of an exempted occupation as listed in subdivisions (11) and (13) of section 337.505; and

(12) The form and content of "ethical standards for counselors" as that term is used in subdivision (15) of subsection 2 of section 337.525.

2. No rule or portion of a rule promulgated under the authority of sections 337.500 to 337.545 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

[337.535. 1. There is hereby established the "Committee for Professional Counselors" which shall guide, advise, and make recommendations to the division and fulfill other responsibilities designated by this chapter. The committee shall approve the examination required by section 337.510 and shall assist the division in carrying out the provisions of sections 337.500 to 337.540.

2. 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 hereinafter, shall be licensed as a professional counselor by this state. Beginning with the appointments made after August 28, 1992, 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

13 shall be appointed to serve four-year terms. No person shall be eligible for  
14 reappointment who has served as a member of the committee for a total of eight  
15 years. The membership of the committee shall reflect the differences in levels of  
16 education and work experience with consideration being given to race, gender and  
17 ethnic origins. Not more than two counselor educators shall be members of the  
18 committee at the same time. The president of the American Counseling Association  
19 of Missouri in office at the time shall, at least ninety days prior to the expiration of  
20 the term of the committee member, other than the public member, or as soon as  
21 feasible after the vacancy on the committee otherwise occurs, submit to the director  
22 of the division of professional registration a list of five professional counselors  
23 qualified and willing to fill the vacancy in question, with the request and  
24 recommendation that the governor appoint one of the five persons so listed, and with  
25 the list so submitted, the president of the American Counseling Association of  
26 Missouri shall include in his or her letter of transmittal a description of the method  
27 by which the names were chosen by that association.

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

30 4. Each member of the committee shall receive as compensation, an amount  
31 set by the committee not to exceed fifty dollars for each day devoted to the affairs of  
32 the committee, and shall be reimbursed for necessary and actual expenses incurred  
33 in the performance of his or her official duties. All staff for the committee shall be  
34 provided by the division.

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

41 6. The governor may remove a committee member for misconduct,  
42 incompetency or neglect of his or her official duties after giving the committee  
43 member written notice of the charges against the committee member and an  
44 opportunity to be heard thereon.

45 7. The public member shall be at the time of his or her appointment a citizen  
46 of the United States; a resident of this state for a period of one year and a registered  
47 voter; a person who is not and never was a member of any profession licensed or  
48 regulated pursuant to sections 337.500 to 337.540 or the spouse of such person; and  
49 a person who does not have and never has had a material, financial interest in either  
50 the providing of the professional services regulated by sections 337.500 to 337.540,  
51 or an activity or organization directly related to any profession licensed or regulated  
52 pursuant to sections 337.500 to 337.540. The duties of the public member shall not  
53 include the determination of the technical requirements to be met for licensure or  
54 whether any person meets such technical requirements or of the technical competence  
55 or technical judgment of a licensee or a candidate for licensure.]

2 [337.540. Any communication made by any person to a licensed professional  
3 counselor in the course of professional services rendered by the licensed professional  
4 counselor shall be deemed a privileged communication and the licensed professional  
5 counselor shall not be examined or be made to testify to any privileged  
6 communication without the prior consent of the person who received his professional  
services, except in violation of the criminal law.]

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

2 (1) "Committee", the state committee for family and marital therapists;  
3 (2) "Department", the Missouri department of economic development;  
4 (3) "Director", the director of the division of professional registration in the  
5 department of economic development;

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

7 (5) "Fund", the marital and family therapists' fund created in section 337.712;

8 (6) "Licensed marital and family therapist", a person to whom a license has  
9 been issued pursuant to the provisions of sections 337.700 to 337.739, whose license  
10 is in force and not suspended or revoked;

11 (7) "Marital and family therapy", the use of scientific and applied marriage  
12 and family theories, methods and procedures for the purpose of describing,  
13 evaluating and modifying marital, family and individual behavior within the context  
14 of marital and family systems, including the context of marital formation and  
15 dissolution. Marriage and family therapy is based on systems theories, marriage and  
16 family development, normal and dysfunctional behavior, human sexuality and  
17 psychotherapeutic, marital and family therapy theories and techniques and includes  
18 the use of marriage and family therapy theories and techniques in the evaluation,  
19 assessment and treatment of intrapersonal or interpersonal dysfunctions within the  
20 context of marriage and family systems. Marriage and family therapy may also  
21 include clinical research into more effective methods for the treatment and prevention  
22 of the above-named conditions;

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

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

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

11 (2) The practice of any marital and family therapist who is employed by any



political subdivision, school district, agency or department of the state of Missouri while discharging the therapist's duties in that capacity; and

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

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

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

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

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

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

[337.709. No provision of sections 337.700 to 337.739 shall be construed to require any agency, corporation or organization, not otherwise required by law, to employ licensed marital and family therapists.]

[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. 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.]

