

FIRST REGULAR SESSION

# HOUSE BILL NO. 841

## 95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WASSON.

2075L.01I

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal sections 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, 334.850, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 346.015, 346.045, 346.050, 346.070, 346.075, 346.080, 346.090, 346.095, 346.100, 346.105, 346.115, and 346.125, RSMo, and to enact in lieu thereof thirty-three 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 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, 334.850, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 346.015, 346.045, 346.050, 346.070, 346.075, 346.080, 346.090, 346.095, 346.100, 346.105, 346.115, and 346.125, RSMo, are repealed and thirty-three new sections enacted in lieu thereof, to be known as sections 324.065, 324.068, 324.071, 324.077, 324.080, 324.086, 324.089, 324.139, 324.141,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, 334.850, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 346.015, 346.045, 346.050, 346.070, 346.075, 346.080, 346.090, 346.095, 346.100, 346.105, 346.115, and 346.125, to read as follows:

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

2. **(1)** The [division, in collaboration with the] board[,] shall adopt, implement, rescind, amend and administer such rules and regulations as may be necessary to carry out the provisions of sections 324.050 to 324.089. The [division, in collaboration with the] board[,] may promulgate necessary rules compatible with sections 324.050 to 324.089, including, but not

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.

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 provide evidence of being initially certified by a certifying entity and has completed an application for licensure and all applicable fees have been paid.

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

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

4. The [division, in collaboration with the] board[,] may negotiate reciprocal contracts with other states, the District of Columbia, or territories of the United States which require standards for licensure, registration or certification considered to be equivalent or more stringent 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, upon the payment of applicable fees and completion of the required application, to a person who sufficiently provides proof of eligibility to set for the first available examination upon completion of all other necessary requirements for certification by the certifying entity. The limited permit shall allow the person to practice occupational therapy under the supervision of a person currently licensed pursuant to sections 324.050 to 324.089. A limited permit shall only be effective up to but not to exceed the time the results of the second available examination are received by the board unless the person successfully passes the examination in which instance 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 licensee prior to the renewal date. Failure to provide the division with the information required for renewal or to pay the required fee after such notice shall result in the license being declared inactive and the licensee shall not practice occupational therapy until he or she applies for reinstatement and pays the required fees. The license shall be restored if the application is received within two years of the renewal date.

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

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

(2) Does not hold himself or herself out as an occupational therapist or an occupational 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.

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.

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.

          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.

4 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 authority, permit or license required pursuant to this chapter, upon recommendation of the board, for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

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

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

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

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

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

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

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

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

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country 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.

✓