

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 296
95TH GENERAL ASSEMBLY

1311L.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 105.711, 195.070, 195.100, 214.270, 214.276, 214.277, 214.280, 214.283, 214.290, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.385, 214.387, 214.392, 214.400, 214.410, 214.455, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 324.001, 324.065, 324.068, 324.071, 324.077, 324.080, 324.086, 324.089, 324.139, 324.141, 324.212, 324.247, 324.415, 324.481, 324.487, 334.735, 334.850, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 338.010, 338.013, 338.057, 338.220, 338.337, 346.015, 346.045, 346.050, 346.070, 346.075, 346.080, 346.090, 346.095, 346.100, 346.105, 346.115, 346.125, and 376.811, RSMo, and to enact in lieu thereof ninety-one new sections relating to regulation of certain professions, with penalty provisions.

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

Section A. Sections 105.711, 195.070, 195.100, 214.270, 214.276, 214.277, 214.280,
2 214.283, 214.290, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345,
3 214.360, 214.363, 214.365, 214.367, 214.385, 214.387, 214.392, 214.400, 214.410, 214.455,
4 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 324.001, 324.065, 324.068, 324.071,
5 324.077, 324.080, 324.086, 324.089, 324.139, 324.141, 324.212, 324.247, 324.415, 324.481,
6 324.487, 334.735, 334.850, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 338.010,
7 338.013, 338.057, 338.220, 338.337, 346.015, 346.045, 346.050, 346.070, 346.075, 346.080,
8 346.090, 346.095, 346.100, 346.105, 346.115, 346.125, and 376.811, RSMo, are repealed and
9 ninety-one new sections enacted in lieu thereof, to be known as sections 105.711, 137.1040,
10 195.070, 195.100, 214.270, 214.276, 214.277, 214.280, 214.282, 214.283, 214.300, 214.310,
11 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367,
12 214.385, 214.387, 214.389, 214.392, 214.400, 214.410, 214.455, 214.500, 214.504, 214.508,

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

13 214.512, 214.516, 214.550, 324.001, 324.065, 324.068, 324.071, 324.077, 324.080, 324.086,
14 324.089, 324.139, 324.141, 324.212, 324.247, 324.415, 324.481, 324.487, 327.442, 332.112,
15 332.113, 334.735, 334.747, 334.850, 335.300, 335.305, 335.310, 335.315, 335.320, 335.325,
16 335.330, 335.335, 335.340, 335.345, 335.350, 335.355, 337.712, 337.715, 337.718, 337.727,
17 337.730, 337.733, 338.010, 338.013, 338.220, 338.337, 346.015, 346.045, 346.050, 346.070,
18 346.075, 346.080, 346.090, 346.095, 346.100, 346.105, 346.115, 346.125, and 376.811, to read
19 as follows:

105.711. 1. There is hereby created a "State Legal Expense Fund" which shall consist
2 of moneys appropriated to the fund by the general assembly and moneys otherwise credited to
3 such fund pursuant to section 105.716.

4 2. Moneys in the state legal expense fund shall be available for the payment of any claim
5 or any amount required by any final judgment rendered by a court of competent jurisdiction
6 against:

7 (1) The state of Missouri, or any agency of the state, pursuant to section 536.050 or
8 536.087, RSMo, or section 537.600, RSMo;

9 (2) Any officer or employee of the state of Missouri or any agency of the state, including,
10 without limitation, elected officials, appointees, members of state boards or commissions, and
11 members of the Missouri national guard upon conduct of such officer or employee arising out
12 of and performed in connection with his or her official duties on behalf of the state, or any
13 agency of the state, provided that moneys in this fund shall not be available for payment of
14 claims made under chapter 287, RSMo;

15 (3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health
16 care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335,
17 336, 337 or 338, RSMo, who is employed by the state of Missouri or any agency of the state
18 under formal contract to conduct disability reviews on behalf of the department of elementary
19 and secondary education or provide services to patients or inmates of state correctional facilities
20 on a part-time basis, and any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or
21 other health care provider licensed to practice in Missouri under the provisions of chapter 330,
22 332, 334, 335, 336, 337, or 338, RSMo, who is under formal contract to provide services to
23 patients or inmates at a county jail on a part-time basis;

24 (b) Any physician licensed to practice medicine in Missouri under the provisions of
25 chapter 334, RSMo, and his professional corporation organized pursuant to chapter 356, RSMo,
26 who is employed by or under contract with a city or county health department organized under
27 chapter 192, RSMo, or chapter 205, RSMo, or a city health department operating under a city
28 charter, or a combined city-county health department to provide services to patients for medical
29 care caused by pregnancy, delivery, and child care, if such medical services are provided by the

30 physician pursuant to the contract without compensation or the physician is paid from no other
31 source than a governmental agency except for patient co-payments required by federal or state
32 law or local ordinance;

33 (c) Any physician licensed to practice medicine in Missouri under the provisions of
34 chapter 334, RSMo, who is employed by or under contract with a federally funded community
35 health center organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42
36 U.S.C. 216, 254c) to provide services to patients for medical care caused by pregnancy, delivery,
37 and child care, if such medical services are provided by the physician pursuant to the contract
38 or employment agreement without compensation or the physician is paid from no other source
39 than a governmental agency or such a federally funded community health center except for
40 patient co-payments required by federal or state law or local ordinance. In the case of any claim
41 or judgment that arises under this paragraph, the aggregate of payments from the state legal
42 expense fund shall be limited to a maximum of one million dollars for all claims arising out of
43 and judgments based upon the same act or acts alleged in a single cause against any such
44 physician, and shall not exceed one million dollars for any one claimant;

45 (d) Any physician licensed pursuant to chapter 334, RSMo, who is affiliated with and
46 receives no compensation from a nonprofit entity qualified as exempt from federal taxation under
47 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which offers a free health
48 screening in any setting or any physician, nurse, physician assistant, dental hygienist, dentist, or
49 other health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336,
50 337, or 338, RSMo, who provides health care services within the scope of his or her license or
51 registration at a city or county health department organized under chapter 192, RSMo, or chapter
52 205, RSMo, a city health department operating under a city charter, or a combined city-county
53 health department, or a nonprofit community health center qualified as exempt from federal
54 taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such
55 services are restricted to primary care and preventive health services, provided that such services
56 shall not include the performance of an abortion, and if such health services are provided by the
57 health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337,
58 or 338, RSMo, without compensation. MO HealthNet or Medicare payments for primary care
59 and preventive health services provided by a health care professional licensed or registered under
60 chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, who volunteers at a free health clinic
61 is not compensation for the purpose of this section if the total payment is assigned to the free
62 health clinic. For the purposes of the section, "free health clinic" means a nonprofit community
63 health center qualified as exempt from federal taxation under Section 501 (c)(3) of the Internal
64 Revenue Code of 1987, as amended, that provides primary care and preventive health services
65 to people without health insurance coverage for the services provided without charge. In the case

66 of any claim or judgment that arises under this paragraph, the aggregate of payments from the
67 state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all
68 claims arising out of and judgments based upon the same act or acts alleged in a single cause and
69 shall not exceed five hundred thousand dollars for any one claimant, and insurance policies
70 purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand
71 dollars. Liability or malpractice insurance obtained and maintained in force by or on behalf of
72 any health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336,
73 337, or 338, RSMo, shall not be considered available to pay that portion of a judgment or claim
74 for which the state legal expense fund is liable under this paragraph;

75 (e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or
76 registered to practice **or lawfully practicing** medicine, nursing, or dentistry or to act as a
77 physician assistant or dental hygienist in Missouri under the provisions of chapter 332, RSMo,
78 chapter 334, RSMo, or chapter 335, RSMo, who provides medical, nursing, or dental treatment
79 within the scope of his license or registration to students of a school whether a public, private,
80 or parochial elementary or secondary school **or summer camp**, if such physician's treatment is
81 restricted to primary care and preventive health services and if such medical, dental, or nursing
82 services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse
83 without compensation. In the case of any claim or judgment that arises under this paragraph, the
84 aggregate of payments from the state legal expense fund shall be limited to a maximum of five
85 hundred thousand dollars, for all claims arising out of and judgments based upon the same act
86 or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one
87 claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall
88 be limited to five hundred thousand dollars; or

89 (f) Any physician licensed under chapter 334, RSMo, or dentist licensed under chapter
90 332, RSMo, providing medical care without compensation to an individual referred to his or her
91 care by a city or county health department organized under chapter 192 or 205, RSMo, a city
92 health department operating under a city charter, or a combined city-county health department,
93 or nonprofit health center qualified as exempt from federal taxation under Section 501(c)(3) of
94 the Internal Revenue Code of 1986, as amended, or a federally funded community health center
95 organized under Section 315, 329, 330, or 340 of the Public Health Services Act, 42 U.S.C.
96 Section 216, 254c; provided that such treatment shall not include the performance of an abortion.
97 In the case of any claim or judgment that arises under this paragraph, the aggregate of payments
98 from the state legal expense fund shall be limited to a maximum of one million dollars for all
99 claims arising out of and judgments based upon the same act or acts alleged in a single cause and
100 shall not exceed one million dollars for any one claimant, and insurance policies purchased under
101 the provisions of section 105.721 shall be limited to one million dollars. Liability or malpractice

102 insurance obtained and maintained in force by or on behalf of any physician licensed under
103 chapter 334, RSMo, or any dentist licensed under chapter 332, RSMo, shall not be considered
104 available to pay that portion of a judgment or claim for which the state legal expense fund is
105 liable under this paragraph;

106 (4) Staff employed by the juvenile division of any judicial circuit;

107 (5) Any attorney licensed to practice law in the state of Missouri who practices law at
108 or through a nonprofit community social services center qualified as exempt from federal
109 taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or through
110 any agency of any federal, state, or local government, if such legal practice is provided by the
111 attorney without compensation. In the case of any claim or judgment that arises under this
112 subdivision, the aggregate of payments from the state legal expense fund shall be limited to a
113 maximum of five hundred thousand dollars for all claims arising out of and judgments based
114 upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand
115 dollars for any one claimant, and insurance policies purchased pursuant to the provisions of
116 section 105.721 shall be limited to five hundred thousand dollars; or

117 (6) Any social welfare board created under section 205.770, RSMo, and the members
118 and officers thereof upon conduct of such officer or employee while acting in his or her capacity
119 as a board member or officer, and any physician, nurse, physician assistant, dental hygienist,
120 dentist, or other health care professional licensed or registered under chapter 330, 331, 332, 334,
121 335, 336, 337, or 338, RSMo, who is referred to provide medical care without compensation by
122 the board and who provides health care services within the scope of his or her license or
123 registration as prescribed by the board.

124 3. The department of health and senior services shall promulgate rules regarding contract
125 procedures and the documentation of care provided under paragraphs (b), (c), (d), (e), and (f) of
126 subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal
127 expense fund or any policy of insurance procured pursuant to the provisions of section 105.721,
128 provided in subsection 7 of this section, shall not apply to any claim or judgment arising under
129 paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section. Any claim
130 or judgment arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection
131 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured
132 pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to
133 538.235, RSMo. Liability or malpractice insurance obtained and maintained in force by any
134 health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337,
135 or 338, RSMo, for coverage concerning his or her private practice and assets shall not be
136 considered available under subsection 7 of this section to pay that portion of a judgment or claim
137 for which the state legal expense fund is liable under paragraph (a), (b), (c), (d), (e), or (f) of

138 subdivision (3) of subsection 2 of this section. However, a health care professional licensed or
139 registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, may purchase liability
140 or malpractice insurance for coverage of liability claims or judgments based upon care rendered
141 under paragraphs (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this section which
142 exceed the amount of liability coverage provided by the state legal expense fund under those
143 paragraphs. Even if paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of
144 this section is repealed or modified, the state legal expense fund shall be available for damages
145 which occur while the pertinent paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of
146 subsection 2 of this section is in effect.

147 4. The attorney general shall promulgate rules regarding contract procedures and the
148 documentation of legal practice provided under subdivision (5) of subsection 2 of this section.
149 The limitation on payments from the state legal expense fund or any policy of insurance procured
150 pursuant to section 105.721 as provided in subsection 7 of this section shall not apply to any
151 claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or
152 judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state
153 legal expense fund or any policy of insurance procured pursuant to section 105.721 to the extent
154 damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice
155 insurance otherwise obtained and maintained in force shall not be considered available under
156 subsection 7 of this section to pay that portion of a judgment or claim for which the state legal
157 expense fund is liable under subdivision (5) of subsection 2 of this section. However, an
158 attorney may obtain liability or malpractice insurance for coverage of liability claims or
159 judgments based upon legal practice rendered under subdivision (5) of subsection 2 of this
160 section that exceed the amount of liability coverage provided by the state legal expense fund
161 under subdivision (5) of subsection 2 of this section. Even if subdivision (5) of subsection 2 of
162 this section is repealed or amended, the state legal expense fund shall be available for damages
163 that occur while the pertinent subdivision (5) of subsection 2 of this section is in effect.

164 5. All payments shall be made from the state legal expense fund by the commissioner
165 of administration with the approval of the attorney general. Payment from the state legal expense
166 fund of a claim or final judgment award against a health care professional licensed or registered
167 under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, described in paragraph (a), (b),
168 (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section, or against an attorney in
169 subdivision (5) of subsection 2 of this section, shall only be made for services rendered in
170 accordance with the conditions of such paragraphs. In the case of any claim or judgment against
171 an officer or employee of the state or any agency of the state based upon conduct of such officer
172 or employee arising out of and performed in connection with his or her official duties on behalf

173 of the state or any agency of the state that would give rise to a cause of action under section
174 537.600, RSMo, the state legal expense fund shall be liable, excluding punitive damages, for:

175 (1) Economic damages to any one claimant; and

176 (2) Up to three hundred fifty thousand dollars for noneconomic damages. The state legal
177 expense fund shall be the exclusive remedy and shall preclude any other civil actions or
178 proceedings for money damages arising out of or relating to the same subject matter against the
179 state officer or employee, or the officer's or employee's estate. No officer or employee of the
180 state or any agency of the state shall be individually liable in his or her personal capacity for
181 conduct of such officer or employee arising out of and performed in connection with his or her
182 official duties on behalf of the state or any agency of the state. The provisions of this subsection
183 shall not apply to any defendant who is not an officer or employee of the state or any agency of
184 the state in any proceeding against an officer or employee of the state or any agency of the state.
185 Nothing in this subsection shall limit the rights and remedies otherwise available to a claimant
186 under state law or common law in proceedings where one or more defendants is not an officer
187 or employee of the state or any agency of the state.

188 6. The limitation on awards for noneconomic damages provided for in this subsection
189 shall be increased or decreased on an annual basis effective January first of each year in
190 accordance with the Implicit Price Deflator for Personal Consumption Expenditures as published
191 by the Bureau of Economic Analysis of the United States Department of Commerce. The current
192 value of the limitation shall be calculated by the director of the department of insurance, financial
193 institutions and professional registration, who shall furnish that value to the secretary of state,
194 who shall publish such value in the Missouri Register as soon after each January first as
195 practicable, but it shall otherwise be exempt from the provisions of section 536.021, RSMo.

196 7. Except as provided in subsection 3 of this section, in the case of any claim or
197 judgment that arises under sections 537.600 and 537.610, RSMo, against the state of Missouri,
198 or an agency of the state, the aggregate of payments from the state legal expense fund and from
199 any policy of insurance procured pursuant to the provisions of section 105.721 shall not exceed
200 the limits of liability as provided in sections 537.600 to 537.610, RSMo. No payment shall be
201 made from the state legal expense fund or any policy of insurance procured with state funds
202 pursuant to section 105.721 unless and until the benefits provided to pay the claim by any other
203 policy of liability insurance have been exhausted.

204 8. The provisions of section 33.080, RSMo, notwithstanding, any moneys remaining to
205 the credit of the state legal expense fund at the end of an appropriation period shall not be
206 transferred to general revenue.

207 9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
208 is promulgated under the authority delegated in sections 105.711 to 105.726 shall become

209 effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo.
210 Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or
211 adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, RSMo.
212 This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the
213 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to
214 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
215 authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

**137.1040. 1. In addition to other levies authorized by law, the county commission
2 in counties not adopting an alternative form of government and the proper administrative
3 body in counties adopting an alternative form of government, or the governing body of any
4 city, town, or village, in their discretion may levy an additional tax, not to exceed one
5 quarter of one cent on each one hundred dollars assessed valuation, on all taxable real
6 property located within such city, town, village, or county, all of such tax to be collected
7 and allocated to the city, town, village, or county treasury, where it shall be known and
8 designated as the "Cemetery Maintenance Trust Fund" to be used for the upkeep and
9 maintenance of cemeteries located within such city, town, village, or county.**

**2. To the extent necessary to comply with article X, section 22(a) of the Missouri
11 Constitution, for any city, town, village, or county with a tax levy at or above the
12 limitations provided under article X, section 11(b), no ordinance adopted under this section
13 shall become effective unless the county commission or proper administrative body of the
14 county, or governing body of the city, town, or village submits to the voters of the city,
15 town, village, or county at a state general, primary, or special election a proposal to
16 authorize the imposition of a tax under this section. The tax authorized under this section
17 shall be levied and collected in the same manner as other real property taxes are levied and
18 collected within the city, town, village, or county. Such tax shall be in addition to all other
19 taxes imposed on real property, and shall be stated separately from all other charges and
20 taxes. Such tax shall not become effective unless the county commission or proper
21 administrative body of the county or governing body of the city, town, or village, by order
22 or ordinance, submits to the voters of the county a proposal to authorize the city, town,
23 village, or county to impose a tax under this section on any day available for such city,
24 town, village, or county to hold elections or at a special election called for that purpose.**

**3. The ballot of submission for the tax authorized in this section shall be in
26 substantially the following form:**

**"Shall (insert the name of the city, town, village, or county) impose a tax on all
28 real property situated in (name of the city, town, village, or county) at a rate of one
29 quarter of one cent per one hundred dollars assessed valuation percent for the sole purpose**

30 of providing funds for the maintenance, upkeep, and preservation of city, town, village, or
31 county cemeteries?"

32 YES NO

33

34 If a majority of the votes cast on the question by the qualified voters voting thereon are in
35 favor of the question, then the tax shall become effective on the first day of the second
36 calendar quarter immediately following notification to the city, town, village, or county
37 collector. If a majority of the votes cast on the question by the qualified voters voting
38 thereon are opposed to the question, then the tax shall not become effective unless and until
39 the question is resubmitted under this section to the qualified voters and such question is
40 approved by a majority of the qualified voters voting on the question.

41 4. The tax imposed under this section shall be known as the "Cemetery
42 Maintenance Tax". Each city, town, village, or county imposing a tax under this section
43 shall establish separate trust funds to be known as the "Cemetery Maintenance Trust
44 Fund". The city, town, village, or county treasurer shall deposit the revenue derived from
45 the tax imposed under this section for cemetery purposes in the city, town, village, or
46 county cemetery maintenance trust fund. The proceeds of such tax shall be appropriated
47 by the county commission or appropriate administrative body, or the governing body of
48 the city, town, or village exclusively for the maintenance, upkeep, and preservation of
49 cemeteries located within the county.