[337.715. 1. Each applicant for licensure as a marital and family therapist shall furnish evidence to the division that:

(1) The applicant has a master's degree or a doctoral degree in marital and family therapy, or its equivalent, 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;

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

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

(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 or higher requirements as this state for marital and family therapists may be granted a license to engage in the person's occupation in this state upon application to the division accompanied by the appropriate fee as established by the division pursuant to section 337.712.

3. The division shall issue a license to each person who files an application and fee as required by the provisions of sections 337.700 to 337.739, and who furnishes evidence satisfactory to the division 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.]

[337.718. 1. Each license issued pursuant to the provisions of sections 337.700 to 337.739 shall expire on a renewal date established by the director. The term of licensure shall be twenty-four months; however, the director may establish a shorter term for the first licenses issued pursuant to sections 337.700 to 337.739. The division shall renew any license upon application for a renewal and upon payment of the fee established by the division pursuant to the provisions of section 337.712.

8                   2. The division may issue temporary permits to practice under extenuating  
9 circumstances as determined by the division and defined by rule.]

                  [337.727. 1. The division shall promulgate rules and regulations pertaining  
2 to:

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

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

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

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

11                  (5) The equivalent of the basic educational requirements set forth in section  
12 337.715;

13                  (6) The standards and methods to be used in assessing competency as a  
14 licensed marital and family therapist;

15                  (7) Establishment and promulgation of procedures for investigating, hearing  
16 and determining grievances and violations occurring under the provisions of sections  
17 337.700 to 337.739;

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

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

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

25                   2. No rule or portion of a rule promulgated under the authority of sections  
26 337.700 to 337.739 shall become effective until it has been approved by the joint  
27 committee on administrative rules in accordance with the procedures provided in this  
28 section, and the delegation of the legislative authority to enact law by the adoption  
29 of such rules is dependent upon the power of the joint committee on administrative  
30 rules to review and suspend rules pending ratification by the senate and the house of  
31 representatives as provided in this section.

32                   3. Upon filing any proposed rule with the secretary of state, the division shall  
33 concurrently submit such proposed rule to the committee, which may hold hearings  
34 upon any proposed rule or portion thereof at any time.

35                   4. A final order of rulemaking shall not be filed with the secretary of state  
36 until thirty days after such final order of rulemaking has been received by the  
37 committee. The committee may hold one or more hearings upon such final order of  
38 rulemaking during the thirty-day period. If the committee does not disapprove such  
39 order of rulemaking within the thirty- day period, the division may file such order of  
40 rulemaking with the secretary of state and the order of rulemaking shall be deemed  
41 approved.

42                   5. The committee may, by majority vote of the members, suspend the order  
43 of rulemaking or portion thereof by action taken prior to the filing of the final order  
44 of rulemaking only for one or more of the following grounds:

- 45                   (1) An absence of statutory authority for the proposed rule;  
46                   (2) An emergency relating to public health, safety or welfare;  
47                   (3) The proposed rule is in conflict with state law;  
48                   (4) A substantial change in circumstance since enactment of the law upon  
49 which the proposed rule is based.

50                   6. If the committee disapproves any rule or portion thereof, the division shall  
51 not file such disapproved portion of any rule with the secretary of state and the  
52 secretary of state shall not publish in the Missouri Register any final order of  
53 rulemaking containing the disapproved portion.

54                   7. If the committee disapproves any rule or portion thereof, the committee  
55 shall report its findings to the senate and the house of representatives. No rule or  
56 portion thereof disapproved by the committee shall take effect so long as the senate  
57 and the house of representatives ratify the act of the joint committee by resolution  
58 adopted in each house within thirty legislative days after such rule or portion thereof  
59 has been disapproved by the joint committee.

60                   8. Upon adoption of a rule as provided in this section, any such rule or  
61 portion thereof may be suspended or revoked by the general assembly either by bill  
62 or, pursuant to section 8, article IV of the Constitution of Missouri, by concurrent  
63 resolution upon recommendation of the joint committee on administrative rules. The  
64 committee shall be authorized to hold hearings and make recommendations pursuant  
65 to the provisions of section 536.037, RSMo. The secretary of state shall publish in  
66 the Missouri Register, as soon as practicable, notice of the suspension or revocation.]

2                   [337.730. 1. The division may refuse to issue or renew any license required  
3 by the provisions of sections 337.700 to 337.739 for one or any combination of  
4 causes stated in subsection 2 of this section. The division shall notify the applicant  
5 in writing of the reasons for the refusal and shall advise the applicant of the  
6 applicant's right to file a complaint with the administrative hearing commission as  
7 provided by chapter 621, RSMo.

