

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2226

HOUSE BILL NO. 1824

HOUSE BILL NO. 1832

AND

HOUSE BILL NO. 1990

1

AN ACT

2 To repeal sections 208.215, 214.160, 214.270, 214.276,
3 214.277, 214.283, 214.290, 214.300, 214.310, 214.320,
4 214.325, 214.330, 214.335, 214.340, 214.345, 214.360,
5 214.363, 214.365, 214.367, 214.387, 214.392, 214.400,
6 214.410, 214.500, 214.504, 214.508, 214.512, 214.516,
7 214.550, 324.1100, 324.1110, 324.1112, 324.1114,
8 324.1124, 324.1126, 324.1128, 324.1132, 324.1134,
9 324.1136, 324.1140, 327.031, 327.041, 327.351, 327.411,
10 332.011, 334.100, 334.506, 334.613, 334.735, 335.081,
11 337.528, 337.600, 337.603, 337.615, 337.618, 337.643,
12 337.700, 337.703, 337.706, 337.715, 337.718, 337.727,
13 337.739, 338.333, 338.335, 338.337, 344.010, 344.020,
14 383.130, and 383.133, RSMo, and section 324.1102 as
15 enacted by conference committee substitute for senate
16 substitute for senate committee substitute for house
17 committee substitute for house bill no. 780, ninety-
18 fourth general assembly, first regular session, section
19 324.1102 as enacted by conference committee substitute
20 no. 2 for house committee substitute for senate
21 committee substitute for senate bill no. 308, ninety-
22 fourth general assembly, first regular session, section
23 324.1106 as enacted by conference committee substitute
24 for senate substitute for senate committee substitute
25 for house committee substitute for house bill no. 780,
26 ninety-fourth general assembly, first regular session,
27 section 324.1106 as enacted by conference committee
28 substitute no. 2 for house committee substitute for
29 senate committee substitute for senate bill no. 308,
30 ninety-fourth general assembly, first regular session,

1 section 324.1118 as enacted by conference committee
2 substitute for senate substitute for senate committee
3 substitute for house committee substitute for house
4 bill no. 780, ninety-fourth general assembly, first
5 regular session, section 324.1118 as enacted by
6 conference committee substitute no. 2 for house
7 committee substitute for senate committee substitute
8 for senate bill no. 308, ninety-fourth general
9 assembly, first regular session, and to enact in lieu
10 thereof eighty-one new sections relating to the
11 regulation of certain professions, with penalty
12 provisions for certain sections.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
14 AS FOLLOWS:

15 Section A. Sections 208.215, 214.160, 214.270, 214.276,
16 214.277, 214.283, 214.290, 214.300, 214.310, 214.320, 214.325,
17 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365,
18 214.367, 214.387, 214.392, 214.400, 214.410, 214.500, 214.504,
19 214.508, 214.512, 214.516, 214.550, 324.1100, 324.1110, 324.1112,
20 324.1114, 324.1124, 324.1126, 324.1128, 324.1132, 324.1134,
21 324.1136, 324.1140, 327.031, 327.041, 327.351, 327.411, 332.011,
22 334.100, 334.506, 334.613, 334.735, 335.081, 337.528, 337.600,
23 337.603, 337.615, 337.618, 337.643, 337.700, 337.703, 337.706,
24 337.715, 337.718, 337.727, 337.739, 338.333, 338.335, 338.337,
25 344.010, 344.020, 383.130, and 383.133, RSMo, and section
26 324.1102 as enacted by conference committee substitute for senate
27 substitute for senate committee substitute for house committee
28 substitute for house bill no. 780, ninety-fourth general
29 assembly, first regular session, section 324.1102 as enacted by
30 conference committee substitute no. 2 for house committee
31 substitute for senate committee substitute for senate bill no.
32 308, ninety-fourth general assembly, first regular session,
33 section 324.1106 as enacted by conference committee substitute