50 5. All applicable provisions in this chapter relating to property tax shall apply to
51 the collection of any tax imposed under this section.

195.070. 1. A physician, podiatrist, dentist, [or] a registered optometrist certified to
2 administer pharmaceutical agents as provided in section 336.220, RSMo, or a **physician**
3 **assistant in accordance with section 334.747, RSMo**, in good faith and in the course of his or
4 her professional practice only, may prescribe, administer, and dispense controlled substances or
5 he or she may cause the same to be administered or dispensed by an individual as authorized by
6 statute.

7 2. An advanced practice registered nurse, as defined in section 335.016, RSMo, but not
8 a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, RSMo,
9 who holds a certificate of controlled substance prescriptive authority from the board of nursing
10 under section 335.019, RSMo, and who is delegated the authority to prescribe controlled
11 substances under a collaborative practice arrangement under section 334.104, RSMo, may
12 prescribe any controlled substances listed in Schedules III, IV, and V of section 195.017.
13 However, no such certified advanced practice registered nurse shall prescribe controlled

14 substance for his or her own self or family. Schedule III narcotic controlled substance
15 prescriptions shall be limited to a one hundred twenty-hour supply without refill.

16 3. A veterinarian, in good faith and in the course of [his] **the veterinarian's** professional
17 practice only, and not for use by a human being, may prescribe, administer, and dispense
18 controlled substances and [he] **the veterinarian** may cause them to be administered by an
19 assistant or orderly under his **or her** direction and supervision.

20 4. A practitioner shall not accept any portion of a controlled substance unused by a
21 patient, for any reason, if such practitioner did not originally dispense the drug.

22 5. An individual practitioner [may] **shall** not prescribe or dispense a controlled substance
23 for such practitioner's personal use except in a medical emergency.

195.100. 1. It shall be unlawful to distribute any controlled substance in a commercial
2 container unless such container bears a label containing an identifying symbol for such substance
3 in accordance with federal laws.

4 2. It shall be unlawful for any manufacturer of any controlled substance to distribute such
5 substance unless the labeling thereof conforms to the requirements of federal law and contains
6 the identifying symbol required in subsection 1 of this section.

7 3. The label of a controlled substance in Schedule II, III or IV shall, when dispensed to
8 or for a patient, contain a clear, concise warning that it is a criminal offense to transfer such
9 narcotic or dangerous drug to any person other than the patient.

10 4. Whenever a manufacturer sells or dispenses a controlled substance and whenever a
11 wholesaler sells or dispenses a controlled substance in a package prepared by him **or her**, [he]
12 **the manufacturer or wholesaler** shall securely affix to each package in which that drug is
13 contained a label showing in legible English the name and address of the vendor and the
14 quantity, kind, and form of controlled substance contained therein. No person except a
15 pharmacist for the purpose of filling a prescription under sections 195.005 to 195.425, shall alter,
16 deface, or remove any label so affixed.

17 5. Whenever a pharmacist or practitioner sells or dispenses any controlled substance on
18 a prescription issued by a physician, **physician assistant**, dentist, podiatrist, veterinarian, or
19 advanced practice registered nurse, [he] **the pharmacist or practitioner** shall affix to the
20 container in which such drug is sold or dispensed a label showing his **or her** own name and
21 address of the pharmacy or practitioner for whom he **or she** is lawfully acting; the name of the
22 patient or, if the patient is an animal, the name of the owner of the animal and the species of the
23 animal; the name of the physician, **physician assistant**, dentist, podiatrist, advanced practice
24 registered nurse, or veterinarian by whom the prescription was written; the name of the
25 collaborating physician if the prescription is written by an advanced practice registered nurse **or**
26 **the supervising physician if the prescription is written by a physician assistant**, and such

27 directions as may be stated on the prescription. No person shall alter, deface, or remove any
28 label so affixed.

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

2 (1) "Agent" or "authorized agent", any person empowered by the cemetery operator to
3 represent the operator in dealing with the general public, including owners of the burial space
4 in the cemetery;

5 (2) "Burial space", one or more than one plot, grave, mausoleum, crypt, lawn, surface
6 lawn crypt, niche or space used or intended for the interment of the human dead;

7 (3) **"Burial merchandise", a monument, marker, memorial, tombstone, headstone,
8 urn, outer burial container, or similar article which may contain specific lettering, shape,
9 color, or design as specified by the purchaser;**

10 (4) "Cemetery", property restricted in use for the interment of the human dead by formal
11 dedication or reservation by deed but shall not include any of the foregoing held or operated by
12 the state or federal government or any political subdivision thereof, any incorporated city or
13 town, any county or any religious organization, cemetery association or fraternal society holding
14 the same for sale solely to members and their immediate families;

15 [(4)] (5) "Cemetery association", any number of persons who shall have associated
16 themselves by articles of agreement in writing as a not-for-profit association or organization,
17 whether incorporated or unincorporated, formed for the purpose of ownership, preservation, care,
18 maintenance, adornment and administration of a cemetery. Cemetery associations shall be
19 governed by a board of directors. Directors shall serve without compensation;

20 [(5)] (6) "Cemetery operator" or "operator", any person who owns, controls, operates or
21 manages a cemetery;

22 [(6)] (7) **"Cemetery prearranged contract", any contract with a cemetery operator
23 for goods and services covered by this chapter which includes a sale of burial merchandise
24 in which delivery of merchandise or a valid warehouse receipt under sections 214.270 to
25 214.550 is deferred pursuant to written instructions from the purchaser. It shall also mean
26 any contract for goods and services covered by sections 214.270 to 214.550 which includes
27 a sale of burial services to be performed at a future date;**

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

33 [(7)] (9) "Columbarium", a building or structure for the inurnment of cremated human
34 remains;

35 [(8)] **(10)** "Community mausoleum", a mausoleum containing a substantial area of
36 enclosed space and having either a heating, ventilating or air conditioning system;

37 **(11)** "Cremains" or "cremated remains", the remains of a human corpse after
38 cremation;

39 [(9)] **(12)** "Department", department of insurance, financial institutions and professional
40 registration;

41 [(10)] **(13)** "Developed acreage", the area which has been platted into grave spaces and
42 has been developed with roads, paths, features, or ornamentations and in which burials can be
43 made;

44 [(11)] **(14)** "Director", director of the division of professional registration;

45 [(12)] **(15)** "Division", division of professional registration;

46 [(13)] **(16)** "Endowed care", the maintenance, repair and care of all burial space subject
47 to the endowment within a cemetery, including any improvements made for the benefit of such
48 burial space. Endowed care shall include the general overhead expenses needed to accomplish
49 such maintenance, repair, care and improvements. Endowed care shall include the terms
50 perpetual care, permanent care, continual care, eternal care, care of duration, or any like term;

51 [(14)] **(17)** "Endowed care cemetery", a cemetery, or a section of a cemetery, which
52 represents itself as offering endowed care and which complies with the provisions of sections
53 214.270 to 214.410;

54 [(15)] **(18)** "Endowed care trust fund", "endowed care trust", or "trust", any cash or cash
55 equivalent, to include any income therefrom, impressed with a trust by the terms of any gift,
56 grant, contribution, payment, devise or bequest to an endowed care cemetery, or its endowed care
57 trust, or funds to be delivered to an endowed care cemetery's trust received pursuant to a contract
58 and accepted by any endowed care cemetery operator or his agent. This definition includes the
59 terms endowed care funds, maintenance funds, memorial care funds, perpetual care funds, or any
60 like term;

61 **(19)** "Escrow account", an account established in lieu of an endowed care trust
62 fund as provided under section 214.330 or an account used to hold deposits under section
63 214.387;

64 **(20)** "Escrow agent", an attorney, title company, certified public accountant or
65 other person authorized by the division to exercise escrow powers under the laws of this
66 state;

67 **(21)** "Escrow agreement", an agreement subject to approval by the office between
68 an escrow agent and a cemetery operator or its agent or related party with common
69 ownership, to receive and administer payments under cemetery prearranged contracts sold
70 by the cemetery operator;

71 [(16)] (22) "Family burial ground", a cemetery in which no burial space is sold to the
72 public and in which interments are restricted to persons related by blood or marriage;

73 [(17)] (23) "Fraternal cemetery", a cemetery owned, operated, controlled or managed by
74 any fraternal organization or auxiliary organizations thereof, in which the sale of burial space is
75 restricted solely to its members and their immediate families;

76 [(18)] (24) "Garden mausoleum", a mausoleum without a substantial area of enclosed
77 space and having its crypt and niche fronts open to the atmosphere. Ventilation of the crypts by
78 forced air or otherwise does not constitute a garden mausoleum as a community mausoleum;

79 [(19)] (25) "Government cemetery", or "municipal cemetery", a cemetery owned,
80 operated, controlled or managed by the federal government, the state or a political subdivision
81 of the state, including a county or municipality or instrumentality thereof;

82 [(20)] (26) "Grave" or "plot", a place of ground in a cemetery, used or intended to be
83 used for burial of human remains;

84 [(21)] (27) "Human remains", the body of a deceased person in any state of
85 decomposition, as well as cremated remains;

86 [(22)] (28) "Inurnment", placing an urn containing cremated remains in a burial space;

87 [(23)] (29) "Lawn crypt", a burial vault or other permanent container for a casket which
88 is permanently installed below ground prior to the time of the actual interment. A lawn crypt
89 may permit single or multiple interments in a grave space;

90 [(24)] (30) "Mausoleum", a structure or building for the entombment of human remains
91 in crypts;

92 [(25)] (31) "Niche", a space in a columbarium used or intended to be used for inurnment
93 of cremated remains;

94 [(26)] (32) "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery or a
95 section of a cemetery for which no endowed care **trust** fund has been established in accordance
96 with sections 214.270 to 214.410;

97 (33) **"Office", the office of endowed care cemeteries within the division of**
98 **professional registration;**

99 [(27)] (34) "Owner of burial space", a person to whom the cemetery operator or his
100 authorized agent has transferred the right of use of burial space;

101 [(28)] (35) "Person", an individual, corporation, partnership, joint venture, association,
102 trust or any other legal entity;

103 [(29)] (36) "Registry", the list of cemeteries maintained in the division office for public
104 review. The division may charge a fee for copies of the registry;

105 [(30)] (37) "Religious cemetery", a cemetery owned, operated, controlled or managed
106 by any church, convention of churches, religious order or affiliated auxiliary thereof in which the
107 sale of burial space is restricted solely to its members and their immediate families;

108 (38) "Scatter garden", a location for the spreading of cremains set aside within a
109 cemetery;

110 [(31)] (39) "Surface lawn crypt", a sealed burial chamber whose lid protrudes above the
111 land surface;

112 [(32)] (40) "Total acreage", the entire tract which is dedicated to or reserved for cemetery
113 purposes;

114 [(33)] (41) "Trustee of an endowed trust care fund", the separate legal entity appointed
115 as trustee of an endowed care trust fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (12) Failure to display a valid license;

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

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

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

47 3. After the filing of such complaint, the proceedings shall be conducted in accordance
48 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing
49 commission that the grounds, provided in subsection 2 of this section, for disciplinary action are
50 met, the division may singly or in combination, censure or place the person named in the
51 complaint on probation on such terms and conditions as the division deems appropriate for a
52 period not to exceed five years, or may suspend, or revoke the license or permit **or may impose**
53 **a penalty allowed by subsection 4 of section 214.410**. No new license shall be issued to the
54 owner or operator of a cemetery or to any corporation controlled by such owner for three years
55 after the revocation of the certificate of the owner or of a corporation controlled by the owner.

56 4. [Operators of all existing endowed care or nonendowed care cemeteries shall, prior
57 to August twenty-eighth following August 28, 2001, apply for a license pursuant to this section.
58 All endowed care or nonendowed care cemeteries operating in compliance with sections 214.270

59 to 214.516 prior to August twenty-eighth following August 28, 2001, shall be granted a license
60 by the division upon receipt of application.

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

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

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

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

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

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

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

214.280. 1. Operators of all existing cemeteries shall, prior to August twenty-eighth
2 following August 28, 1994, elect to operate each cemetery as an endowed care cemetery as
3 defined in subdivision [(12)] **(17)** of section 214.270 and shall register such intention with the
4 division and remit the required registration fee or, failing such election, shall operate each
5 cemetery for which such election is not made as a nonendowed cemetery without regard to
6 registration fees or penalties. Operators of all cemeteries hereafter established shall, within
7 ninety days from the establishment thereof, elect to operate each cemetery as an "endowed care
8 cemetery", or as a "nonendowed cemetery". Such election for newly established cemeteries shall
9 be filed with the division, on a form provided by the division. Any such election made
10 subsequent to August 28, 1994, shall be accompanied by a filing fee set by the division, and such

11 fee shall be deposited in the endowed care cemetery audit fund as defined in section 193.265,
12 RSMo. The fee authorized in this subsection shall not be required from an existing nonendowed
13 cemetery.

14 2. The division may adopt rules establishing the conditions and procedures governing
15 the circumstances where an endowed care cemetery elects to operate as a nonendowed care
16 cemetery. In the event an endowed care cemetery elects to operate as a nonendowed care
17 cemetery, the division shall make every effort to require such cemetery to meet all contractual
18 obligations for the delivery of services entered into prior to it reverting to the status of a
19 nonendowed cemetery.

**214.282. 1. Each contract sold by a cemetery operator for cemetery services or for
2 grave lots, grave spaces, markers, monuments, memorials, tombstones, crypts, niches,
3 mausoleums, or other receptacles shall be voidable by the purchaser and deemed
4 unenforceable unless:**

- 5 (1) It is in writing;
6 (2) It is executed by a cemetery operator who is in compliance with the licensing
7 provisions of this chapter;
8 (3) It identifies the contract purchaser and identifies the cemetery services or other
9 items to be provided;
10 (4) It identifies the name and address of any trustee or escrow agent that will
11 receive payments made pursuant to the contract under the provisions of sections 214.320,
12 214.330, or 214.387, if applicable;
13 (5) It contains the name and address of the cemetery operator; and
14 (6) It identifies any grounds for cancellation by the purchaser or by the cemetery
15 operator on default of payment.

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

214.283. 1. Any person, entity, association, city, town, village, county or political
2 subdivision that purchases, receives or holds any real estate used for the burial of dead
3 human bodies, excluding a family burial ground, shall notify the office of the endowed care
4 cemeteries of the name, location and address of such real estate on a form approved by the
5 office, before October 1, 2009, or within thirty days of purchasing, receiving or holding
6 such land or of being notified by the office of the requirements of this provision. No fee
7 shall be charged for such notification nor shall any penalty be assessed for failure to

8 **register. This section shall not be deemed to exempt any operator of an endowed care**
9 **cemetery or non-endowed care cemetery from being duly licensed as required by this**
10 **chapter.**

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

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

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

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

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

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

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

214.310. 1. Any cemetery operator who elects to operate a new cemetery as an endowed
2 care cemetery or who represents to the public that perpetual, permanent, endowed, continual,
3 eternal care, care of duration or similar care will be furnished cemetery property sold shall create
4 an endowed care **trust** fund and shall deposit a minimum of twenty-five thousand dollars for
5 cemeteries that have in excess of one hundred burials annually or a minimum of five thousand
6 dollars for cemeteries that have one hundred or less burials annually in such fund before selling
7 or disposing of any burial space in said cemetery, or in lieu thereof such cemetery owner may
8 furnish a surety bond issued by a bonding company or insurance company authorized to do
9 business in this state in the face amount of thirty thousand dollars, and such bond shall run to the
10 office of endowed care cemeteries for the benefit of the care funds held by such cemetery. This
11 bond shall be for the purpose of guaranteeing an accumulation of twenty-five thousand dollars
12 in such care fund and also for the further purpose of assuring that the cemetery owner shall
13 provide annual perpetual or endowment care in an amount equal to the annual reasonable return
14 on a secured cash investment of twenty-five thousand dollars until twenty-five thousand dollars

15 is accumulated in said endowed care **trust** funds, and these shall be the conditions of such surety
16 bond; provided, however, the liability of the principal and surety on the bond shall in no event
17 exceed thirty thousand dollars. Provided further, that whenever a cemetery owner which has
18 made an initial deposit to the endowed care **trust** fund demonstrates to the satisfaction of the
19 administrator of the office of endowed care cemeteries that more than twenty-five thousand
20 dollars has been accumulated in the endowed care **trust** fund, the cemetery owner may petition
21 the administrator of the office of endowed care cemeteries for an order to dissolve the surety
22 bond requirement, so long as at least twenty-five thousand dollars always remains in the
23 endowed care **trust** fund.

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

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

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

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

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

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

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

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

24 3. **As required by section 214.340**, each operator of an endowed care cemetery shall[,
25 after August 28, 1990,] file with the division of professional registration, on a form provided by
26 the division, an annual endowed care trust fund report. The operator of any cemetery
27 representing the cemetery, or any portion of the cemetery, as an endowed care cemetery shall
28 make available to the division for inspection or audit at any reasonable time only those cemetery
29 records and trust fund records necessary to determine whether the cemetery's endowed care **trust**
30 fund is in compliance with sections 214.270 to 214.410. Each cemetery operator who has
31 established a [segregated] **escrow** account pursuant to section [214.385] **214.387** shall make
32 available to the division for inspection or audit at any reasonable time those cemetery records
33 and financial institution records necessary to determine whether the cemetery operator is in
34 compliance with the provisions of section [214.385]. All documents, records, and work product
35 from any inspections or audits performed by or at the direction of the division shall remain in the
36 possession of the division of professional registration and shall not be sent to the state board of
37 embalmers and funeral directors. No charge shall be made for such inspections or audits]
38 **214.387**.

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

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

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

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

214.330. 1. [The endowed care fund required by sections 214.270 to 214.410 shall be permanently set aside in trust or in accordance with the provisions of subsection 2 of this section. The trustee of the endowed care trust shall be a state- or federally chartered financial institution authorized to exercise trust powers in Missouri and located in this state. The income from the endowed care fund shall be distributed to the cemetery operator at least annually or in other convenient installments. The cemetery operator shall have the duty and responsibility to apply the income to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the endowed care fund shall have been established and not for any other purpose. The principal of such funds shall be kept intact and appropriately invested by the trustee, or the independent investment advisor. An endowed care trust agreement may provide that when the principal in an endowed care trust exceeds two hundred fifty thousand dollars, investment decisions regarding the principal and undistributed income may be made by a federally registered or Missouri-registered independent qualified investment advisor designated by the cemetery owner, relieving the trustee of all liability regarding investment decisions made by such qualified investment advisor. It shall be the duty of the trustee, or the investment advisor, in the investment of such funds to exercise the diligence and care men of ordinary prudence, intelligence and discretion would employ, but with a view to permanency of investment considering probable safety of capital investment, income produced and appreciation of capital investment. The trustee's duties shall be the maintenance of records

20 and the accounting for and investment of moneys deposited by the operator to the endowed care
21 fund. For the purposes of sections 214.270 to 214.410, the trustee or investment advisor shall
22 not be deemed to be responsible for the care, the maintenance, or the operation of the cemetery,
23 or for any other matter relating to the cemetery, including, but not limited to, compliance with
24 environmental laws and regulations. With respect to cemetery property maintained by cemetery
25 care funds, the cemetery operator shall be responsible for the performance of the care and
26 maintenance of the cemetery property owned by the cemetery operator and for the opening and
27 closing of all graves, crypts, or niches for human remains in any cemetery property owned by the
28 cemetery operator.