8                   2. The division may cause a complaint to be filed with the administrative  
9 hearing commission as provided by chapter 621, RSMo, against any holder of any  
10 license required by sections 337.700 to 337.739 or any person who has failed to  
11 renew or has surrendered the person's license for any one or any combination of the  
12 following causes:

13                   (1) Use of any controlled substance, as defined in chapter 195, RSMo, or  
14 alcoholic beverage to an extent that such use impairs a person's ability to engage in  
15 the occupation of marital and family therapist; except the fact that a person has  
16 undergone treatment for past substance or alcohol abuse or has participated in a  
17 recovery program, shall not by itself be cause for refusal to issue or renew a license;

18                   (2) The person has been finally adjudicated and found guilty, or entered a  
plea of guilty in a criminal prosecution under the laws of any state or of the United

States, for any offense reasonably related to the qualifications, functions or duties of a marital and family therapist; 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 license issued pursuant to the provisions of sections 337.700 to 337.739 or in obtaining permission to take any examination given or required pursuant to the provisions of sections 337.700 to 337.739;

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

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a marital and family therapist;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.700 to 337.739 or of any lawful rule or regulation adopted pursuant to sections 337.700 to 337.739;

(7) Impersonation of any person holding a license or allowing any person to use the person's license or diploma from any school;

(8) Revocation or suspension of a license or other right to practice marital and family therapy granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Final adjudication as incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice marital and family therapy who is not licensed and is not currently eligible to practice under the provisions of sections 337.700 to 337.739;

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

(12) Failure to display a valid license if so required by sections 337.700 to 337.739 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) Being guilty of unethical conduct as defined in the ethical standards for marital and family therapists adopted by the committee by rule and filed with the secretary of state.

3. Any person, organization, association or corporation who reports or provides information to the division pursuant to the provisions of sections 337.700 to 337.739 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After 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 of this section for disciplinary action are met, the division may censure or place the person named in the complaint on probation on such terms and conditions as the division

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.]

[337.733. 1. Violation of any provision of sections 337.700 to 337.739 is a class B misdemeanor.

2. All fees or other compensation received for services which are rendered in violation of sections 337.700 to 337.739 shall be refunded.

3. The department on behalf of the division may sue in its own name in any court in this state. The department shall inquire as to any violations of sections 337.700 to 337.739, may institute actions for penalties prescribed, and shall enforce generally the provisions of sections 337.700 to 337.739.

4. Upon application by the division, the attorney general may on behalf of the division request that a court of competent jurisdiction grant an injunction, restraining order or other order as may be appropriate to enjoin a person 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 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;

(2) Engaging in any practice of business authorized by a certificate of registration or authority, permit or license issued pursuant to sections 337.700 to 337.739, upon a showing that the holder presents a substantial probability of serious harm to the health, safety or welfare of any resident of this state or client or patient of the licensee.

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

6. Any action brought under this section may be in addition to or in lieu of any penalty provided by sections 337.700 to 337.739 and may be brought concurrently with other actions to enforce the provisions of sections 337.700 to 337.739.]

[337.736. Persons licensed under the provisions of sections 337.700 to 337.739 may not disclose any information acquired from persons consulting them in their professional capacity, or be compelled to disclose such information except:

(1) With the written consent of the client, or in the case of the client's death or disability, the client's personal representative or other person authorized to sue or the beneficiary of any insurance policy on the client's life, health or physical condition;

(2) When such information pertains to a criminal act;

(3) When the person is a child under the age of eighteen years and the information acquired by the licensee indicated that the child was the victim of a crime;

(4) When the person waives the privilege by bringing charges against the licensee;

(5) When the licensee is called upon to testify in any court or administrative

15 hearings concerning matters of adoption, adult abuse, child abuse, child neglect or  
16 other matters pertaining to the welfare of clients of the licensee; or

17 (6) When the licensee is collaborating or consulting with professional  
18 colleagues or an administrative superior on behalf of the client.]

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

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

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

35 4. No member of the committee shall receive any compensation for the  
36 performance of the member's official duties but shall be entitled to reimbursement  
37 for necessary and actual expenses incurred in the performance of the member's  
38 duties. The committee shall share resources and facilities with the office for the  
39 committee for professional counselors provided for in sections 337.500 to 337.540.

40 All staff for the committee shall be provided by the director of the division of  
41 professional registration.

42 5. The governor may remove any member of the committee for misconduct,  
43 inefficiency, incompetency or neglect of office.]

Section B. The effective date for the enactment of sections 337.400, 337.403, 337.406,  
2 337.409, 337.412, 337.415, 337.418, 337.430, 337.433, and 337.440, the repeal and reenactment  
3 of sections 337.500, ,337.505, 337.507, 337.510, 337.515, 337.525, and 337.530, and the repeal  
4 of sections 337.520, 337.535, 337.540, 337.700, 337.703, 337.706, 337.709, 337.712, 337.715,  
5 337.718, 337.727, 337.730, 337.733, 337.736, and 337.739 of section A of this act shall occur  
6 at such time as the governor appoints the members of the board of counselors and therapists and  
7 said appointments are confirmed by the senate, or on July 1, 2004, whichever occurs sooner. The  
8 director of the division of professional registration shall notify the revisor of statutes of the  
9 occurrence of the appointment and confirmation of the board of counselors and therapists.