1 for senate substitute for senate committee substitute for house
2 committee substitute for house bill no. 780, ninety-fourth
3 general assembly, first regular session, section 324.1106 as
4 enacted by conference committee substitute no. 2 for house
5 committee substitute for senate committee substitute for senate
6 bill no. 308, ninety-fourth general assembly, first regular
7 session, section 324.1118 as enacted by conference committee
8 substitute for senate substitute for senate committee substitute
9 for house committee substitute for house bill no. 780, ninety-
10 fourth general assembly, first regular session, section 324.1118
11 as enacted by conference committee substitute no. 2 for house
12 committee substitute for senate committee substitute for senate
13 bill no. 308, ninety-fourth general assembly, first regular
14 session, are repealed and eighty-one new sections enacted in lieu
15 thereof, to be known as sections 23.156, 208.215, 214.160,
16 214.270, 214.276, 214.277, 214.282, 214.283, 214.300, 214.310,
17 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360,
18 214.363, 214.365, 214.367, 214.387, 214.389, 214.392, 214.400,
19 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550,
20 324.1100, 324.1102, 324.1103, 324.1106, 324.1110, 324.1112,
21 324.1114, 324.1118, 324.1124, 324.1126, 324.1128, 324.1132,
22 324.1134, 324.1136, 324.1140, 324.1147, 332.011, 327.031,
23 327.041, 327.351, 327.411, 332.098, 334.100, 334.506, 334.613,
24 334.735, 335.075, 335.081, 337.528, 337.600, 337.603, 337.615,
25 337.618, 337.643, 337.700, 337.703, 337.705, 337.706, 337.715,
26 337.718, 337.727, 337.739, 338.333, 338.335, 338.337, 344.010,
27 344.020, 383.130, 383.133, and 1, to read as follows:

28 23.156. 1. Every employee of the oversight division of the

1 joint committee on legislative research shall, before entering
2 upon his or her duties, take and file in the offices of the
3 secretary of the senate and the chief clerk of the house of
4 representatives an oath:

5 (1) To support the constitution of the state, to faithfully
6 demean himself or herself in office;

7 (2) To not disclose to any unauthorized person any
8 information furnished by any state department, state agency,
9 political subdivision, or instrumentality of the state; and

10 (3) To not accept as presents or emoluments any pay,
11 directly or indirectly, for the discharge of any act in the line
12 of his or her duty other than the remuneration fixed and accorded
13 to the employee by law.

14 2. For any violation of his or her oath of office or of any
15 duty imposed upon him or her by this section, any employee shall
16 be guilty of a class A misdemeanor.

17 208.215. 1. MO HealthNet is payer of last resort unless
18 otherwise specified by law. When any person, corporation,
19 institution, public agency or private agency is liable, either
20 pursuant to contract or otherwise, to a participant receiving
21 public assistance on account of personal injury to or disability
22 or disease or benefits arising from a health insurance plan to
23 which the participant may be entitled, payments made by the
24 department of social services or MO HealthNet division shall be a
25 debt due the state and recoverable from the liable party or
26 participant for all payments made [in] on behalf of the
27 participant and the debt due the state shall not exceed the
28 payments made from MO HealthNet benefits provided under sections

1 208.151 to 208.158 and section 208.162 and section 208.204 on
2 behalf of the participant, minor or estate for payments on
3 account of the injury, disease, or disability or benefits arising
4 from a health insurance program to which the participant may be
5 entitled. Any health benefit plan as defined in section
6 376.1350, third party administrator, administrative service
7 organization, and pharmacy benefits manager, shall process and
8 pay all properly submitted medical assistance subrogation claims
9 or MO HealthNet subrogation claims using standard electronic
10 transactions or paper claim forms:

11 (1) For a period of three years from the date services were
12 provided or rendered; however, an entity:

13 (a) Shall not be required to reimburse for items or
14 services which are not covered under MO HealthNet;

15 (b) Shall not deny a claim submitted by the state solely on
16 the basis of the date of submission of the claim, the type or
17 format of the claim form, failure to present proper documentation
18 of coverage at the point of sale, or failure to provide prior
19 authorization;

20 (c) Shall not be required to reimburse for items or
21 services for which a claim was previously submitted to the health
22 benefit plan, third party administrator, administrative service
23 organization, or pharmacy benefits manager by the health care
24 provider or the participant and the claim was properly denied by
25 the health benefit plan, third party administrator,
26 administrative service organization, or pharmacy benefits manager
27 for procedural reasons, except for timely filing, type or format
28 of the claim form, failure to present proper documentation of

1 coverage at the point of sale, or failure to obtain prior
2 authorization;

3 (d) Shall not be required to reimburse for items or
4 services which are not covered under or were not covered under
5 the plan offered by the entity against which a claim for
6 subrogation has been filed; and

7 (e) Shall reimburse for items or services to the same
8 extent that the entity would have been liable as if it had been
9 properly billed at the point of sale, and the amount due is
10 limited to what the entity would have paid as if it had been
11 properly billed at the point of sale; and

12 (2) If any action by the state to enforce its rights with
13 respect to such claim is commenced within six years of the
14 state's submission of such claim.