29 2. If the endowed care cemetery fund is not permanently set aside in a trust fund as
30 required by subsection 1 of this section then the funds shall be permanently set aside in a
31 segregated bank account which requires the signature of the cemetery owner and either the
32 administrator of the office of endowed care cemeteries, or the signature of a licensed practicing
33 attorney with escrow powers in this state as joint signatories for any distribution from the trust
34 fund. No funds shall be expended without the signature of either the administrator of the office
35 of endowed care cemeteries, or a licensed practicing attorney with escrow powers in this state.
36 The account shall be insured by the Federal Deposit Insurance Corporation or comparable
37 deposit insurance and held in the state- or federally chartered financial institution authorized to
38 do business in Missouri and located in this state. The income from the endowed care fund shall
39 be distributed to the cemetery operator at least in annual or semiannual installments. The
40 cemetery operator shall have the duty and responsibility to apply the income to provide care and
41 maintenance only for that part of the cemetery in which burial space shall have been sold and
42 with respect to which sales the endowed care fund shall have been established and not for any
43 other purpose. The principal of such funds shall be kept intact and appropriately invested by the
44 cemetery operator with written approval of either the administrator of the office of endowed care
45 cemeteries or a licensed practicing attorney with escrow powers in this state. It shall be the duty
46 of the cemetery owner in the investment of such funds to exercise the diligence and care a person
47 of reasonable prudence, intelligence and discretion would employ, but with a view to
48 permanency of investment considering probable safety of capital investment, income produced
49 and appreciation of capital investment. The cemetery owner's duties shall be the maintenance
50 of records and the accounting for an investment of moneys deposited by the operator to the
51 endowed care fund. For purposes of sections 214.270 to 214.410, the administrator of the office
52 of endowed care cemeteries or the licensed practicing attorney with escrow powers in this state
53 shall not be deemed to be responsible for the care, maintenance, or operation of the cemetery.
54 With respect to cemetery property maintained by cemetery care funds, the cemetery operator
55 shall be responsible for the performance of the care and maintenance of the cemetery property

56 owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches
57 for human remains in any cemetery property owned by the cemetery operator.

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

60 4. All endowed care funds shall be administered in accordance with an endowed care
61 fund agreement. The endowed care fund agreement shall be subject to review and approval by
62 the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers
63 in this state. The endowed care cemetery shall be notified in writing by the office of endowed
64 care cemeteries or by a licensed practicing attorney with escrow powers in this state regarding
65 the approval or disapproval of the endowed care fund agreement and regarding any changes
66 required to be made for compliance with this chapter and the rules and regulations promulgated
67 thereunder. A copy of the proposed endowed care fund agreement shall be submitted to the
68 office of endowed care cemeteries. The office of endowed care cemeteries or a licensed
69 practicing attorney with escrow powers in this state shall notify the endowed care cemetery in
70 writing of approval and of any required change. Any amendment or change to the endowed care
71 fund agreement shall be submitted to the office of endowed care cemeteries or to a licensed
72 practicing attorney with escrow powers in this state for review and approval. Said amendment
73 or change shall not be effective until approved by the office of endowed care cemeteries or by
74 a licensed practicing attorney with escrow powers in this state. All endowed care cemeteries
75 shall be under a continuing duty to file with the office of endowed care cemeteries or with a
76 licensed practicing attorney with escrow powers in this state and to submit for approval any and
77 all changes, amendment, or revisions of the endowed care fund agreement.] **(1) The endowed
78 care trust fund required by sections 214.270 to 214.410 shall be permanently set aside in
79 trust or in accordance with the provisions of subsection 2 of this section. The trustee of the
80 endowed care trust shall be a state or federally chartered financial institution authorized
81 to exercise trust powers in Missouri. The trust officer or duly appointed representative of
82 the trustee with knowledge and immediate access to the trust fund accounting and trust
83 fund records shall be made available to the office or its duly authorized representative
84 upon request.**

85 **(2) The trust fund records, including all trust fund accounting records, shall be
86 maintained in the state of Missouri at all times or shall be electronically stored so that the
87 records may be immediately accessed and produced in the state of Missouri within five
88 business days of request, or as otherwise requested by the office or its duly authorized
89 representative. The operator of an endowed care cemetery shall maintain a current name
90 and address of the trustee and the records custodian for the endowed care trust fund with
91 the office and shall provide written notification to the office within five days of any change**

92 in the name or address of the trustee or custodian of records. Notwithstanding any other
93 provision of law, the identity of the trustee designated by an endowed care cemetery shall
94 be deemed an open record;

95 (3) Missouri law shall control all endowed care trust funds and the principal place
96 of administration shall at all times be in the state of Missouri, and shall be deemed to be
97 there regardless of where records may be kept or various administrative tasks may be
98 performed, and shall not be changed to any other jurisdiction.

99 2. (1) An endowed care trust fund shall be administered as a charitable trust in
100 which no specified charitable organization has a beneficial interest and a trust in which the
101 attorney general of this state is treated as the only qualified beneficiary under the
102 provisions of subsection 2 of section 456.110, RSMo, in accordance with Missouri law
103 governing trusts, including but not limited to the applicable provisions of chapters 456 and
104 469, RSMo; except as specifically provided in this subsection or where the provisions of
105 sections 214.270 to 214.410 provide differently. An endowed care fund shall also be
106 operated in accordance with chapters 456 and 469, RSMo, provided that a cemetery
107 operator shall not in any circumstances be authorized to restrict, enlarge, change or modify
108 the requirements of this section or the provisions of chapters 456 and 469, RSMo, by
109 agreement or otherwise.

110 (2) Income and principal of an endowed care trust fund shall be determined under
111 the provisions of law applicable to trusts, except that the provisions of section 469.405,
112 RSMo, shall not apply;

113 (3) No principal shall be distributed from an endowed care trust fund except to the
114 extent that a unitrust election is in effect with respect to such trust under the provisions of
115 section 469.411, RSMo;

116 (4) No right to transfer jurisdiction from Missouri under section 456.1-108, RSMo,
117 shall exist for endowed care trusts;

118 (5) All endowed care trusts shall be irrevocable;

119 (6) No trustee shall have the power to terminate an endowed care trust fund under
120 the provisions of section 456.414, RSMo;

121 (7) A unitrust election made in accordance with the provisions of chapter 469,
122 RSMo, shall be made by the cemetery operator in the terms of the endowed care trust fund
123 agreement itself, not by the trustee;

124 (8) No contract of insurance shall be deemed a suitable investment for an endowed
125 care trust fund;

126 (9) The income from the endowed care fund may be distributed to the cemetery
127 operator at least annually on a date designated by the cemetery operator, but no later than

128 six months following the trust fund year. Any income not distributed within six months
129 following the end of the trust's fiscal year shall be added to and held as part of the
130 principal of the trust fund.

131 3. The cemetery operator shall have the duty and responsibility to apply the income
132 distributed to provide care and maintenance only for that part of the cemetery in which
133 burial space shall have been sold and with respect to which sales the endowed care trust
134 fund shall have been established and not for any other purpose.

135 4. (1) In addition to any other duty, obligation, or requirement imposed by sections
136 214.270 to 214.410 or the endowed care trust agreement, the trustee's duties shall be the
137 maintenance of records and the accounting for and investments of moneys deposited by the
138 operator to the endowed care trust fund.

139 (2) For the purposes of sections 214.270 to 214.410, the trustee shall not be deemed
140 responsible for the care, the maintenance, or the operation of the cemetery, or for any
141 other matter relating to the cemetery, or the proper expenditure of funds distributed by
142 the trustee to the cemetery operator, including, but not limited to, compliance with
143 environmental laws and regulations.

144 (3) With respect to cemetery property maintained by cemetery care funds, the
145 cemetery operator shall be responsible for the performance of the care and maintenance
146 of the cemetery property.

147 5. (1) If the endowed care cemetery fund is not permanently set aside in a trust
148 fund as required by subsection 1 of this section then the funds shall be permanently set
149 aside in an escrow account in the state of Missouri. Funds in an escrow account shall be
150 placed in an endowed care trust fund under subsection 1 if the funds in the escrow account
151 exceed three hundred fifty thousand dollars, unless otherwise approved by the division for
152 good cause. The account shall be insured by the Federal Deposit Insurance Corporation
153 or comparable deposit insurance and held in a state or federally chartered financial
154 institution authorized to do business in Missouri and located in this state.

155 (2) The interest from the escrow account may be distributed to the cemetery
156 operator at least in annual or semiannual installments, but not later than six months
157 following the calendar year. Any interest not distributed within six months following the
158 end of the calendar year shall be added to and held as part of the principal of the account;

159 (3) The cemetery operator shall have the duty and responsibility to apply the
160 interest to provide care and maintenance only for that part of the cemetery in which burial
161 space shall have been sold and with respect to which sales the escrow account shall have
162 been established and not for any other purpose. The principal of such funds shall be kept
163 intact. The cemetery operator's duties shall be the maintenance of records and the

164 accounting for an investment of moneys deposited by the operator to the escrow account.
165 For purposes of sections 214.270 to 214.410, the administrator of the office of endowed care
166 cemeteries shall not be deemed to be responsible for the care, maintenance, or operation
167 of the cemetery. With respect to cemetery property maintained by cemetery care funds,
168 the cemetery operator shall be responsible for the performance of the care and
169 maintenance of the cemetery property owned by the cemetery operator;

170 (4) The division may approve an escrow agent if the escrow agent demonstrates the
171 knowledge, skill and ability to handle escrow funds and financial transactions and is of
172 good moral character.

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

175 7. Excluding funds held in an escrow account, all endowed care trust funds shall
176 be administered in accordance with an endowed care trust fund agreement, which shall be
177 submitted to the office by the cemetery operator for review and approval. The endowed
178 care cemetery shall be notified in writing by the office of endowed care cemeteries
179 regarding the approval or disapproval of the endowed care trust fund agreement and
180 regarding any changes required to be made for compliance with sections 214.270 to 214.410
181 and the rules and regulations promulgated thereunder.

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

186 9. If the endowed care trust fund agreement, or any changes, amendments or
187 revisions filed with the office, are not disapproved by the office within thirty days after
188 submission by the cemetery operator, the endowed care trust fund agreement, or the
189 related change, amendment or revision, shall be deemed effective and may be used by the
190 cemetery operator and the trustee. Notwithstanding any other provision of this section, the
191 office may review and disapprove an endowed care trust fund agreement, or any submitted
192 change, amendment or revision, after the thirty days provided herein or at any other time
193 if the agreement is not in compliance with sections 214.270 to 214.410 or the rules
194 promulgated thereunder. The division may waive the thirty day filing requirement upon
195 request by the cemetery operator and a showing of good cause.

196 10. Funds in an endowed care trust fund or escrow account may only be
197 commingled with endowed care funds for other endowed care cemeteries, provided that
198 the cemetery operator and the trustee shall maintain adequate accounting records of the
199 disbursements, contributions and income allocated for each cemetery.

200 **11. By accepting the trusteeship of an endowed care trust or accepting funds as an**
201 **escrow agent under sections 214.270 to 214.410, the trustee or escrow agent submits**
202 **personally to the jurisdiction of the courts of this state and the office of endowed care**
203 **cemeteries regarding the administration of the trust or escrow account. A trustee or**
204 **escrow agent shall consent in writing to the jurisdiction of the state of Missouri and the**
205 **office in regards to the trusteeship or the operation of the escrow account and to the**
206 **appointment of the office of secretary of state as its agent for service of process regarding**
207 **any administration or legal actions relating to the trust or the escrow account, if it has no**
208 **designated agent for service of process located in this state. Such consent shall be filed with**
209 **the office prior to accepting funds under sections 214.270 to 214.410 as trustee or as an**
210 **escrow agent on a form provided by the office by rule.**

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

10 **2. If the deposits to any endowed care trust fund are less than the total sum**
11 **required to be set aside and deposited since the effective date of such sections, the cemetery**
12 **operator shall correct such deficiency including interest of ten percent of the deficiency by**
13 **depositing not less than twenty percent of such deficiency each year for five years and shall**
14 **file, on the form provided by the division, a statement outlining the date and amount such**
15 **deposits were made. If the cemetery operator fails to correct the deficiency with respect**
16 **to funds maintained under section 214.330, the cemetery operator shall thereafter not**
17 **represent the cemetery as an endowed care cemetery. Any funds held in the cemetery's**
18 **endowed care trust shall continue to be used for endowed care for that cemetery. The**
19 **cemetery operator shall remain subject to the provisions of sections 214.270 to 214.410 for**
20 **any cemetery or any section of the cemetery for which endowed care payments have been**
21 **collected, subject to the penalties contained in section 214.410, and civil actions as well as**
22 **subject to any regulations promulgated by the division. For purposes of this section, the**
23 **term deficiency shall mean a deficiency in the amount required to be deposited under**
24 **section 214.320, or a deficiency created by disbursements in excess of what is permitted**

25 **under section 214.330 and shall not include or be affected by deficiencies or shortages**
26 **caused by the fluctuating value of proper investments.**

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

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

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

8 (3) Principal contributions received since previous report;

9 (4) Total earnings since previous report;

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

11 (6) Current balance;

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

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

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

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

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

27 4. Each cemetery operator who establishes [a segregated] **an escrow** account pursuant
28 to [subsection 1 of section 214.385] **section 214.287** shall file with the report required under
29 subsection 1 of this section [a segregated] **an escrow** account report that shall provide the
30 following information:

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

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

35 (3) The amount on deposit in the [segregated] **escrow** account established pursuant to
36 section [214.385] **214.287**, and the account number.

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

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

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

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

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

214.367. **1. Prior to ceasing to do business as a cemetery, selling, or otherwise**
2 **disposing of a majority of the business assets of a cemetery, or a majority of its stock or**
3 **other ownership interest if a corporation or other organized business entity, the cemetery**
4 **operator shall provide written notification to the division of its intent at least thirty days**
5 **prior to the date set for the transfer, or the closing of the sale, or the date set for**
6 **termination of its business. Upon receipt of the written notification, the division may take**
7 **reasonable and necessary action to determine that the cemetery operator has made proper**

8 **plans to assure that trust funds or funds held in an escrow account for or on behalf of the**
9 **cemetery will be set aside and used as provided in sections 214.270 to 214.410, including,**
10 **but not limited to, an audit or examination of books and records. The division may waive**
11 **the requirements of this subsection or may shorten the period of notification for good cause**
12 **or if the division determines in its discretion that compliance with its provisions are not**
13 **necessary.**

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

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

23 **4. (1) The seller of a cemetery shall place fifteen percent of the consideration paid**
24 **or remitted for the purchase or transfer of a cemetery in escrow with a bank, trust**
25 **company or other escrow agent approved by the division. Such funds shall be held in**
26 **escrow for no less than six months or such greater time as may be agreed to by the seller**
27 **and the purchaser or transferee. If the purchaser, transferee or division determines that**
28 **the trust fund or any escrow account of the former cemetery operator is deficient, the**
29 **purchaser, transferee or division may demand payment from the escrow agent in the**
30 **amount of the deficiency.**

31 **(2) Prior to the disbursement of funds held in escrow, the person requesting**
32 **payment from escrow shall notify the seller in writing of the intent to demand a**
33 **distribution thirty days prior to the requested distribution date. The notification shall**
34 **include the amount of the distribution requested and shall be certified under oath. Within**
35 **thirty days after receipt of the notification, the seller may petition a court of competent**
36 **jurisdiction for judicial review to determine whether payment from escrow is authorized**
37 **and such petition shall be served upon the escrow agent; provided, however, that if the**
38 **contract between the seller and the purchaser contains an arbitration clause, the seller may**
39 **invoke that remedy in accordance with its terms. The escrow agent shall remit payment**
40 **to the trust fund or to the escrow account within forty-five days after receipt of a demand**
41 **or, if a petition for arbitration or judicial review has been filed, as directed by a court or**
42 **the arbitrator's award.**

43 **(3) The escrow agent shall refund the amount held in escrow to the seller if a**
44 **demand is not received for such funds within six months after completion of the purchase**
45 **or transfer.**

214.385. 1. If the operator of any cemetery or another authorized person moves a grave
2 marker, memorial or monument in the cemetery for any reason, the operator or other authorized
3 person shall replace the grave marker, memorial or monument to its original position within a
4 reasonable time.

5 2. When the purchase price of [a monument, marker or memorial] **an item of burial**
6 **merchandise** sold by a cemetery operator or its agent is paid in full, the cemetery operator shall
7 make delivery of such property within a reasonable time. A cemetery operator may comply with
8 this section by delivering to the purchaser of such property a valid warehouse receipt which may
9 be presented to the cemetery operator at a later date for actual delivery.

214.387. 1. [Upon written instructions from the purchaser of a monument, marker or
2 memorial, a cemetery may defer delivery of such property to a date designated by the purchaser,
3 provided the cemetery operator, within forty-five days of the date the property is paid in full,
4 deposits from its own funds an amount equal to one hundred ten percent of such property's
5 wholesale cost into a segregated account. Funds deposited in a segregated account pursuant to
6 this section and section 214.385 shall be maintained in such account until delivery of the
7 property is made or the contract for the purchase of such property is canceled. No withdrawals
8 may be made from the cemetery operator's segregated account established pursuant to this
9 section and section 214.385 except as provided herein. The cemetery operator shall not
10 commingle any other of its funds with the deposits made to the segregated account. Money in
11 this account shall be invested utilizing the "prudent man theory" and is subject to audit by the
12 division. Names and addresses of depositories of such money shall be submitted with the annual
13 report.

14 2. If at the end of a calendar year the market value of the cemetery operator's segregated
15 account exceeds the then current wholesale cost of all paid-in-full property which has not been
16 delivered, the cemetery operator may withdraw from the segregated account all realized income
17 earned by such account. If at the end of a calendar year the market value of the cemetery
18 operator's segregated account is less than the then current wholesale cost of all paid-in-full
19 property which has not been delivered, the cemetery operator shall only withdraw the realized
20 income in excess of (i) the segregated account's market value at year end, plus (ii) all realized
21 income accrued to the segregated account minus (iii) the wholesale cost of all paid-in-full
22 property which has not been delivered.

23 3. Upon the delivery of a monument, marker or memorial sold by the cemetery or its
24 agent, or the cancellation of the contract for the purchase of such property, the cemetery operator

25 may withdraw from the segregated account an amount equal to (i) the market value of the
26 segregated account based on the most recent account statement issued to the cemetery operator,
27 times (ii) the ratio the delivered property's deposit in the account bears to the aggregate deposit
28 of all property which is paid in full but not delivered. The segregated account may be inspected
29 or audited by the division.

30 4. Upon written instructions from the purchaser of an interment, entombment, or
31 inurnment cemetery service, a cemetery may defer performance of such service to a date
32 designated by the purchaser, provided the cemetery operator, within forty-five days of the date
33 the agreement is paid in full, deposits from its own funds an amount equal to forty percent of the
34 published retail price into a trustee account. Funds deposited in a trustee account pursuant to
35 this section and section 214.385 shall be maintained in such account until delivery of the service
36 is made or the agreement for the purchase of the service is canceled. No withdrawals may be
37 made from the trustee account established pursuant to this section and section 214.385 except
38 as provided herein. Money in this account shall be invested utilizing the "prudent man theory"
39 and is subject to audit by the division. Names and addresses of depositories of such money shall
40 be submitted with the annual report.

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

48 6. The provisions of this section shall apply to all agreements entered into after August
49 28, 2002.] **With the exception of sales made under section 214.385, all sales by cemetery**
50 **operators of prearranged burial merchandise and services shall be made under this section.**

51 **2. Upon written instructions from the purchaser of burial merchandise or burial**
52 **services set forth in a cemetery prearranged contract, a cemetery may defer delivery of**
53 **such burial merchandise or a warehouse receipt for the same under section 214.385, or**
54 **performance of services, to a date designated by the purchaser, provided the cemetery**
55 **operator, after deducting sales and administrative costs not to exceed twenty percent of the**
56 **purchase price, deposits the remaining portion of the purchase price into an escrow or**
57 **trust account as herein provided, within sixty days following receipt of payment from the**
58 **purchaser. Funds so deposited pursuant to this section shall be maintained in such account**
59 **until delivery of the property or the performance of services is made or the contract for the**
60 **purchase of such property or services is cancelled. The account is subject to inspection,**

61 examination or audit by the division. No withdrawals may be made from the escrow or
62 trust account established pursuant to this section except as herein provided.

63 **3. Each escrow arrangement shall comply with the following:**

64 **(1) The escrow agent shall be located in Missouri, authorized to exercise escrow**
65 **powers, and shall maintain the escrow records so that they may be accessed and produced**
66 **for inspection within five business days of the agent's receipt of a written request made by**
67 **the office or its duly authorized representative. A cemetery operator shall not serve as an**
68 **escrow agent for the cemetery operator's account nor shall the escrow agent be employed**
69 **by or under common ownership with and independent of the cemetery operator. The**
70 **cemetery operator shall maintain a current name and address for the escrow agent with**
71 **the office, and shall obtain written approval from the office before making any change in**
72 **the name or address of the escrow agent. Notwithstanding any other provision of law,**
73 **information regarding the escrow agent shall be deemed an open record;**

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

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

80 **(4) The operator shall establish a separate depository account for each cemetery**
81 **prearranged contract administered under this subsection;**

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

84 **4. Each trust shall comply with the following:**

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

88 **(2) The trust fund records, including all trust fund accounting records, shall either**
89 **be maintained in the state of Missouri or shall be electronically stored so that the records**
90 **may be immediately accessed and produced in the state of Missouri within five business**
91 **days of the trustee's receipt of a written request made by the office or its duly authorized**
92 **representative. The cemetery operator shall maintain a current name and address of the**
93 **trustee and the records custodian with the office and shall provide written notification to**
94 **the office within five days of any change in the name or address of the trustee or custodian**
95 **of record. Notwithstanding any other provision of law, information regarding the trustee**
96 **shall be deemed an open record. If the business address of the trust officer is not located**

97 within the state of Missouri, the trustee shall appoint a representative with knowledge of
98 the trust records, and who can provide immediate access to such records to the office and
99 its authorized representative at the cemetery or a Missouri location acceptable to the office;

100 (3) The principal of such funds shall be kept intact and appropriately invested
101 pursuant to the prudent investor rule under chapter 469, RSMo, provided that no trust
102 funds shall be invested in any term insurance product;

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

107 (5) All expenses of administering a trust, including, without limitation, trustee's
108 fees, expenses in establishing the trust, legal and accounting fees, investment expenses,
109 taxes, and other necessary and reasonable expenses shall be paid from trust income, and
110 shall not be paid from trust principal;

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

113 (7) A trustee may commingle the funds from trusts of unrelated cemetery operators
114 for investment purposes when the trustee has demonstrated to the satisfaction of the office
115 adequate accounting for the allocations, disbursements, payments, and income among the
116 participating trusts.

117 5. The income from escrow accounts, after payment of expenses associated with the
118 arrangement, shall be distributed to the cemetery operator. All other distributions from
119 trusts and escrow accounts shall be made pursuant to forms approved by the office. For
120 performance of a cemetery prearranged contract, a certificate of performance form signed
121 by the cemetery operator will be required for distribution. For cancellation of a cemetery
122 prearranged contract, a certificate of cancellation form signed by the cemetery operator
123 and the purchaser will be required for distribution.

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

125 (1) At any time before the final disposition of the deceased, or before the services
126 or merchandise described in this section are provided, the purchaser may cancel the
127 contract without cause by delivering written notice thereof to the operator. Within fifteen
128 days after its receipt of such notice, the cemetery operator shall pay to the purchaser a net
129 amount equal to all payments made into the escrow account or trust under the contract.
130 Upon delivery of the purchaser's receipt for such payment to the escrow agent or trustee,
131 the escrow agent or trustee shall distribute to the cemetery operator from the escrow

132 account or trust an amount equal to all deposits made into the escrow account or trust for
133 the contract;

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

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

144 (4) Notwithstanding the provisions of subdivision (1) of this subsection, once any
145 purchase order is entered for the production or manufacture of burial merchandise, per
146 the purchasers written request, the purchaser's obligation to pay for said burial
147 merchandise shall be noncancellable;

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

150 7. This section shall apply to all agreements entered into after August 28, 2009.

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

14 2. The division shall provide written notification to the cemetery operator and the
15 trustee, financial institution, or escrow agent no less than fourteen days prior to suspending
16 distributions pursuant to this section. The amount of any distribution suspended shall
17 become principal within six-months after the date such distribution would have otherwise

18 been payable, with credit against the deficiency, unless the cemetery operator files an
19 appeal with a court of competent jurisdiction or with the administrative hearing
20 commission, as provided herein. In the event of an appeal, a cemetery operator may
21 request the court or administrative hearing commission stay the suspension of distribution
22 after a showing of necessity and good cause or authorize payment from the endowed care
23 trust fund or escrow account for necessary expenses from any amount subject to
24 distribution.

25 **3. Upon receipt of an order from the decision suspending distribution under this**
26 **section, a trustee, financial institution, or escrow agent shall immediately suspend**
27 **distribution as required by the order. A trustee, financial institution, or escrow agent shall**
28 **be exempt from liability for failure to distribute funds as ordered by the division.**

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

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

40 **6. The division may promulgate rules to implement the provisions of this section.**
41 **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is**
42 **created under the authority delegated in this section shall become effective only if it**
43 **complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
44 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
45 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
46 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
47 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
48 **adopted after August 28, 2009, shall be invalid and void.**

214.392. 1. The division shall:

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

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

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

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

11 (5) **Be authorized, within the limits of the funds appropriated to conduct**
12 **investigations, examinations, or audits to determine compliance with sections 214.270 to**
13 **274.410;**

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

16 (a) Rules setting the amount of fees authorized pursuant to sections 214.270 to 214.516.
17 The fees shall be set at a level to produce revenue that shall not substantially exceed the cost and
18 expense of administering sections 214.270 to 214.516. All moneys received by the division
19 pursuant to sections 214.270 to 214.516 shall be collected by the director who shall transmit such
20 moneys to the department of revenue for deposit in the state treasury to the credit of the endowed
21 care cemetery audit fund created in section 193.265, RSMo;

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

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

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

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

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

5 2. Any cemetery operator who shall willfully violate any provision of [section] **sections**
6 214.320, 214.330, 214.335, 214.340, 214.360 [or], 214.385, **or 214.387** shall be deemed guilty

7 of a class D felony and upon conviction thereof shall be fined a sum not to exceed ten thousand
8 dollars or shall be confined not more than five years or both. This section shall not apply to
9 cemeteries or cemetery associations which do not sell lots in the cemetery.

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

15 4. Any person who shall willfully violate any provision of section 214.320, 214.330,
16 214.335, 214.340, 214.360 or 214.385 or violates any rule, regulation or order of the division
17 may, in accordance with the regulations issued by the division, be assessed an administrative
18 penalty by the division. The penalty shall not exceed five thousand dollars for each violation and
19 each day of the continuing violation shall be deemed a separate violation for purposes of
20 administrative penalty assessment. However, no administrative penalty may be assessed until
21 the person charged with the violation has been given the opportunity for a hearing on the
22 violation. Penalty assessments received shall be deposited in the endowed care cemetery audit
23 fund created in section 193.265, RSMo.

214.455. Every person who shall knowingly **and unlawfully** destroy, mutilate, disfigure,
2 deface, injure, or remove **without authorization any human remains from a cemetery or**
3 **burial ground or other place of interment, entombment, or inurnment or who shall**
4 **knowingly and unlawfully destroy, mutilate, disfigure, deface, injure, or remove** any tomb,
5 monument, or gravestone, or other structure placed in such cemetery or burial ground or place
6 of burial of any human being, is guilty of a class A misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

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

18 4. A scatter garden established pursuant to this section shall be maintained by the
19 operator of the religious cemetery for as long as such operator is in existence. Upon dissolution
20 of such operator, all records of cremains shall be transferred to the clerk of the city, town, or

21 village in which the scatter garden is located, or if the scatter garden is located in any
22 unincorporated area, to the county recorder.

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

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

4 (2) "Director", the director of the division of professional registration; and

5 (3) "Division", the division of professional registration.

6 2. There is hereby established a "Division of Professional Registration" assigned to the
7 department of insurance, financial institutions and professional registration as a type III transfer,
8 headed by a director appointed by the governor with the advice and consent of the senate. All
9 of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State
10 Reorganization Act of 1974 and Executive Order 06-04 shall apply to this department and its
11 divisions, agencies, and personnel.

12 3. The director of the division of professional registration shall promulgate rules and
13 regulations which designate for each board or commission assigned to the division the renewal
14 date for licenses or certificates. After the initial establishment of renewal dates, no director of
15 the division shall promulgate a rule or regulation which would change the renewal date for
16 licenses or certificates if such change in renewal date would occur prior to the date on which the
17 renewal date in effect at the time such new renewal date is specified next occurs. Each board or
18 commission shall by rule or regulation establish licensing periods of one, two, or three years.
19 Registration fees set by a board or commission shall be effective for the entire licensing period
20 involved, and shall not be increased during any current licensing period. Persons who are
21 required to pay their first registration fees shall be allowed to pay the pro rata share of such fees
22 for the remainder of the period remaining at the time the fees are paid. Each board or
23 commission shall provide the necessary forms for initial registration, and thereafter the director
24 may prescribe standard forms for renewal of licenses and certificates. Each board or commission
25 shall by rule and regulation require each applicant to provide the information which is required
26 to keep the board's records current. **Each board or commission shall have the authority to
27 collect and analyze information required to support workforce planning and policy
28 development. Such information shall not be publicly disclosed so as to identify a specific
29 health care provider, as defined in section 376.1350, RSMo.** Each board or commission shall
30 issue the original license or certificate.

31 4. The division shall provide clerical and other staff services relating to the issuance and
32 renewal of licenses for all the professional licensing and regulating boards and commissions
33 assigned to the division. The division shall perform the financial management and clerical
34 functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and

35 renewal of licenses and certificates" means the ministerial function of preparing and delivering
36 licenses or certificates, and obtaining material and information for the board or commission in
37 connection with the renewal thereof. It does not include any discretionary authority with regard
38 to the original review of an applicant's qualifications for licensure or certification, or the
39 subsequent review of licensee's or certificate holder's qualifications, or any disciplinary action
40 contemplated against the licensee or certificate holder. The division may develop and implement
41 microfilming systems and automated or manual management information systems.

42 5. The director of the division shall maintain a system of accounting and budgeting, in
43 cooperation with the director of the department, the office of administration, and the state
44 auditor's office, to ensure proper charges are made to the various boards for services rendered
45 to them. The general assembly shall appropriate to the division and other state agencies from
46 each board's funds moneys sufficient to reimburse the division and other state agencies for all
47 services rendered and all facilities and supplies furnished to that board.

48 6. For accounting purposes, the appropriation to the division and to the office of
49 administration for the payment of rent for quarters provided for the division shall be made from
50 the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for
51 the purpose defined in subsection 5 of this section. The fund shall consist of moneys deposited
52 into it from each board's fund. Each board shall contribute a prorated amount necessary to fund
53 the division for services rendered and rent based upon the system of accounting and budgeting
54 established by the director of the division as provided in subsection 5 of this section. Transfers
55 of funds to the professional registration fees fund shall be made by each board on July first of
56 each year; provided, however, that the director of the division may establish an alternative date
57 or dates of transfers at the request of any board. Such transfers shall be made until they equal
58 the prorated amount for services rendered and rent by the division. The provisions of section
59 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and
60 placed to the credit of general revenue.

61 7. The director of the division shall be responsible for collecting and accounting for all
62 moneys received by the division or its component agencies. Any money received by a board or
63 commission shall be promptly given, identified by type and source, to the director. The director
64 shall keep a record by board and state accounting system classification of the amount of revenue
65 the director receives. The director shall promptly transmit all receipts to the department of
66 revenue for deposit in the state treasury to the credit of the appropriate fund. The director shall
67 provide each board with all relevant financial information in a timely fashion. Each board shall
68 cooperate with the director by providing necessary information.

69 8. All educational transcripts, test scores, complaints, investigatory reports, and
70 information pertaining to any person who is an applicant or licensee of any agency assigned to

71 the division of professional registration by statute or by the department are confidential and may
72 not be disclosed to the public or any member of the public, except with the written consent of
73 the person whose records are involved. The agency which possesses the records or information
74 shall disclose the records or information if the person whose records or information is involved
75 has consented to the disclosure. Each agency is entitled to the attorney-client privilege and
76 work-product privilege to the same extent as any other person. Provided, however, that any
77 board may disclose confidential information without the consent of the person involved in the
78 course of voluntary interstate exchange of information, or in the course of any litigation
79 concerning that person, or pursuant to a lawful request, or to other administrative or law
80 enforcement agencies acting within the scope of their statutory authority. Information regarding
81 identity, including names and addresses, registration, and currency of the license of the persons
82 possessing licenses to engage in a professional occupation and the names and addresses of
83 applicants for such licenses is not confidential information.

84 9. Any deliberations conducted and votes taken in rendering a final decision after a
85 hearing before an agency assigned to the division shall be closed to the parties and the public.
86 Once a final decision is rendered, that decision shall be made available to the parties and the
87 public.

88 10. A compelling governmental interest shall be deemed to exist for the purposes of
89 section 536.025, RSMo, for licensure fees to be reduced by emergency rule, if the projected fund
90 balance of any agency assigned to the division of professional registration is reasonably expected
91 to exceed an amount that would require transfer from that fund to general revenue.

92 11. (1) The following boards and commissions are assigned by specific type transfers
93 to the division of professional registration: Missouri state board of accountancy, chapter 326,
94 RSMo; board of cosmetology and barber examiners, chapters 328 and 329, RSMo; [state board
95 of registration] **Missouri board** for architects, professional engineers [and] , professional land
96 surveyors and landscape architects, chapter 327, RSMo; **Missouri** state board of chiropractic
97 examiners, chapter 331, RSMo; state board of registration for the healing arts, chapter 334,
98 RSMo; Missouri dental board, chapter 332, RSMo; state board of embalmers and funeral
99 directors, chapter 333, RSMo; state board of optometry, chapter 336, RSMo; **Missouri** state
100 board of nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo; state board of
101 [podiatry] **podiatric medicine**, chapter 330, RSMo; Missouri real estate **appraisers** commission,
102 chapter 339, RSMo; and Missouri veterinary medical board, chapter 340, RSMo. The governor
103 shall appoint members of these boards by and with the advice and consent of the senate.

104 (2) The boards and commissions assigned to the division shall exercise all their
105 respective statutory duties and powers, except those clerical and other staff services involving
106 collecting and accounting for moneys and financial management relating to the issuance and

107 renewal of licenses, which services shall be provided by the division, within the appropriation
108 therefor. Nothing herein shall prohibit employment of professional examining or testing services
109 from professional associations or others as required by the boards or commissions on contract.
110 Nothing herein shall be construed to affect the power of a board or commission to expend its
111 funds as appropriated. However, the division shall review the expense vouchers of each board.
112 The results of such review shall be submitted to the board reviewed and to the house and senate
113 appropriations committees annually.

114 (3) Notwithstanding any other provisions of law, the director of the division shall
115 exercise only those management functions of the boards and commissions specifically provided
116 in the Reorganization Act of 1974, and those relating to the allocation and assignment of space,
117 personnel other than board personnel, and equipment.

118 (4) "Board personnel", as used in this section or chapters 317, 326, 327, 328, 329, 330,
119 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345, RSMo, shall mean personnel whose
120 functions and responsibilities are in areas not related to the clerical duties involving the issuance
121 and renewal of licenses, to the collecting and accounting for moneys, or to financial management
122 relating to issuance and renewal of licenses; specifically included are executive secretaries (or
123 comparable positions), consultants, inspectors, investigators, counsel, and secretarial support
124 staff for these positions; and such other positions as are established and authorized by statute for
125 a particular board or commission. Boards and commissions may employ legal counsel, if
126 authorized by law, and temporary personnel if the board is unable to meet its responsibilities with
127 the employees authorized above. Any board or commission which hires temporary employees
128 shall annually provide the division director and the appropriation committees of the general
129 assembly with a complete list of all persons employed in the previous year, the length of their
130 employment, the amount of their remuneration, and a description of their responsibilities.

131 (5) Board personnel for each board or commission shall be employed by and serve at the
132 pleasure of the board or commission, shall be supervised as the board or commission designates,
133 and shall have their duties and compensation prescribed by the board or commission, within
134 appropriations for that purpose, except that compensation for board personnel shall not exceed
135 that established for comparable positions as determined by the board or commission pursuant
136 to the job and pay plan of the department of insurance, financial institutions and professional
137 registration. Nothing herein shall be construed to permit salaries for any board personnel to be
138 lowered except by board action.

139 12. All the powers, duties, and functions of the division of athletics, chapter 317, RSMo,
140 and others, are assigned by type I transfer to the division of professional registration.

141 13. Wherever the laws, rules, or regulations of this state make reference to the "division
142 of professional registration of the department of economic development", such references shall
143 be deemed to refer to the division of professional registration.

 324.065. 1. The board shall elect annually a chairperson and a vice chairperson from
2 their number.

3 2. (1) The [division, in collaboration with the] board[,] shall adopt, implement, rescind,
4 amend and administer such rules and regulations as may be necessary to carry out the provisions
5 of sections 324.050 to 324.089. The [division, in collaboration with the] board[,] may
6 promulgate necessary rules compatible with sections 324.050 to 324.089, including, but not
7 limited to, rules relating to professional conduct, continuing competency requirements for
8 renewal of licenses, approval of continuing competency programs and to the establishment of
9 ethical standards of practice for persons holding a license or permit to practice occupational
10 therapy in this state.