15 2. The department of social services, MO HealthNet
16 division, or its contractor may maintain an appropriate action to
17 recover funds paid by the department of social services or MO
18 HealthNet division or its contractor that are due under this
19 section in the name of the state of Missouri against the person,
20 corporation, institution, public agency, or private agency liable
21 to the participant, minor or estate.

22 3. Any participant, minor, guardian, conservator, personal
23 representative, estate, including persons entitled under section
24 537.080, RSMo, to bring an action for wrongful death who pursues
25 legal rights against a person, corporation, institution, public
26 agency, or private agency liable to that participant or minor for
27 injuries, disease or disability or benefits arising from a health
28 insurance plan to which the participant may be entitled as

1 outlined in subsection 1 of this section shall upon actual
2 knowledge that the department of social services or MO HealthNet
3 division has paid MO HealthNet benefits as defined by this
4 chapter promptly notify the MO HealthNet division as to the
5 pursuit of such legal rights.

6 4. Every applicant or participant by application assigns
7 his right to the department of social services or MO HealthNet
8 division of any funds recovered or expected to be recovered to
9 the extent provided for in this section. All applicants and
10 participants, including a person authorized by the probate code,
11 shall cooperate with the department of social services, MO
12 HealthNet division in identifying and providing information to
13 assist the state in pursuing any third party who may be liable to
14 pay for care and services available under the state's plan for MO
15 HealthNet benefits as provided in sections 208.151 to 208.159 and
16 sections 208.162 and 208.204. All applicants and participants
17 shall cooperate with the agency in obtaining third-party
18 resources due to the applicant, participant, or child for whom
19 assistance is claimed. Failure to cooperate without good cause
20 as determined by the department of social services, MO HealthNet
21 division in accordance with federally prescribed standards shall
22 render the applicant or participant ineligible for MO HealthNet
23 benefits under sections 208.151 to 208.159 and sections 208.162
24 and 208.204. A [recipient] participant who has notice or who has
25 actual knowledge of the department's rights to third-party
26 benefits who receives any third-party benefit or proceeds for a
27 covered illness or injury is either required to pay the division
28 within sixty days after receipt of settlement proceeds the full

1 amount of the third-party benefits up to the total MO HealthNet
2 benefits provided or to place the full amount of the third-party
3 benefits in a trust account for the benefit of the division
4 pending judicial or administrative determination of the
5 division's right to third-party benefits.

6 5. Every person, corporation or partnership who acts for or
7 on behalf of a person who is or was eligible for MO HealthNet
8 benefits under sections 208.151 to 208.159 and sections 208.162
9 and 208.204 for purposes of pursuing the applicant's or
10 participant's claim which accrued as a result of a
11 nonoccupational or nonwork-related incident or occurrence
12 resulting in the payment of MO HealthNet benefits shall notify
13 the MO HealthNet division upon agreeing to assist such person and
14 further shall notify the MO HealthNet division of any institution
15 of a proceeding, settlement or the results of the pursuit of the
16 claim and give thirty days' notice before any judgment, award, or
17 settlement may be satisfied in any action or any claim by the
18 applicant or participant to recover damages for such injuries,
19 disease, or disability, or benefits arising from a health
20 insurance program to which the participant may be entitled.

21 6. Every participant, minor, guardian, conservator,
22 personal representative, estate, including persons entitled under
23 section 537.080, RSMo, to bring an action for wrongful death, or
24 his attorney or legal representative shall promptly notify the MO
25 HealthNet division of any recovery from a third party and shall
26 immediately reimburse the department of social services, MO
27 HealthNet division, or its contractor from the proceeds of any
28 settlement, judgment, or other recovery in any action or claim

1 initiated against any such third party. A judgment, award, or
2 settlement in an action by a [recipient] participant to recover
3 damages for injuries or other third-party benefits in which the
4 division has an interest may not be satisfied without first
5 giving the division notice and a reasonable opportunity to file
6 and satisfy the claim or proceed with any action as otherwise
7 permitted by law.