11 (2) **The board shall establish all applicable fees and set an amount which shall not**
12 **substantially exceed the cost of administering sections 324.050 to 324.089.**

13 (3) **The board shall approve or disapprove certifying entities for the profession of**
14 **occupational therapy included in the scope of sections 324.050 to 324.089.**

15 (4) **The board may terminate recognition of any certifying entity included in the**
16 **scope of sections 324.050 to 324.089 following a subsequent review of the certification of**
17 **registration procedures of a certifying entity.**

18 3. The board shall convene at the request of the director or as the board shall determine.
19 The board shall hold regular meetings at least four times per year.

20 4. Each member of the board shall receive as compensation, an amount set by the
21 division not to exceed fifty dollars per day, for each day devoted to the affairs of the board and
22 may be reimbursed for actual and necessary expenses incurred in the performance of the
23 member's official duties.

24 5. No rule or portion of a rule promulgated pursuant to the authority of sections 324.050
25 to 324.089 shall become effective unless it has been promulgated pursuant to the provisions of
26 section 536.024, RSMo.

 324.068. For the purpose of sections 324.050 to 324.089, the division shall:

2 (1) Employ, within the limits of the appropriations for that purpose, employees as are
3 necessary to carry out the provisions of sections 324.050 to 324.089;

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

5 (3) [Establish all applicable fees; set at an amount which shall not substantially exceed
6 the cost of administering sections 324.050 to 324.089;

7 (4)] Deposit all fees collected pursuant to sections 324.050 to 324.089, by transmitting
8 such funds to the department of revenue for deposit to the state treasury to the credit of the
9 Missouri board of occupational therapy fund[;

10 (5) Approve or disapprove certifying entities for the profession of occupational therapy
11 included in the scope of sections 324.050 to 324.089; and

12 (6) The division may terminate recognition of any certifying entity included in the scope
13 of sections 324.050 to 324.089 following a subsequent review of the certification of registration
14 procedures of a certifying entity].

324.071. 1. The applicant applying for a license to practice occupational therapy shall
2 provide evidence of being initially certified by a certifying entity and has completed an
3 application for licensure and all applicable fees have been paid.

4 2. The certification requirement shall be waived for those persons who hold a current
5 registration by the [division] **board** as an occupational therapist or occupational therapy assistant
6 on August 28, 1997, provided that this application is made on or before October 31, 1997, and
7 all applicable fees have been paid. All other requirements of sections 324.050 to 324.089 must
8 be satisfied.

9 3. The person shall have no violations, suspensions, revocation or pending complaints
10 for violation of regulations from a certifying entity or any governmental regulatory agency in the
11 past five years.

12 4. The [division, in collaboration with the] board[,] may negotiate reciprocal contracts
13 with other states, the District of Columbia, or territories of the United States which require
14 standards for licensure, registration or certification considered to be equivalent or more stringent
15 than the requirements for licensure pursuant to sections 324.050 to 324.089.

324.077. The [division, in collaboration with the] board[,] may issue a limited permit,
2 upon the payment of applicable fees and completion of the required application, to a person who
3 sufficiently provides proof of eligibility to set for the first available examination upon
4 completion of all other necessary requirements for certification by the certifying entity. The
5 limited permit shall allow the person to practice occupational therapy under the supervision of
6 a person currently licensed pursuant to sections 324.050 to 324.089. A limited permit shall only
7 be effective up to but not to exceed the time the results of the second available examination are
8 received by the board unless the person successfully passes the examination in which instance
9 the limited permit shall remain valid for an additional sixty days.

324.080. 1. The division shall mail a renewal notice to the last known address of each
2 licensee prior to the renewal date. Failure to provide the division with the information required
3 for renewal or to pay the required fee after such notice shall result in the license being declared
4 inactive and the licensee shall not practice occupational therapy until he or she applies for

5 reinstatement and pays the required fees. The license shall be restored if the application is
6 received within two years of the renewal date.

7 2. Upon request, the division, in collaboration with the board, may grant inactive status
8 to a licensee, if the person:

9 (1) Does not practice occupational therapy in the state of Missouri;

10 (2) Does not hold himself or herself out as an occupational therapist or an occupational
11 therapy assistant in the state of Missouri;

12 (3) Maintains any continuing competency requirements established by the [division, in
13 collaboration with the] board; and

14 (4) Remits any fee that may be required.

324.086. 1. The board may refuse to issue or renew any certificate of registration or
2 authority, permit or license required pursuant to sections 324.050 to 324.089 for one or any
3 combination of causes stated in subsection 2 of this section. The board shall notify the applicant
4 in writing of the reasons for the refusal and shall advise the applicant of his or her right to file
5 a complaint 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 certificate of
8 registration or authority, permit or license required by sections 324.050 to 324.089 or any person
9 who has failed to renew or has surrendered his or her certificate of registration or authority,
10 permit or license for any one or any combination of the following causes:

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

14 (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty
15 or nolo contendere, in a criminal prosecution under the laws of any state or of the United States,
16 for any offense reasonably related to the qualifications, functions or duties of any profession
17 licensed or regulated by sections 324.050 to 324.089, for any offense an essential element of
18 which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude,
19 whether or not sentence is imposed;

20 (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of
21 registration or authority, permit or license issued pursuant to sections 324.050 to 324.089 or in
22 obtaining permission to take any examination given or required pursuant to sections 324.050 to
23 324.089;

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

26 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty
27 in the performance of the functions and duties of any profession licensed or regulated by sections
28 324.050 to 324.089;

29 (6) Violation of, or assisting or enabling any person to violate, any provision of sections
30 324.050 to 324.089 or any lawful rule or regulation adopted pursuant to sections 324.050 to
31 324.089;

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

35 (8) Disciplinary action against the holder of a license or other right to practice any
36 profession regulated by sections 324.050 to 324.089 granted by another state, territory, federal
37 agency or country upon grounds for which revocation or suspension is authorized in this state;

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

40 (10) Assisting or enabling any person to practice or offer to practice any profession
41 licensed or regulated by sections 324.050 to 324.089 who is not registered and currently eligible
42 to practice pursuant to sections 324.050 to 324.089;

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

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

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

48 (14) Unethical conduct as defined in the ethical standards for occupational therapists and
49 occupational therapy assistants adopted by the [division] **board** and filed with the secretary of
50 state;

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

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

60 4. An individual whose license has been revoked shall wait at least one year from the
61 date of revocation to apply for relicensure. Relicensure shall be at the discretion of the board

62 after compliance with all requirements of sections 324.050 to 324.089 relative to the licensing
63 of the applicant for the first time.

324.089. 1. Any person or corporation who knowingly violates any provision of sections
2 324.050 to 324.089 is guilty of a class B misdemeanor.

3 2. Any officer or agent of a corporation or member or agent of a partnership or
4 association, who knowingly and personally participates in, or is an accessory to, any violation
5 of sections 324.050 to 324.089 is guilty of a class B misdemeanor.

6 3. The provisions of this section shall not be construed to release any person from civil
7 liability or criminal prosecution pursuant to any other law of this state.

8 4. The [division, in collaboration with the] board[,] may cause a complaint to be filed
9 for any violation of sections 324.050 to 324.089 in any court of competent jurisdiction and
10 perform such other acts as may be necessary to enforce the provisions of sections 324.050 to
11 324.089.

324.139. 1. To qualify for a license, an applicant shall pass a competency examination
2 given by the American Board of Cardiovascular Perfusion or its successor organization.

3 2. Not later than forty-five days after the date on which a licensing examination is
4 administered pursuant to sections 324.125 to 324.183, the [division] **board** shall notify each
5 examinee of the results of the examination.

6 3. The board by rule shall establish:

7 (1) A limit on the number of times an applicant who fails an examination may retake the
8 examination; and

9 (2) The requirements for reexamination and the amount of any reexamination fee.

324.141. A person licensed pursuant to the provisions of sections 324.125 to 324.183
2 shall display the license certificate issued pursuant to sections 324.125 to 324.183 in a prominent
3 place at the site, location or office from which such person practices such person's profession or
4 such license holder shall maintain on file at all times during which the license holder provides
5 services in a health care facility a true and correct copy of the license certificate in the
6 appropriate records of the facility. A license holder shall inform the [division] **board** of any
7 change of address for the license holder. A license certificate issued by the board is the property
8 of the board and shall be surrendered upon demand.

324.212. 1. Applications for licensure as a dietitian shall be in writing, submitted to the
2 committee on forms prescribed by the [division] **committee** and furnished to the applicant. The
3 application shall contain the applicant's statements showing the applicant's education, experience
4 and such other information as the committee may require. Each application shall contain a
5 statement that it is made under oath or affirmation and that the information contained therein is
6 true and correct to the best knowledge and belief of the applicant, subject to the penalties

7 provided for the making of a false affidavit or declaration. Each application shall be
8 accompanied by the fees required by the committee.

9 2. The division shall mail a renewal notice to the last known address of each licensee
10 prior to the renewal date. Failure to provide the committee with the information required for
11 renewal, or to pay the renewal fee after such notice shall effect a noncurrent license. The license
12 shall be reinstated if, within two years of the renewal date, the applicant submits the required
13 documentation and pays the applicable fees as approved by the committee.

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

16 4. The committee shall set by rule the appropriate amount of fees authorized herein. The
17 fees shall be set at a level to produce revenue which shall not exceed the cost and expense of
18 administering the provisions of sections 324.200 to 324.225. All fees provided for in sections
19 324.200 to 324.225 shall be collected by the director who shall transmit the funds to the director
20 of revenue to be deposited in the state treasury to the credit of the "Dietitian Fund" which is
21 hereby created.

22 5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in
23 this fund shall not be transferred and placed to the credit of general revenue until the amount in
24 the fund at the end of the biennium exceeds three times the amount of the appropriation from the
25 dietitian fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is
26 that amount in the fund which exceeds the appropriate multiple of the appropriations from the
27 dietitian fund for the preceding fiscal year.

 324.247. A person desiring to receive a license to operate a massage business in the state
2 of Missouri shall file a written application with the board on a form prescribed by the [division]
3 **board** and pay the appropriate required fee. It shall be unlawful for a business to employ or
4 contract with any person in this state to provide massage therapy as defined in subdivision (7)
5 of section 324.240 unless such person has obtained a license as provided by this chapter. Failure
6 to comply with the provisions of this section shall be cause to discipline the licensee.

 324.415. Applications for registration as a registered interior designer shall be
2 typewritten on forms prescribed by the [division] **council** and furnished to the applicant. The
3 application shall contain the applicant's statements showing the applicant's education, experience,
4 results of previous interior design certification, registration or licensing examinations, if any, and
5 such other pertinent information as the council may require, or architect's registration number
6 and such other pertinent information as the council may require. Each application shall contain
7 a statement that is made under oath or affirmation and that the representations are true and
8 correct to the best knowledge and belief of the person signing the application. The person shall

9 be subject to the penalties for making a false affidavit or declaration and shall be accompanied
10 by the required fee.

324.481. 1. The board shall upon recommendation of the committee license applicants
2 who meet the qualifications for acupuncturists, who file for licensure, and who pay all fees
3 required for this licensure.

4 2. [The division shall:

5 (1) Prescribe the design of all forms to be furnished to all persons seeking licensure
6 pursuant to sections 324.475 to 324.499;

7 (2) Prescribe the form and design of the license to be issued pursuant to sections 324.475
8 to 324.499.

9 3.] The board shall:

10 (1) Maintain a record of all board and committee proceedings regarding sections 324.475
11 to 324.499 and of all acupuncturists licensed in this state;

12 (2) Annually prepare a roster of the names and addresses of all acupuncturists licensed
13 in this state, copies of which shall be made available upon request to any person paying the fee
14 therefor;

15 (3) Set the fee for the roster at an amount sufficient to cover the actual cost of publishing
16 and distributing the roster;

17 (4) Adopt an official seal;

18 (5) **Prescribe the design of all forms to be furnished to all persons seeking licensure**
19 **under sections 324.475 to 324.499;**

20 (6) **Prescribe the form and design of the license to be issued under sections 324.475**
21 **to 324.499;**

22 (7) Inform licensees of any changes in policy, rules or regulations;

23 [(6)] (8) Upon the recommendation of the committee, set all fees, by rule, necessary to
24 administer the provisions of sections 324.475 to 324.499.

25 [4.] 3. The board may with the approval of the advisory committee:

26 (1) Issue subpoenas to compel witnesses to testify or produce evidence in proceedings
27 to deny, suspend or revoke licensure;

28 (2) Promulgate rules pursuant to chapter 536, RSMo, in order to carry out the provisions
29 of sections 324.475 to 324.499 including, but not limited to, regulations establishing:

30 (a) Standards for the practice of acupuncture;

31 (b) Standards for ethical conduct in the practice of acupuncture;

32 (c) Standards for continuing professional education;

33 (d) Standards for the training and practice of auricular detox technicians, including
34 specific enumeration of points which may be used.

35 [5.] 4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
36 that is promulgated to administer and enforce sections 324.475 to 324.499, shall become
37 effective only if the agency has fully complied with all of the requirements of chapter 536,
38 RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998.
39 If the provisions of section 536.028, RSMo, apply, the provisions of this section are
40 nonseverable and if any of the powers vested with the general assembly pursuant to section
41 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or
42 portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority
43 and any rule so proposed and contained in the order of rulemaking shall be invalid and void,
44 except that nothing in this section shall affect the validity of any rule adopted and promulgated
45 prior to August 28, 1998.

46 [6.] 5. All funds received by the board pursuant to the provisions of sections 324.240 to
47 324.275 shall be collected by the director who shall transmit the funds to the department of
48 revenue for deposit in the state treasury to the credit of the "Acupuncturist Fund" which is hereby
49 created.

50 [7.] 6. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money
51 in this fund shall not be transferred and placed to the credit of general revenue until the amount
52 in the fund at the end of the biennium exceeds three times the amount of the appropriation from
53 the acupuncturist fund for the preceding fiscal year. The amount, if any, in the fund which shall
54 lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations
55 from the acupuncturist fund for the preceding fiscal year.

324.487. 1. It is unlawful for any person to practice acupuncture in this state, unless
2 such person:

3 (1) Possesses a valid license issued by the board pursuant to sections 324.475 to
4 324.499; or

5 (2) Is engaged in a supervised course of study that has been authorized by the committee
6 approved by the board, and is designated and identified by a title that clearly indicates status as
7 a trainee, and is under the supervision of a licensed acupuncturist.

8 2. A person may be licensed to practice acupuncture in this state if the applicant:

9 (1) Is twenty-one years of age or older and meets one of the following requirements:

10 (a) Is actively certified as a Diplomate in Acupuncture by the National Commission for
11 the Certification of Acupuncture and Oriental Medicine; or

12 (b) Is actively licensed, certified or registered in a state or jurisdiction of the United
13 States which has eligibility and examination requirements that are at least equivalent to those of
14 the National Commission for the Certification of Acupuncture and Oriental Medicine, as
15 determined by the committee and approved by the board; and

16 (2) Submits to the committee an application on a form prescribed by the [division]
17 committee; and

18 (3) Pays the appropriate fee.

19 3. The board shall issue a certificate of licensure to each individual who satisfies the
20 requirements of subsection 2 of this section, certifying that the holder is authorized to practice
21 acupuncture in this state. The holder shall have in his or her possession at all times while
22 practicing acupuncture, the license issued pursuant to sections 324.475 to 324.499.

**327.442. 1. At such time as the final trial proceedings are concluded whereby a
2 licensee, or any person who has failed to renew or has surrendered his or her certificate
3 of licensure or authority, has been adjudicated and found guilty, or has entered a plea of
4 guilty or nolo contendere, in a felony prosecution pursuant to the laws of this state, the
5 laws of any other state, territory, or the laws of the United States of America for any
6 offense reasonably related to the qualifications, functions, or duties of a licensee pursuant
7 to this chapter or any felony offense, an essential element of which is fraud, dishonesty, or
8 an act of violence, or for any felony offense involving moral turpitude, whether or not
9 sentence is imposed, the board for architects, professional engineers, professional land
10 surveyors and landscape architects may hold a disciplinary hearing to singly or in
11 combination censure or place the licensee named in the complaint on probation on such
12 terms and conditions as the board deems appropriate for a period not to exceed five years,
13 or may suspend, for a period not to exceed three years, or revoke the license or certificate.**

14 **2. Anyone who has been revoked or denied a license or certificate to practice in
15 another state may automatically be denied a license or certificate to practice in this state.
16 However, the board for architects, professional engineers, professional land surveyors and
17 landscape architects may establish other qualifications by which a person may ultimately
18 be qualified and licensed to practice in Missouri.**

**332.112. 1. A person desiring to obtain a volunteer license to practice dentistry
2 shall:**

3 **(1) Submit to the board a verified affidavit stating that he or she has been licensed
4 to practice dentistry in Missouri or in any state or territory of the United States or the
5 District of Columbia for at least ten years and has not allowed that license to lapse or
6 expire for a period of time greater than four years immediately preceding the date of
7 application for a volunteer license, is retired from the practice of dentistry, and that his or
8 her license was in good standing at retirement; and**

9 **(2) Meet the requirements in section 332.151.**

10 **2. Effective with the licensing period beginning on December 1, 2010, a volunteer
11 license to practice dentistry shall be renewed every two years. To renew a license, each**

12 dentist shall submit satisfactory evidence of current certification in the American Heart
13 Association's Basic Life Support (BLS), Advanced Cardiac Life Support (ACLS), or
14 certification equivalent to BLS or ACLS and completion of forty hours of board-approved
15 continuing education during the two-year period immediately preceding the renewal
16 period. Continuing education hours earned towards certification in BLS or ACLS may be
17 applied towards the forty hours of continuing education required for renewal. Each
18 dentist shall maintain documentation of completion of the required continuing education
19 hours for a minimum of six years after the reporting period in which the continuing
20 education was completed. The board, solely in its discretion, may allow a dentist working
21 at a facility outlined in subsection 3 of section 332.112 to credit time spent working in that
22 facility towards the forty hour continuing education requirement for renewal. The board,
23 solely in its discretion, may waive or extend the time requirements for completion of
24 continuing education for reasons related to health, military service, foreign residency, or
25 for other good cause. All requests for credit for continuing education hours and requests
26 for waivers or extensions of time shall be made in writing and submitted to the board
27 before the renewal date.