8 7. The department of social services, MO HealthNet division
9 or its contractor shall have a right to recover the amount of
10 payments made to a provider under this chapter because of an
11 injury, disease, or disability, or benefits arising from a health
12 insurance plan to which the participant may be entitled for which
13 a third party is or may be liable in contract, tort or otherwise
14 under law or equity. Upon request by the MO HealthNet division,
15 all third-party payers shall provide the MO HealthNet division
16 with information contained in a 270/271 Health Care Eligibility
17 Benefits Inquiry and Response standard transaction mandated under
18 the federal Health Insurance Portability and Accountability Act,
19 except that third-party payers shall not include accident-only,
20 specified disease, disability income, hospital indemnity, or
21 other fixed indemnity insurance policies.

22 8. The department of social services or MO HealthNet
23 division shall have a lien upon any moneys to be paid by any
24 insurance company or similar business enterprise, person,
25 corporation, institution, public agency or private agency in
26 settlement or satisfaction of a judgment on any claim for
27 injuries or disability or disease benefits arising from a health
28 insurance program to which the participant may be entitled which

1 resulted in medical expenses for which the department or MO
2 HealthNet division made payment. This lien shall also be
3 applicable to any moneys which may come into the possession of
4 any attorney who is handling the claim for injuries, or
5 disability or disease or benefits arising from a health insurance
6 plan to which the participant may be entitled which resulted in
7 payments made by the department or MO HealthNet division. In
8 each case, a lien notice shall be served by certified mail or
9 registered mail, upon the party or parties against whom the
10 applicant or participant has a claim, demand or cause of action.
11 The lien shall claim the charge and describe the interest the
12 department or MO HealthNet division has in the claim, demand or
13 cause of action. The lien shall attach to any verdict or
14 judgment entered and to any money or property which may be
15 recovered on account of such claim, demand, cause of action or
16 suit from and after the time of the service of the notice.

17 9. On petition filed by the department, or by the
18 participant, or by the defendant, the court, on written notice of
19 all interested parties, may adjudicate the rights of the parties
20 and enforce the charge. The court may approve the settlement of
21 any claim, demand or cause of action either before or after a
22 verdict, and nothing in this section shall be construed as
23 requiring the actual trial or final adjudication of any claim,
24 demand or cause of action upon which the department has charge.
25 The court may determine what portion of the recovery shall be
26 paid to the department against the recovery. In making this
27 determination the court shall conduct an evidentiary hearing and
28 shall consider competent evidence pertaining to the following

1 matters:

2 (1) The amount of the charge sought to be enforced against
3 the recovery when expressed as a percentage of the gross amount
4 of the recovery; the amount of the charge sought to be enforced
5 against the recovery when expressed as a percentage of the amount
6 obtained by subtracting from the gross amount of the recovery the
7 total attorney's fees and other costs incurred by the participant
8 incident to the recovery; and whether the department should, as a
9 matter of fairness and equity, bear its proportionate share of
10 the fees and costs incurred to generate the recovery from which
11 the charge is sought to be satisfied;

12 (2) The amount, if any, of the attorney's fees and other
13 costs incurred by the participant incident to the recovery and
14 paid by the participant up to the time of recovery, and the
15 amount of such fees and costs remaining unpaid at the time of
16 recovery;

17 (3) The total hospital, doctor and other medical expenses
18 incurred for care and treatment of the injury to the date of
19 recovery therefor, the portion of such expenses theretofore paid
20 by the participant, by insurance provided by the participant, and
21 by the department, and the amount of such previously incurred
22 expenses which remain unpaid at the time of recovery and by whom
23 such incurred, unpaid expenses are to be paid;

24 (4) Whether the recovery represents less than substantially
25 full recompense for the injury and the hospital, doctor and other
26 medical expenses incurred to the date of recovery for the care
27 and treatment of the injury, so that reduction of the charge
28 sought to be enforced against the recovery would not likely

1 result in a double recovery or unjust enrichment to the
2 participant;

3 (5) The age of the participant and of persons dependent for
4 support upon the participant, the nature and permanency of the
5 participant's injuries as they affect not only the future
6 employability and education of the participant but also the
7 reasonably necessary and foreseeable future material,
8 maintenance, medical rehabilitative and training needs of the
9 participant, the cost of such reasonably necessary and
10 foreseeable future needs, and the resources available to meet
11 such needs and pay such costs;

12 (6) The realistic ability of the participant to repay in
13 whole or in part the charge sought to be enforced against the
14 recovery when judged in light of the factors enumerated above.