28 **3. A dentist with a volunteer license may only provide without compensation dental**
29 **care and preventative care services to family members or at facilities operated by city or**
30 **county health departments organized under chapter 192, RSMo, or chapter 205, RSMo,**
31 **city health departments operating under city charters, combined city-county health**
32 **centers, public elementary or secondary schools, federally funded community health**
33 **centers, or nonprofit community health centers.**

34 **4. The board shall not charge a fee for any application for a volunteer license to**
35 **practice dentistry nor to renew a volunteer license to practice dentistry.**

332.113. 1. A person desiring to obtain a volunteer license to practice as a dental
2 **hygienist shall:**

3 **(1) Submit to the board a verified affidavit stating that he or she has been licensed**
4 **to practice as a dental hygienist in Missouri or in any state or territory of the United States**
5 **or the District of Columbia for at least ten years, and has not allowed that license to lapse**
6 **or expire for a period of time greater than four years immediately preceding the date of**
7 **application for a volunteer license is retired from practicing as a dental hygienist, and that**
8 **his or her license was in good standing at retirement; and**

9 **(2) Meet the requirements in sections 332.251 or 332.281 and 332.231.**

10 **2. Effective with the licensing period beginning on December 1, 2010, a volunteer**
11 **license to practice dental hygiene shall be renewed every two years. To renew a license,**
12 **each dental hygienist shall submit satisfactory evidence of current certification in the**

13 **American Heart Association's Basic Life Support (BLS), Advanced Cardiac Life Support**
14 **(ACLS), or certification equivalent to BLS or ACLS and completion of twenty- five hours**
15 **of board-approved continuing education during the two-year period immediately**
16 **preceding the renewal period. Continuing education hours earned towards certification**
17 **in BLS or ACLS may be applied towards the twenty-five hours of continuing education**
18 **required for renewal. Each dental hygienist shall maintain documentation of completion**
19 **of the required continuing education hours for a minimum of six years after the reporting**
20 **period in which the continuing education was completed. The board, solely in its**
21 **discretion, may allow a dental hygienist working at a facility outlined in subsection 3 of this**
22 **section to credit time spent working in that facility towards the twenty five hour continuing**
23 **education requirement for renewal. The board, solely in its discretion, may waive or**
24 **extend the time requirements for completion of continuing education for reasons related**
25 **to health, military service, foreign residency, or for other good cause. All requests for**
26 **credit for continuing education hours and requests for waivers or extensions of time shall**
27 **be made in writing and submitted to the board before the renewal date.**

28 **3. A dental hygienist with a volunteer license may only provide without**
29 **compensation dental hygiene care and preventative care services to family members or at**
30 **facilities operated by city or county health departments organized under chapter 192,**
31 **RSMo, or chapter 205, RSMo, city health departments operating under city charters,**
32 **combined city-county health centers, public elementary or secondary schools, federally**
33 **funded community health centers, or nonprofit community health centers.**

34 **4. The board shall not charge a fee for any application for a volunteer license to**
35 **practice dental hygiene nor to renew a volunteer license to practice dental hygiene.**

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

- 2 (1) "Applicant", any individual who seeks to become licensed as a physician assistant;
- 3 (2) "Certification" or "registration", a process by a certifying entity that grants
4 recognition to applicants meeting predetermined qualifications specified by such certifying
5 entity;
- 6 (3) "Certifying entity", the nongovernmental agency or association which certifies or
7 registers individuals who have completed academic and training requirements;
- 8 (4) "Department", the department of insurance, financial institutions and professional
9 registration or a designated agency thereof;
- 10 (5) "License", a document issued to an applicant by the board acknowledging that the
11 applicant is entitled to practice as a physician assistant;
- 12 (6) "Physician assistant", a person who has graduated from a physician assistant program
13 accredited by the American Medical Association's Committee on Allied Health Education and

14 Accreditation or by its successor agency, who has passed the certifying examination administered
15 by the National Commission on Certification of Physician Assistants and has active certification
16 by the National Commission on Certification of Physician Assistants who provides health care
17 services delegated by a licensed physician. A person who has been employed as a physician
18 assistant for three years prior to August 28, 1989, who has passed the National Commission on
19 Certification of Physician Assistants examination, and has active certification of the National
20 Commission on Certification of Physician Assistants;

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

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

43 2. The board shall promulgate rules under chapter 536, RSMo, to direct the advisory
44 commission on physician assistants to establish a formal waiver mechanism by which an
45 individual physician-physician assistant team may apply for alternate minimum amounts of
46 on-site supervision and maximum distance from the supervising physician. After review of an
47 application for a waiver, the advisory commission on physician assistants shall present its
48 recommendation to the board for its advice and consent on the approval or denial of the
49 application. The rule shall establish a process by which the public is invited to comment on the

50 application for a waiver, and shall specify that a waiver may only be granted if a supervising
51 physician and physician assistant demonstrate to the board's satisfaction in accordance with its
52 uniformly applied criteria that:

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

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

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

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

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

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

69 (1) Taking patient histories;

70 (2) Performing physical examinations of a patient;

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

73 (4) Performing routine therapeutic procedures;

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

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

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

81 (8) Assisting in surgery;

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

84 (10) Physician assistants shall not perform abortions.

85 4. Physician assistants shall not prescribe nor dispense any drug, medicine, device or
86 therapy independent of consultation with the supervising physician, nor prescribe lenses, prisms
87 or contact lenses for the aid, relief or correction of vision or the measurement of visual power
88 or visual efficiency of the human eye, nor administer or monitor general or regional block
89 anesthesia during diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing
90 of drugs, medications, devices or therapies by a physician assistant shall be pursuant to a
91 physician assistant supervision agreement which is specific to the clinical conditions treated by
92 the supervising physician and the physician assistant shall be subject to the following:

93 (1) A physician assistant shall [not] **only** prescribe controlled substances **in accordance**
94 **with section 334.747;**

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

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

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

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

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

108 5. A physician assistant shall clearly identify himself or herself as a physician assistant
109 and shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr."
110 or "doc" nor hold himself or herself out in any way to be a physician or surgeon. No physician
111 assistant shall practice or attempt to practice without physician supervision or in any location
112 where the supervising physician is not immediately available for consultation, assistance and
113 intervention, except as otherwise provided in this section, and in an emergency situation, nor
114 shall any physician assistant bill a patient independently or directly for any services or procedure
115 by the physician assistant.

116 6. For purposes of this section, the licensing of physician assistants shall take place
117 within processes established by the state board of registration for the healing arts through rule
118 and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536,
119 RSMo, establishing licensing and renewal procedures, supervision, supervision agreements, fees,
120 and addressing such other matters as are necessary to protect the public and discipline the

121 profession. An application for licensing may be denied or the license of a physician assistant
122 may be suspended or revoked by the board in the same manner and for violation of the standards
123 as set forth by section 334.100, or such other standards of conduct set by the board by rule or
124 regulation. Persons licensed pursuant to the provisions of chapter 335, RSMo, shall not be
125 required to be licensed as physician assistants. All applicants for physician assistant licensure
126 who complete a physician assistant training program after January 1, 2008, shall have a master's
127 degree from a physician assistant program.

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

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

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

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

144 11. No contract or other agreement shall require a physician to act as a supervising
145 physician for a physician assistant against the physician's will. A physician shall have the right
146 to refuse to act as a supervising physician, without penalty, for a particular physician assistant.
147 No contract or other agreement shall limit the supervising physician's ultimate authority over any
148 protocols or standing orders or in the delegation of the physician's authority to any physician
149 assistant, but this requirement shall not authorize a physician in implementing such protocols,
150 standing orders, or delegation to violate applicable standards for safe medical practice
151 established by hospital's medical staff.

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

154 13. No physician shall be designated to serve as supervising physician for more than
155 three full-time equivalent licensed physician assistants. This limitation shall not apply to

156 physician assistant agreements of hospital employees providing inpatient care service in hospitals
157 as defined in chapter 197, RSMo.

334.747. 1. A physician assistant with a certificate of controlled substance prescriptive authority as provided in this section may prescribe any controlled substance listed in schedule III, IV, or V of section 195.017, RSMo, when delegated the authority to prescribe controlled substances in a supervision agreement. Such authority shall be listed on the supervision verification form on file with the state board of healing arts. The supervising physician shall maintain the right to limit a specific scheduled drug or scheduled drug category that the physician assistant is permitted to prescribe. Any limitations shall be listed on the supervision form. Physician assistants shall not prescribe controlled substances for themselves or members of their families. Schedule III controlled substances shall be limited to a five-day supply without refill. Physician assistants who are authorized to prescribe controlled substances under this section shall register with the federal Drug Enforcement Administration and the state bureau of narcotics and dangerous drugs, and shall include such registration numbers on prescriptions for controlled substances.

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

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

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

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

(3) Completion of a minimum of one year of supervised clinical practice or supervised clinical rotations. One year of clinical rotations in a program accredited by the Accreditation Review Commission on Education of the Physician Assistant (ARC-PA) or its predecessor agency, which includes pharmacotherapeutics as a component of its clinical

35 **training, shall satisfy such requirement. Proof of such training shall serve to document**
36 **experience in the prescribing of drugs, medicines, and therapeutic devices;**

37 **(4) A physician assistant previously licensed in a jurisdiction where physician**
38 **assistants are authorized to prescribe controlled substances may obtain a state bureau of**
39 **narotics and dangerous drugs registration if a supervising physician can attest that the**
40 **physician assistant has met the requirements of subdivisions (1) to (3) of this subsection**
41 **and provides documentation of existing federal Drug Enforcement Agency registration.**

334.850. The division of professional registration shall provide all necessary personnel
2 to carry out the provisions of sections 334.800 to 334.930. The division shall:

3 (1) Exercise all budgeting, purchasing, reporting and other related management
4 functions;

5 (2) [Establish application and licensure fees, in cooperation with the board, and collect
6 such fees;

7 (3)] Deposit all fees collected pursuant to sections 334.800 to 334.930 by transmitting
8 such funds to the department of revenue for deposit to the state treasury to the credit of the
9 "Respiratory Care Practitioners Fund", which is hereby created. Notwithstanding the provisions
10 of section 33.080, RSMo, to the contrary, money in this fund shall not be transferred and placed
11 to the credit of general revenue until the amount in the fund at the end of the biennium exceeds
12 two times the amount of the appropriations from the fund for the preceding fiscal year, or three
13 times the amount if the board requires renewal of licenses less often than annually. The amount,
14 if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate
15 multiple of the appropriations from the fund for the preceding fiscal year;

16 [(4)] (3) Process applications and notify licensees when a license is to expire;

17 [(5)] (4) Establish the amount the board shall receive as per diem for each day devoted
18 to the member's official duties on the board and reimburse any actual and necessary expenses a
19 board member incurs in the performance of the member's official duties;

20 [(6)] (5) Promulgate, in cooperation with the board, such rules and regulations as are
21 necessary to administer the provisions of sections 334.800 to 334.930. Any rule or portion of
22 a rule, as that term is defined in section 536.010, RSMo, that is created under the authority
23 delegated in sections 334.800 to 334.930 shall become effective only if it complies with and is
24 subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo.
25 All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and
26 repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule
27 filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of
28 law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with
29 the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to

30 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
31 authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

32 **NURSE LICENSURE COMPACT**

33 **ARTICLE I**

335.300. FINDINGS AND DECLARATION OF PURPOSE. 1. The party states

2 **find that:**

3 (1) **The health and safety of the public are affected by the degree of compliance**
4 **with and the effectiveness of enforcement activities related to state nurse licensure laws;**

5 (2) **Violations of nurse licensure and other laws regulating the practice of nursing**
6 **may result in injury or harm to the public;**

7 (3) **The expanded mobility of nurses and the use of advanced communication**
8 **technologies as part of our nation's healthcare delivery system require greater coordination**
9 **and cooperation among states in the areas of nurse licensure and regulation;**

10 (4) **New practice modalities and technology make compliance with individual state**
11 **nurse licensure laws difficult and complex;**

12 (5) **The current system of duplicative licensure for nurses practicing in multiple**
13 **states is cumbersome and redundant to both nurses and states.**

14 **2. The general purposes of this compact are to:**

15 (1) **Facilitate the states' responsibility to protect the public's health and safety;**

16 (2) **Ensure and encourage the cooperation of party states in the areas of nurse**
17 **licensure and regulation;**

18 (3) **Facilitate the exchange of information between party states in the areas of nurse**
19 **regulation, investigation, and adverse actions;**

20 (4) **Promote compliance with the laws governing the practice of nursing in each**
21 **jurisdiction;**

22 (5) **Invest all party states with the authority to hold a nurse accountable for meeting**
23 **all state practice laws in the state in which the patient is located at the time care is rendered**
24 **through the mutual recognition of party state licenses.**

25 **ARTICLE II**

335.305. DEFINITIONS. As used in this compact, the following terms shall mean:

2 (1) **"Adverse action", a home or remote state action;**

3 (2) **"Alternative program", a voluntary, non-disciplinary monitoring program**
4 **approved by a nurse licensing board;**

5 (3) **"Coordinated licensure information system", an integrated process for**
6 **collecting, storing, and sharing information on nurse licensure and enforcement activities**

- 7 related to nurse licensure laws, which is administered by a non-profit organization
8 composed of and controlled by state nurse licensing boards;
- 9 (4) "Current significant investigative information":
- 10 (a) Investigative information that a licensing board, after a preliminary inquiry
11 that includes notification and an opportunity for the nurse to respond if required by state
12 law, has reason to believe is not groundless and, if proved true, would indicate more than
13 a minor infraction; or
- 14 (b) Investigative information that indicates that the nurse represents an immediate
15 threat to public health and safety regardless of whether the nurse has been notified and
16 had an opportunity to respond;
- 17 (5) "Home state", the party state that is the nurse's primary state of residence;
- 18 (6) "Home state action", any administrative, civil, equitable, or criminal action
19 permitted by the home state's laws that are imposed on a nurse by the home state's
20 licensing board or other authority including actions against an individual's license such as:
21 revocation, suspension, probation, or any other action affecting a nurse's authorization to
22 practice;
- 23 (7) "Licensing board", a party state's regulatory body responsible for issuing nurse
24 licenses;
- 25 (8) "Multistate licensing privilege", current, official authority from a remote state
26 permitting the practice of nursing as either a registered nurse or a licensed
27 practical/vocational nurse in such party state. All party states have the authority, in
28 accordance with existing state due process law, to take actions against the nurse's privilege
29 such as: revocation, suspension, probation, or any other action that affects a nurse's
30 authorization to practice;
- 31 (9) "Nurse", a registered nurse or licensed/vocational nurse, as those terms are
32 defined by each state's practice laws;
- 33 (10) "Party state", any state that has adopted this compact;
- 34 (11) "Remote state", a party state, other than the home state:
- 35 (a) Where a patient is located at the time nursing care is provided; or
36 (b) In the case of the practice of nursing not involving a patient, in such party state
37 where the recipient of nursing practice is located;
- 38 (12) "Remote state action":
- 39 (a) Any administrative, civil, equitable, or criminal action permitted by a remote
40 state's laws which are imposed on a nurse by the remote state's licensing board or other
41 authority including actions against an individual's multistate licensure privilege to practice
42 in the remote state; and

43 (b) Cease and desist and other injunctive or equitable orders issued by remote
44 states or the licensing boards thereof;

45 (13) "State", a state, territory, or possession of the United States, the District of
46 Columbia, or the Commonwealth of Puerto Rico;

47 (14) "State practice laws", those individual party's state laws and regulations that
48 govern the practice of nursing, define the scope of nursing practice, and create the methods
49 and grounds for imposing discipline. State practice laws does not include the initial
50 qualifications for licensure or requirements necessary to obtain and retain a license, except
51 for qualifications or requirements of the home state.

52

ARTICLE III

335.310. GENERAL PROVISIONS AND JURISDICTION. 1. A license to practice
2 registered nursing issued by a home state to a resident in that state will be recognized by
3 each party state as authorizing a multistate licensure privilege to practice as a registered
4 nurse in such party state. A license to practice licensed practical/vocational nursing issued
5 by a home state to a resident in that state will be recognized by each party state as
6 authorizing a multistate licensure privilege to practice as a licensed practical/vocational
7 nurse in such party state. In order to obtain or retain a license, an applicant must meet the
8 home state's qualifications for licensure and license renewal as well as all other applicable
9 state laws.

10 2. Party states may, in accordance with state due process laws, limit or revoke the
11 multistate licensure privilege of any nurse to practice in their state and may take any other
12 actions under their applicable state laws necessary to protect the health and safety of their
13 citizens. If a party state takes such action, it shall promptly notify the administrator of the
14 coordinated licensure information system. The administrator of the coordinated licensure
15 information system shall promptly notify the home state of any such actions by remote
16 states.

17 3. Every nurse practicing in a party state must comply with the state practice laws
18 of the state in which the patient is located at the time care is rendered. In addition, the
19 practice of nursing is not limited to patient care, but shall include all nursing practice as
20 defined by the state practice laws of a party state. The practice of nursing will subject a
21 nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in
22 that party state.

23 4. This compact does not affect additional requirements imposed by states for
24 advanced practice registered nursing. However, a multistate licensure privilege to practice
25 registered nursing granted by a party state shall be recognized by other party states as a

26 license to practice registered nursing if one is required by state law as a precondition for
27 qualifying for advanced practice registered nurse authorization.

28 **5. Individuals not residing in a party state shall continue to be able to apply for**
29 **nurse licensure as provided for under the laws of each party state. However, the license**
30 **granted to these individuals will not be recognized as granting the privilege to practice**
31 **nursing in any other party state unless explicitly agreed to by that party state.**

32

ARTICLE IV

335.315. APPLICATIONS FOR LICENSURE IN A PARTY STATE. 1. Upon
2 **application for a license, the licensing board in a party state shall ascertain, through the**
3 **coordinated licensure information system, whether the applicant has ever held, or is the**
4 **holder of, a license issued by any other state, whether there are any restrictions on the**
5 **multistate licensure privilege, and whether any other adverse action by any state has been**
6 **taken against the license.**

7 **2. A nurse in a party state shall hold licensure in only one party state at a time,**
8 **issued by the home state.**

9 **3. A nurse who intends to change primary state of residence may apply for**
10 **licensure in the new home state in advance of such change. However, new licenses will not**
11 **be issued by a party state until after a nurse provides evidence of change in primary state**
12 **of residence satisfactory to the new home state's licensing board.**

13 **4. When a nurse changes primary state of residence by:**

14 **(1) Moving between two party states, and obtains a license from the new home**
15 **state, the license from the former home state is no longer valid;**

16 **(2) Moving from a non-party state to a party state, and obtains a license from the**
17 **new home state, the individual state license issued by the non-party state is not affected and**
18 **will remain in full force if so provided by the laws of the non-party state;**

19 **(3) Moving from a party state to a non-party state, the license issued by the prior**
20 **home state converts to an individual state license, valid only in the former home state,**
21 **without the multistate licensure privilege to practice in other party states.**

22

ARTICLE V

335.320. ADVERSE ACTIONS. In addition to the general provisions described in
2 **article III of this compact, the following provisions apply:**

3 **(1) The licensing board of a remote state shall promptly report to the administrator**
4 **of the coordinated licensure information system any remote state actions including the**
5 **factual and legal basis for such action, if known. The licensing board of a remote state**
6 **shall also promptly report any significant current investigative information yet to result**

7 in a remote state action. The administrator of the coordinated licensure information
8 system shall promptly notify the home state of any such reports;

9 (2) The licensing board of a party state shall have the authority to complete any
10 pending investigations for a nurse who changes primary state of residence during the
11 course of such investigations. It shall also have the authority to take appropriate actions,
12 and shall promptly report the conclusions of such investigations to the administrator of the
13 coordinated licensure information system. The administrator of the coordinated licensure
14 information system shall promptly notify the new home state of any such actions;

15 (3) A remote state may take adverse action affecting the multistate licensure
16 privilege to practice within that party state. However, only the home state shall have the
17 power to impose adverse action against the license issued by the home state;

18 (4) For purposes of imposing adverse action, the licensing board of the home state
19 shall give the same priority and effect to reported conduct received from a remote state as
20 it would if such conduct had occurred within the home state, in so doing, it shall apply its
21 own state laws to determine appropriate action;

22 (5) The home state may take adverse action based on the factual findings of the
23 remote state, so long as each state follows its own procedures for imposing such adverse
24 action;

25 (6) Nothing in this compact shall override a party state's decision that participation
26 in an alternative program may be used in lieu of licensure action and that such
27 participation shall remain non-public if required by the party state's laws. Party states
28 must require nurses who enter any alternative programs to agree not to practice in any
29 other party state during the term of the alternative program without prior authorization
30 from such other party state.

31

ARTICLE VI

3235.325. ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE NURSE
2 LICENSING BOARDS. Notwithstanding any other powers, party state nurse licensing
3 boards shall have the authority to:

4 (1) If otherwise permitted by state law, recover from the affected nurse the costs
5 of investigations and disposition of cases resulting from any adverse action taken against
6 that nurse;

7 (2) Issue subpoenas for both hearings and investigations which require the
8 attendance and testimony of witnesses, and the production of evidence. Subpoenas issued
9 by a nurse licensing board in a party state for the attendance and testimony of witnesses,
10 and/or the production of evidence from another party state, shall be enforced in the latter
11 state by any court of competent jurisdiction, according to the practice and procedure of

12 that court applicable to subpoenas issued in proceedings pending before it. The issuing
13 authority shall pay any witness fees, travel expenses, mileage, and other fees required by
14 the service statutes of the state where the witnesses and evidence are located;

15 (3) Issue cease and desist orders to limit or revoke a nurse's authority to practice
16 in their state;

17 (4) Promulgate uniform rules and regulations as provided for in subsection 3 of
18 section 335.335.

19

ARTICLE VII

20335.330. COORDINATED LICENSURE INFORMATION SYSTEM. 1. All party
21 states shall participate in a cooperative effort to create a coordinated database of all
22 licensed registered nurses and licensed practical/vocational nurses. This system will
23 include information on the licensure and disciplinary history of each nurse, as contributed
24 by party states, to assist in the coordination of nurse licensure and enforcement efforts.

25 2. Notwithstanding any other provision of law, all party states' licensing boards
26 shall promptly report adverse actions, actions against multistate licensure privileges, any
27 current significant investigative information yet to result in adverse action, denials of
28 applications, and the reasons for such denials to the coordinated licensure information
system.

3 3. Current significant investigative information shall be transmitted through the
4 coordinated licensure information system only to party state licensing boards.

5 4. Notwithstanding any other provision of law, all party states' licensing boards
6 contributing information to the coordinated licensure information system may designate
7 information that may not be shared with non-party states or disclosed to other entities or
8 individuals without the express permission of the contributing state.

9 5. Any personally identifiable information obtained by a party states' licensing
10 board from the coordinated licensure information system may not be shared with non-
11 party states or disclosed to other entities or individuals except to the extent permitted by
12 the laws of the party state contributing the information.

13 6. Any information contributed to the coordinated licensure information system
14 that is subsequently required to be expunged by the laws of the party state contributing
15 that information shall also be expunged from the coordinated licensure information
16 system.

17 7. The compact administrators, acting jointly with each other and in consultation
18 with the administrator of the coordinated licensure information system, shall formulate
19 necessary and proper procedures for the identification, collection, and exchange of
20 information under this compact.

29

ARTICLE VIII

335.335. COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION. 1. The head of the nurse licensing board, or his/her designee, of each party state shall be the administrator of this compact for his/her state.

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4 2. The compact administrator of each party shall furnish to the compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this compact.

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9 3. Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this compact. These uniform rules shall be adopted by party states, under the authority invested under subsection 4 of section 335.325.

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ARTICLE IX

335.340. IMMUNITY. No party state or the officers or employees or agents of a party state's nurse licensing board who acts in accordance with the provisions of this compact shall be liable on account of any act or omission in good faith while engaged in the performance of their duties under this compact. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

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ARTICLE X

335.345. ENTRY INTO FORCE, WITHDRAWAL AND AMENDMENT. 1. This compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

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7 2. No withdrawal shall affect the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring prior to the withdrawal.

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10 3. Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this compact.

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13 4. This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

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ARTICLE XI

335.350. CONSTRUCTION AND SEVERABILITY. 1. This compact shall be
2 **liberally construed so as to effectuate the purposes thereof. The provisions of this compact**
3 **shall be severable and if any phrase, clause, sentence, or provision of this compact is**
4 **declared to be contrary to the constitution of any party state or of the United States or the**
5 **applicability thereof to any government, agency, person, or circumstance is held invalid,**
6 **the validity of the remainder of this compact and the applicability thereof to any**
7 **government, agency, person, or circumstance shall not be affected thereby. If this compact**
8 **shall be held contrary to the constitution of any state party thereto, the compact shall**
9 **remain in full force and effect as to the remaining party states and in full force and effect**
10 **as to the party state affected as to all severable matters.**

11 **2. In the event party states find a need for settling disputes arising under this**
12 **compact:**

13 **(1) The party states may submit the issues in dispute to an arbitration panel which**
14 **will be comprised of an individual appointed by the compact administrator in the home**
15 **state, an individual appointed by the compact administrator in the remote states involved,**
16 **and an individual mutually agreed upon by the compact administrators of all the party**
17 **states involved in the dispute;**

18 **(2) The decision of a majority of the arbitrators shall be final and binding.**

335.355. APPLICABILITY OF COMPACT. 1. The term "head of the nurse
2 **licensing board" as referred to in article VIII of this compact shall mean the executive**
3 **director of the Missouri state board of nursing.**

4 **2. A person who is extended the privilege to practice in this state pursuant to the**
5 **nurse licensure compact is subject to discipline by the board, as set forth in this chapter,**
6 **for violation of this chapter or the rules and regulations promulgated herein. A person**
7 **extended the privilege to practice in this state pursuant to the nurse licensure compact shall**
8 **be subject to adhere to all requirements of this chapter, as if such person were originally**
9 **licensed in this state.**

10 **3. Sections 335.300 to 335.355 are applicable only to nurses whose home states are**
11 **determined by the Missouri state board of nursing to have licensure requirements that are**
12 **substantially equivalent or more stringent than those of Missouri.**

13 **4. This compact is designed to facilitate the regulation of nurses, and does not**
14 **relieve employers from complying with statutory imposed obligations.**

15 **5. This compact does not supercede existing state labor laws.**

337.712. 1. Applications for licensure as a marital and family therapist shall be in
2 **writing, submitted to the [division] committee on forms prescribed by the [division] committee**
3 **and furnished to the applicant. The application shall contain the applicant's statements showing**

4 the applicant's education, experience and such other information as the [division] **committee** may
5 require. Each application shall contain a statement that it is made under oath or affirmation and
6 that the information contained therein is true and correct to the best knowledge and belief of the
7 applicant, subject to the penalties provided for the making of a false affidavit or declaration.
8 Each application shall be accompanied by the fees required by the division.

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

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

17 4. The [division] **committee** shall set the amount of the fees authorized. The fees shall
18 be set at a level to produce revenue which shall not substantially exceed the cost and expense of
19 administering the provisions of sections 337.700 to 337.739. All fees provided for in sections
20 337.700 to 337.739 shall be collected by the director who shall deposit the same with the state
21 treasurer to a fund to be known as the "Marital and Family Therapists' Fund".

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

337.715. 1. Each applicant for licensure as a marital and family therapist shall furnish
2 evidence to the [division] **committee** 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 regional
5 accrediting body or accredited by an accrediting body which has been approved by the United
6 States Department of Education;

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

9 (3) After August 28, 2008, the applicant shall have completed a minimum of three
10 semester hours of graduate-level course work in diagnostic systems either within the curriculum

11 leading to a degree as defined in subdivision (1) of this subsection or as post-master's
12 graduate-level course work. Each applicant shall demonstrate supervision of diagnosis as a core
13 component of the postgraduate supervised clinical experience as defined in subdivision (2) of
14 this subsection;

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

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

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

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

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

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

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

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

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

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

3 (1) The form and content of license applications required by the provisions of sections
4 337.700 to 337.739 and the procedures for filing an application for an initial or renewal license
5 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 required by
8 section 337.715;

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

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

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

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

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

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

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

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

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

33 4. A final order of rulemaking shall not be filed with the secretary of state until thirty
34 days after such final order of rulemaking has been received by the committee. The committee
35 may hold one or more hearings upon such final order of rulemaking during the thirty-day period.
36 If the committee does not disapprove such order of rulemaking within the thirty-day period, the

37 division may file such order of rulemaking with the secretary of state and the order of rulemaking
38 shall be deemed approved.

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

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

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

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

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

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

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

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

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

6 2. The [division] **committee** 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 337.700 to 337.739 or any person who has failed to renew or has
9 surrendered 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 of
12 marital and family therapist; except the fact that a person has undergone treatment for past
13 substance or alcohol abuse or has participated in a recovery program, shall not by itself be cause
14 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 in a criminal prosecution under the laws of any state or of the United States, for any offense
17 reasonably related to the qualifications, functions or duties of a marital and family therapist; for
18 any offense an essential element of which is fraud, dishonesty or an act of violence; or for any
19 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 337.700 to 337.739 or in obtaining permission to take any
22 examination given or required pursuant to the provisions of sections 337.700 to 337.739;

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

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

27 (6) Violation of, or assisting or enabling any person to violate, any provision of sections
28 337.700 to 337.739 or of any lawful rule or regulation adopted pursuant to sections 337.700 to
29 337.739;

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

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

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

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

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

40 (12) Failure to display a valid license if so required by sections 337.700 to 337.739 or
41 any rule promulgated hereunder;

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

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

45 (15) Being guilty of unethical conduct as defined in the ethical standards for marital and
46 family therapists adopted by the committee by rule and filed with the secretary of state.

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

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

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

5 3. The department on behalf of the division may sue in its own name in any court in this
6 state. The department shall inquire as to any violations of sections 337.700 to 337.739, may
7 institute actions for penalties prescribed, and shall enforce generally the provisions of sections
8 337.700 to 337.739.

9 4. Upon application by the [division] **committee**, the attorney general may on behalf of
10 the division request that a court of competent jurisdiction grant an injunction, restraining order
11 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 upon a showing that such
14 acts or practices were performed or offered to be performed without a certificate of registration
15 or authority, permit or license;

16 (2) Engaging in any practice of business authorized by a certificate of registration or
17 authority, permit or license issued pursuant to sections 337.700 to 337.739, upon a showing that
18 the holder presents a substantial probability of serious harm to the health, safety or welfare of
19 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 this section may be in addition to or in lieu of any penalty
24 provided by sections 337.700 to 337.739 and may be brought concurrently with other actions to
25 enforce the provisions of sections 337.700 to 337.739.

 338.010. 1. The "practice of pharmacy" means the interpretation, implementation, and
2 evaluation of medical prescription orders, including receipt, transmission, or handling of such
3 orders or facilitating the dispensing of such orders; the designing, initiating, implementing, and
4 monitoring of a medication therapeutic plan as defined by the prescription order so long as the
5 prescription order is specific to each patient for care by a [specific] pharmacist; the
6 compounding, dispensing, labeling, and administration of drugs and devices pursuant to medical
7 prescription orders and administration of viral influenza, **pneumonia, shingles and meningitis**
8 vaccines by written protocol authorized by a physician for persons twelve years of age or older
9 as authorized by rule **or the administration of pneumonia, shingles, and meningitis vaccines**
10 **by written protocol authorized by a physician for a specific patient as authorized by rule;**
11 the participation in drug selection according to state law and participation in drug utilization
12 reviews; the proper and safe storage of drugs and devices and the maintenance of proper records
13 thereof; consultation with patients and other health care practitioners about the safe and effective
14 use of drugs and devices; and the offering or performing of those acts, services, operations, or
15 transactions necessary in the conduct, operation, management and control of a pharmacy. No
16 person shall engage in the practice of pharmacy unless he is licensed under the provisions of this
17 chapter. This chapter shall not be construed to prohibit the use of auxiliary personnel under the
18 direct supervision of a pharmacist from assisting the pharmacist in any of his duties. This
19 assistance in no way is intended to relieve the pharmacist from his responsibilities for
20 compliance with this chapter and he will be responsible for the actions of the auxiliary personnel
21 acting in his assistance. This chapter shall also not be construed to prohibit or interfere with any
22 legally registered practitioner of medicine, dentistry, podiatry, or veterinary medicine, or the
23 practice of optometry in accordance with and as provided in sections 195.070 and 336.220,
24 RSMo, in the compounding or dispensing of his own prescriptions.

25 2. Any pharmacist who accepts a prescription order for a medication therapeutic plan
26 shall have a written protocol from the physician who refers the patient for medication therapy
27 services. The written protocol and the prescription order for a medication therapeutic plan shall
28 come from the physician only, and shall not come from a nurse engaged in a collaborative
29 practice arrangement under section 334.104, RSMo, or from a physician assistant engaged in a
30 supervision agreement under section 334.735, RSMo.

31 3. Nothing in this section shall be construed as to prevent any person, firm or corporation
32 from owning a pharmacy regulated by sections 338.210 to 338.315, provided that a licensed
33 pharmacist is in charge of such pharmacy.

34 4. Nothing in this section shall be construed to apply to or interfere with the sale of
35 nonprescription drugs and the ordinary household remedies and such drugs or medicines as are
36 normally sold by those engaged in the sale of general merchandise.

37 5. No health carrier as defined in chapter 376, RSMo, shall require any physician with
38 which they contract to enter into a written protocol with a pharmacist for medication therapeutic
39 services.

40 6. This section shall not be construed to allow a pharmacist to diagnose or independently
41 prescribe pharmaceuticals.

42 7. The state board of registration for the healing arts, under section 334.125, RSMo, and
43 the state board of pharmacy, under section 338.140, shall jointly promulgate rules regulating the
44 use of protocols for prescription orders for medication therapy services and administration of
45 viral influenza vaccines. Such rules shall require protocols to include provisions allowing for
46 timely communication between the pharmacist and the referring physician, and any other patient
47 protection provisions deemed appropriate by both boards. In order to take effect, such rules shall
48 be approved by a majority vote of a quorum of each board. Neither board shall separately
49 promulgate rules regulating the use of protocols for prescription orders for medication therapy
50 services and administration of viral influenza vaccines. Any rule or portion of a rule, as that term
51 is defined in section 536.010, RSMo, that is created under the authority delegated in this section
52 shall become effective only if it complies with and is subject to all of the provisions of chapter
53 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
54 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter
55 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are
56 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
57 or adopted after August 28, 2007, shall be invalid and void.

58 8. The state board of pharmacy may grant a certificate of medication therapeutic plan
59 authority to a licensed pharmacist who submits proof of successful completion of a
60 board-approved course of academic clinical study beyond a bachelor of science in pharmacy,
61 including but not limited to clinical assessment skills, from a nationally accredited college or
62 university, or a certification of equivalence issued by a nationally recognized professional
63 organization and approved by the board of pharmacy.

64 9. Any pharmacist who has received a certificate of medication therapeutic plan authority
65 may engage in the designing, initiating, implementing, and monitoring of a medication
66 therapeutic plan as defined by a prescription order from a physician that is specific to each
67 patient for care by a [specific] pharmacist.

68 10. Nothing in this section shall be construed to allow a pharmacist to make a therapeutic
69 substitution of a pharmaceutical prescribed by a physician unless authorized by the written
70 protocol or the physician's prescription order.

 338.013. 1. Any person desiring to assist a pharmacist in the practice of pharmacy as
2 defined in this chapter shall apply to the board of pharmacy for registration as a pharmacy
3 technician. Such applicant shall be, at a minimum, legal working age and shall forward to the
4 board the appropriate fee and written application on a form provided by the board. Such
5 registration shall be the sole authorization permitted to allow persons to assist licensed
6 pharmacists in the practice of pharmacy as defined in this chapter.

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

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

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

27 5. Every pharmacy technician who desires to continue to be registered as provided in this
28 section shall, within thirty days before the registration expiration date, file an application for the
29 renewal, accompanied by the fee prescribed by the board. [No registration as provided in this
30 section shall be valid if the registration has expired and has not been renewed as provided in this
31 subsection] **The registration shall lapse and become null and void thirty days after the**
32 **expiration date.**

33 6. The board shall maintain an employment disqualification list. No person whose name
34 appears on the employment disqualification list shall work as a pharmacy technician, except as
35 otherwise authorized by the board. The board may authorize a person whose name appears on
36 the employment disqualification list to work or continue to work as a pharmacy technician
37 provided the person adheres to certain terms and conditions imposed by the board.

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

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

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

47 (2) **That** such person's name has been added in the employment disqualification list of
48 the board;

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

51 (4) The person's right to file a complaint with the administrative hearing commission as
52 provided in chapter 621, RSMo.

53 9. The length of time a person's name shall remain on the disqualification list shall be
54 determined by the board.

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

338.220. 1. It shall be unlawful for any person, copartnership, association, corporation
2 or any other business entity to open, establish, operate, or maintain any pharmacy as defined by
3 statute without first obtaining a permit or license to do so from the Missouri board of pharmacy.

4 **A permit shall not be required for an individual licensed pharmacist to perform**
5 **nondispensing activities outside of a pharmacy, as provided by the rules of the board. A**
6 **permit shall not be required for an individual licensed pharmacist to administer drugs,**
7 **vaccines, and biologicals by protocol, as permitted by law, outside of a pharmacy. The**
8 following classes of pharmacy permits or licenses are hereby established:

- 9 (1) Class A: Community/ambulatory;
- 10 (2) Class B: Hospital outpatient pharmacy;
- 11 (3) Class C: Long-term care;
- 12 (4) Class D: Nonsterile compounding;
- 13 (5) Class E: Radio pharmaceutical;
- 14 (6) Class F: Renal dialysis;
- 15 (7) Class G: Medical gas;
- 16 (8) Class H: Sterile product compounding;
- 17 (9) Class I: Consultant services;
- 18 (10) Class J: Shared service;
- 19 (11) Class K: Internet;
- 20 (12) Class L: Veterinary.

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

28 3. All permits, licenses or renewal fees collected pursuant to the provisions of sections
29 338.210 to 338.370 shall be deposited in the state treasury to the credit of the Missouri board of
30 pharmacy fund, to be used by the Missouri board of pharmacy in the enforcement of the
31 provisions of sections 338.210 to 338.370, when appropriated for that purpose by the general
32 assembly.

33 4. Class L: veterinary permit shall not be construed to prohibit or interfere with any
34 legally registered practitioner of veterinary medicine in the compounding or dispensing of their
35 own prescriptions.

36 5. Notwithstanding any other law to the contrary, the provisions of this section shall not
37 apply to the sale, dispensing, or filling of a pharmaceutical product or drug used for treating
38 animals.

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

346.015. 1. No person shall engage in the practice of fitting hearing instruments or
2 display a sign or in any other way advertise or represent such person by any other words, letters,
3 abbreviations or insignia indicating or implying that the person practices the fitting of hearing
4 instruments unless the person holds a valid license issued by the [division] **board** as provided
5 in this chapter. The license shall be conspicuously posted in the person's office or place of
6 business. Duplicate licenses shall be issued by the department to valid license holders operating
7 more than one office, without additional payment. A license under this chapter shall confer upon
8 the holder the right to select, fit and sell hearing instruments.

9 2. Each person licensed pursuant to sections 346.010 to 346.250 shall display the license
10 in an appropriate and public manner and shall keep the board informed of the licensee's current
11 address. A license issued pursuant to sections 346.010 to 346.250 is the property of the
12 [division] **board** and must be surrendered on demand in the event of expiration or after a final
13 determination is made with respect to revocation, suspension or probation.

14 3. Nothing in this chapter shall prohibit a corporation, partnership, trust, association or
15 other like organization maintaining an established business address from engaging in the
16 business of selling or offering for sale hearing instruments at retail, provided that it employ only
17 properly licensed hearing instrument specialists or properly licensed audiologists in the direct
18 sale and fitting of such instruments. Each corporation, partnership, trust, association or other like
19 organization shall file annually with the board on a form provided by the board, a list of all
20 licensed hearing instrument specialists employed by it. Each organization shall also file with the

21 [division] **board** a statement, on a form provided by the [division] **board**, that it agrees to
22 comply with the rules and regulations of the [division] **board** and the provisions of this chapter.

23 4. Any person who violates any provision of this section is guilty of a class B
24 misdemeanor.

346.045. The [division] **board** shall license each qualified applicant, without
2 discrimination, who passes an examination as provided in this chapter and upon the applicant's
3 payment of the examination fee and the license fee, shall issue to the applicant a license.

346.050. Whenever the board determines that another state or jurisdiction has
2 requirements equivalent to or higher than those in effect pursuant to sections 346.010 to 346.250
3 and that such state or jurisdiction has a program equivalent to or stricter than the program for
4 determining whether an applicant, pursuant to sections 346.010 to 346.250 is qualified to engage
5 in the practice of fitting hearing instruments, [the division upon recommendation by] the board
6 shall issue a license to applicants who hold current, unsuspended and unrevoked certificates or
7 licenses to fit hearing instruments in such other state or jurisdiction provided that such
8 jurisdiction extends like privileges for reciprocal licensing or certification to persons licensed
9 by this state with similar qualifications. No such applicant for licensure shall be required to
10 submit to or undergo a qualifying examination other than the payment of fees pursuant to
11 sections 346.045 and 346.095. Such applicant shall be registered in the same manner as
12 licensees in this state. The fee for an initial license issued pursuant to this section shall be the
13 same as the fee for an initial license issued pursuant to section 346.045. Fees, grounds for
14 renewal, and procedures for the suspension and revocation of licenses granted pursuant to this
15 section shall be the same as for renewal, suspension and revocation of an initial license issued
16 pursuant to section 346.045.

346.070. An applicant who fulfills the requirements regarding age, character, and
2 education as set forth in section 346.055, may obtain a temporary permit upon application to the
3 board, as defined by [division] **board** rule.

346.075. 1. Upon receiving an application as provided under section 346.070 and
2 accompanied by a temporary permit fee, the [division] **board** shall issue a temporary permit
3 which shall entitle the applicant to engage in supervised training for a period of one year. A
4 holder of a temporary permit who is engaged in supervised training under a supervisor is
5 authorized to use only the title "hearing instrument specialist in-training", or its equivalent, as
6 defined by [division] **board** rule. A hearing instrument specialist in-training shall not hold
7 himself out to the public by any title, term, or words that give the impression that the permit
8 holder is a licensed hearing instrument specialist. The division, upon recommendation of the
9 board, shall have the power to suspend or revoke the temporary permit of any person who
10 violates the provisions of this subsection.

11 2. A licensed hearing instrument specialist shall be responsible for the supervised
12 training of no more than two holders of a temporary permit and shall maintain adequate
13 supervision, as defined by [division] **board** rule. The [division, upon recommendation of the]
14 board[,] shall issue a certificate of registration to a hearing instrument specialist who has
15 qualified himself **or herself** to provide supervised training to permit holders. The qualifications
16 for a supervisor shall be established by [division] **board** rule[, with the advice of the board]. A
17 fee shall be charged for any registration of supervision, as defined by [division] **board** rule. The
18 division may withdraw the certificate of authority from any supervisor who violates any
19 provision of sections 346.010 to 346.250 or any rule promulgated pursuant thereto.

 346.080. If a hearing instrument specialist in-training under this section or section
2 346.075 has not successfully passed the licensing examination within one year from the date of
3 issuance of the temporary permit, the temporary permit may be renewed by the [division] **board**
4 once for a period of six months upon payment by the applicant of a fee, as defined by [division]
5 **board** rule.

 346.090. 1. A licensee shall notify the board in writing of the regular address of the
2 place or places where the licensee engages or intends to engage in the practice of fitting hearing
3 instruments, and the board shall keep a record of the place of business of licensees.

 2. Any notice required to be given by the board [or division] to a person who holds a
5 license shall be mailed to the licensee at the address of the last known place of business.

 346.095. Each person who engages in the practice of fitting hearing instruments shall,
2 on or before the renewal date, pay to the [division] **board** the required fee, present written
3 evidence to the board of annual calibration of all audiometers, and furnish to the board
4 satisfactory evidence of having successfully completed an educational program approved by the
5 board. The licensee shall keep such license conspicuously posted in licensee's office or place of
6 business at all times. Where more than one office is operated by the licensee, duplicate licenses
7 shall be issued by the [division] **board** for posting in each location. After the expiration date of
8 a license, the [division] **board** may renew a license upon payment of the required penalty fee to
9 the [division] **board**. No person whose license has expired shall be required to submit to any
10 examination as a condition of renewal, provided such renewal application is made within two
11 years from the date of such expiration and all renewal requirements have been met as set forth
12 in this section.

 346.100. 1. Any person wishing to make a complaint against a licensee under sections
2 346.010 to 346.250 shall reduce the same to writing and file the complaint with the board, setting
3 forth the details thereof upon which the complaint is based. If the board, following an
4 investigation, determines the charges made in the complaint are sufficient to warrant a hearing
5 to determine whether the license issued under sections 346.010 to 346.250 shall be suspended

6 or revoked, the board shall [request the division to] file a complaint with the administrative
7 hearing commission as provided by chapter 621, RSMo.

8 2. After the filing of such complaint, the proceedings shall be conducted in accordance
9 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing
10 commission that the grounds, provided in subsection 2 of section 346.105, for disciplinary action
11 are met, the [division in collaboration with the] board may, singly or in combination, censure or
12 place the person named in the complaint on probation on such terms and conditions as the
13 [division in collaboration with the] board deems appropriate for a period not to exceed five years,
14 or may suspend, for a period not to exceed three years, or revoke the license or certificate.

15 3. The board shall maintain an information file containing each complaint filed with the
16 board relating to a licensee. The board, at least quarterly, shall notify the complainant and
17 licensee of the complaint's status until final disposition.

346.105. 1. The [division] **board** may refuse to issue any certificate of registration or
2 authority, permit or license required pursuant to this chapter, upon recommendation of the board,
3 for one or any combination of causes stated in subsection 2 of this section. The board shall
4 notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the
5 applicant's right to file a complaint with the administrative hearing commission as provided by
6 chapter 621, RSMo.

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

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

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 qualification, functions or duties of any profession
18 licensed or regulated under this chapter, 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 not
20 sentence is imposed;

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

- 24 (4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by
25 fraud, deception or misrepresentation;
- 26 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty
27 in the performance of the functions or duties of any profession licensed or regulated by this
28 chapter;
- 29 (6) Violation of, or assisting or enabling any person to violate, any provision of this
30 chapter, or of any lawful rule or regulation adopted pursuant to this chapter;
- 31 (7) Impersonation of any person holding a certificate of registration or authority, permit
32 or license or allowing any person to use his or her certificate of registration or authority, permit,
33 license or diploma from any school;
- 34 (8) Disciplinary action against the holder of a license or other right to practice any
35 profession regulated by this chapter granted by another state, territory, federal agency or country
36 upon grounds for which revocation or suspension is authorized in this state;
- 37 (9) A person is finally adjudged insane or incompetent by a court of competent
38 jurisdiction;
- 39 (10) Assisting or enabling any person to practice or offer to practice any profession
40 licensed or regulated by this chapter who is not registered and currently eligible to practice under
41 this chapter;
- 42 (11) Issuance of a certificate of registration or authority, permit or license based upon
43 a material mistake of fact;
- 44 (12) Failure to display a valid certificate or license if so required by this chapter or any
45 rule promulgated hereunder;
- 46 (13) Violation of any professional trust or confidence;
- 47 (14) Use of any advertisement or solicitation which is false, misleading or deceptive to
48 the general public or persons to whom the advertisement or solicitation is primarily directed;
- 49 (15) Representing that the service or advice of a person licensed as a physician pursuant
50 to chapter 334, RSMo, will be used or made available in the selection, fitting, adjustment,
51 maintenance or repair of hearing instruments when that is not true, or using the words "doctor",
52 "clinic", "clinical audiologist", "state-licensed clinic", "state registered", "state certified", or "state
53 approved" or any other term, abbreviation, or symbol when it would falsely give the impression
54 that service is being provided by physicians licensed pursuant to chapter 334, RSMo, or by
55 audiologists licensed pursuant to chapter 345, RSMo, or that the licensee's service has been
56 recommended by the state when such is not the case.

346.115. [1.] The powers and duties of the division are as follows:

- 2 (1) To exercise all budgeting, purchasing, reporting and other related management
3 functions;

4 (2) [To supervise the issuance and renewal of permits, licenses and certificates of
5 registration or authority;

6 (3) To license persons who apply to the board and who are qualified to engage in the
7 practice of fitting hearing instruments;

8 (4) To assist the board in obtaining facilities necessary to carry out the examination of
9 applicants as provided in section 346.035;

10 (5)] To employ, within the funds appropriated, such staff as are necessary to carry out
11 the provisions of sections 346.010 to 346.250[;

12 (6) To recommend for prosecution any person who has violated any provisions of
13 sections 346.010 to 346.250 to an appropriate prosecuting or circuit attorney;

14 (7) To make and publish rules and regulations, in collaboration with the board, not
15 inconsistent with the laws of this state which are necessary to carry out the provisions of sections
16 346.010 to 346.250. These rules and regulations shall be filed in the office of the secretary of
17 state in accordance with chapter 536, RSMo;

18 (8) To set the amount of the fees which this chapter authorizes and requires by rules and
19 regulations promulgated pursuant to section 536.021, RSMo. The division shall set fees which
20 reflect the cost and expense of administering this chapter.

21 2. No rule or portion of a rule promulgated under the authority of this chapter shall
22 become effective unless it has been promulgated pursuant to the provisions of section 536.024,
23 RSMo].

346.125. 1. The board shall[, in collaboration with the division]:

2 (1) [Provide advice to the division on all matters pertaining to licensure pursuant to
3 sections 346.010 to 346.250;

4 (2)] **Issue and renew permits, licenses, and certificates of registration or authority;**

5 **(2) License persons who apply to the board and who are qualified to engage in the**
6 **practice of fitting hearing instruments;**

7 **(3) Obtain facilities necessary to carry out the examination of applicants as**
8 **provided in section 346.035;**

9 **(4) Receive and process complaints;**

10 [(3)] **(5) Review all complaints, authorize investigations wherein there is a possible**
11 **violation of sections 346.010 to 346.250 or regulations promulgated pursuant thereto, and make**
12 **recommendations to the division regarding any filing with the administrative hearing**
13 **commission;**

14 **(6) Recommend for prosecution any person who has violated any provisions of**
15 **sections 346.010 to 346.250 to an appropriate prosecuting attorney or circuit attorney;**

16 **(7) Make and publish rules not inconsistent with the laws of this state which are**
17 **necessary to carry out the provisions of sections 346.010 to 346.250. Such rules shall be**
18 **filed in the office of the secretary of state in accordance with chapter 536, RSMo. Any rule**
19 **or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under**
20 **the authority delegated in this section shall become effective only if it complies with and**
21 **is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,**
22 **RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers**
23 **vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the**
24 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
25 **then the grant of rulemaking authority and any rule proposed or adopted after August 28,**
26 **2009, shall be invalid and void;**

27 [(4)] **(8) Adopt and publish a code of ethics;**

28 **(9) Set the amount of the fees authorized under this chapter and required by rules**
29 **promulgated under chapter 536, RSMo. The board shall set fees which reflects the cost**
30 **and expense of administering this chapter;**

31 [(5)] **(10) Establish an official seal;**

32 [(6)] **(11) Provide an examination for applicants. The board may obtain the services of**
33 **specially trained and qualified persons or organizations to assist in developing or conducting**
34 **examinations;**

35 [(7)] **(12) Review the examination results of applicants for licensure;**

36 [(8)] **(13) Determine the appropriate educational requirements, as defined by division**
37 **rule, for any applicant desiring to be registered as a permit holder, a hearing instrument**
38 **specialist, or a supervisor;**

39 [(9)] **(14) Follow the provisions of the division's administrative practices and procedures**
40 **in conducting all official duties.**

41 2. The chairperson or vice chairperson shall have power to administer oaths and to
42 subpoena witnesses to require attendance and testimony and to require production of documents
43 and records, and to that end the board may invoke the aid of the circuit court of any county of
44 the state having jurisdiction over the witness, and any failure to obey the order of the court may
45 be punished by the court as a contempt thereof.

376.811. 1. Every insurance company and health services corporation doing business
2 in this state shall offer in all health insurance policies benefits or coverage for chemical
3 dependency meeting the following minimum standards:

4 (1) Coverage for outpatient treatment through a nonresidential treatment program, or
5 through partial- or full-day program services, of not less than twenty-six days per policy benefit
6 period;

7 (2) Coverage for residential treatment program of not less than twenty-one days per
8 policy benefit period;

9 (3) Coverage for medical or social setting detoxification of not less than six days per
10 policy benefit period;

11 (4) The coverages set forth in this subsection may be subject to a separate lifetime
12 frequency cap of not less than ten episodes of treatment, except that such separate lifetime
13 frequency cap shall not apply to medical detoxification in a life-threatening situation as
14 determined by the treating physician and subsequently documented within forty-eight hours of
15 treatment to the reasonable satisfaction of the insurance company or health services corporation;
16 and

17 (5) The coverages set forth in this subsection:

18 (a) Shall be subject to the same coinsurance, co-payment and deductible factors as apply
19 to physical illness;

20 (b) May be administered pursuant to a managed care program established by the
21 insurance company or health services corporation; and

22 (c) May deliver covered services through a system of contractual arrangements with one
23 or more providers, hospitals, nonresidential or residential treatment programs, or other mental
24 health service delivery entities certified by the department of mental health, or accredited by a
25 nationally recognized organization, or licensed by the state of Missouri.

26 2. In addition to the coverages set forth in subsection 1 of this section, every insurance
27 company, health services corporation and health maintenance organization doing business in this
28 state shall offer in all health insurance policies, benefits or coverages for recognized mental
29 illness, excluding chemical dependency, meeting the following minimum standards:

30 (1) Coverage for outpatient treatment, including treatment through partial- or full-day
31 program services, for mental health services for a recognized mental illness rendered by a
32 licensed professional to the same extent as any other illness;

33 (2) Coverage for residential treatment programs for the therapeutic care and treatment
34 of a recognized mental illness when prescribed by a licensed professional and rendered in a
35 psychiatric residential treatment center licensed by the department of mental health or accredited
36 by the Joint Commission on Accreditation of Hospitals to the same extent as any other illness;

37 (3) Coverage for inpatient hospital treatment for a recognized mental illness to the same
38 extent as for any other illness, not to exceed ninety days per year;

39 (4) The coverages set forth in this subsection shall be subject to the same coinsurance,
40 co-payment, deductible, annual maximum and lifetime maximum factors as apply to physical
41 illness; and

42 (5) The coverages set forth in this subsection may be administered pursuant to a
43 managed care program established by the insurance company, health services corporation or
44 health maintenance organization, and covered services may be delivered through a system of
45 contractual arrangements with one or more providers, community mental health centers,
46 hospitals, nonresidential or residential treatment programs, or other mental health service
47 delivery entities certified by the department of mental health, or accredited by a nationally
48 recognized organization, or licensed by the state of Missouri.

49 3. The offer required by sections 376.810 to 376.814 may be accepted or rejected by the
50 group or individual policyholder or contract holder and, if accepted, shall fully and completely
51 satisfy and substitute for the coverage under section 376.779. Nothing in sections 376.810 to
52 376.814 shall prohibit an insurance company, health services corporation or health maintenance
53 organization from including all or part of the coverages set forth in sections 376.810 to 376.814
54 as standard coverage in their policies or contracts issued in this state.

55 4. Every insurance company, health services corporation and health maintenance
56 organization doing business in this state shall offer in all health insurance policies mental health
57 benefits or coverage as part of the policy or as a supplement to the policy. Such mental health
58 benefits or coverage shall include at least two sessions per year to a licensed psychiatrist,
59 licensed psychologist, licensed professional counselor, [or] licensed clinical social worker, **or**
60 **subject to contractual provisions, a licensed marital and family therapist** acting within the
61 scope of such license and under the following minimum standards:

62 (1) Coverage and benefits in this subsection shall be for the purpose of diagnosis or
63 assessment, but not dependent upon findings; and

64 (2) Coverage and benefits in this subsection shall not be subject to any conditions of
65 preapproval, and shall be deemed reimbursable as long as the provisions of this subsection are
66 satisfied; and

67 (3) Coverage and benefits in this subsection shall be subject to the same coinsurance,
68 co-payment and deductible factors as apply to regular office visits under coverages and benefits
69 for physical illness.

70 5. If the group or individual policyholder or contract holder rejects the offer required by
71 this section, then the coverage shall be governed by the mental health and chemical dependency
72 insurance act as provided in sections 376.825 to 376.836.

73 6. This section shall not apply to a supplemental insurance policy, including a life care
74 contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily
75 benefit only, Medicare supplement policy, long-term care policy, hospitalization-surgical care
76 policy, short-term major medical policy of six months or less duration, or any other supplemental

77 policy as determined by the director of the department of insurance, financial institutions and
78 professional registration.

2 [214.290. Any cemetery operator who within ninety days from the
3 effective date of sections 214.270 to 214.410 elects to operate a cemetery which
4 exists on the effective date of sections 214.270 to 214.410 as an endowed care
5 cemetery or who represents to the public that perpetual, permanent, endowed,
6 continual, eternal care, care of duration or similar care will be furnished cemetery
7 property sold, shall before selling or disposing of any interment space or lots in
8 said cemetery after the date of such election, establish a minimum endowed care
9 and maintenance fund in cash in the amount required by section 214.300 unless
10 an endowed care fund is already in existence to which regular deposits have been
11 made (whether or not the fund then existing shall be in the minimum amount
12 required under section 214.300).]

2 [338.057. The board of pharmacy shall publish a list of drug products for
3 which substitution as provided in section 338.056 shall not be permitted. The list
4 of drug products to be included on this list shall be based upon a joint
5 determination made by the department of health and senior services, the state
6 board of registration for the healing arts, and the state board of pharmacy. The
7 board of pharmacy shall publish the list not less often than semiannually, and
shall publish amendments to the list as required.]

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