15 10. The burden of producing evidence sufficient to support
16 the exercise by the court of its discretion to reduce the amount
17 of a proven charge sought to be enforced against the recovery
18 shall rest with the party seeking such reduction. The
19 computerized records of the MO HealthNet division, certified by
20 the director or his designee, shall be prima facie evidence of
21 proof of moneys expended and the amount of the debt due the
22 state.

23 11. The court may reduce and apportion the department's or
24 MO HealthNet division's lien proportionate to the recovery of the
25 claimant. The court may consider the nature and extent of the
26 injury, economic and noneconomic loss, settlement offers,
27 comparative negligence as it applies to the case at hand,
28 hospital costs, physician costs, and all other appropriate costs.

1 The department or MO HealthNet division shall pay its pro rata
2 share of the attorney's fees based on the department's or MO
3 HealthNet division's lien as it compares to the total settlement
4 agreed upon. This section shall not affect the priority of an
5 attorney's lien under section 484.140, RSMo. The charges of the
6 department or MO HealthNet division or contractor described in
7 this section, however, shall take priority over all other liens
8 and charges existing under the laws of the state of Missouri with
9 the exception of the attorney's lien under such statute.

10 12. Whenever the department of social services or MO
11 HealthNet division has a statutory charge under this section
12 against a recovery for damages incurred by a participant because
13 of its advancement of any assistance, such charge shall not be
14 satisfied out of any recovery until the attorney's claim for fees
15 is satisfied, [~~irrespective~~] regardless of whether [~~or not~~] an
16 action based on participant's claim has been filed in court.
17 Nothing herein shall prohibit the director from entering into a
18 compromise agreement with any participant, after consideration of
19 the factors in subsections 9 to 13 of this section.

20 13. This section shall be inapplicable to any claim, demand
21 or cause of action arising under the workers' compensation act,
22 chapter 287, RSMo. From funds recovered pursuant to this section
23 the federal government shall be paid a portion thereof equal to
24 the proportionate part originally provided by the federal
25 government to pay for MO HealthNet benefits to the participant or
26 minor involved. The department or MO HealthNet division shall
27 enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal
28 law and regulation on permanently institutionalized individuals.

1 The department or MO HealthNet division shall have the right to
2 enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal
3 law and regulation on all other institutionalized individuals.
4 For the purposes of this subsection, "permanently
5 institutionalized individuals" includes those people who the
6 department or MO HealthNet division determines cannot reasonably
7 be expected to be discharged and return home, and "property"
8 includes the homestead and all other personal and real property
9 in which the participant has sole legal interest or a legal
10 interest based upon co-ownership of the property which is the
11 result of a transfer of property for less than the fair market
12 value within thirty months prior to the participant's entering
13 the nursing facility. The following provisions shall apply to
14 such liens:

15 (1) The lien shall be for the debt due the state for MO
16 HealthNet benefits paid or to be paid on behalf of a participant.
17 The amount of the lien shall be for the full amount due the state
18 at the time the lien is enforced;

19 (2) The MO HealthNet division shall file for record, with
20 the recorder of deeds of the county in which any real property of
21 the participant is situated, a written notice of the lien. The
22 notice of lien shall contain the name of the participant and a
23 description of the real estate. The recorder shall note the time
24 of receiving such notice, and shall record and index the notice
25 of lien in the same manner as deeds of real estate are required
26 to be recorded and indexed. The director or the director's
27 designee may release or discharge all or part of the lien and
28 notice of the release shall also be filed with the recorder. The

1 department of social services, MO HealthNet division, shall
2 provide payment to the recorder of deeds the fees set for similar
3 filings in connection with the filing of a lien and any other
4 necessary documents;

5 (3) No such lien may be imposed against the property of any
6 individual prior to the individual's death on account of MO
7 HealthNet benefits paid except:

8 (a) In the case of the real property of an individual:

9 a. Who is an inpatient in a nursing facility, intermediate
10 care facility for the mentally retarded, or other medical
11 institution, if such individual is required, as a condition of
12 receiving services in such institution, to spend for costs of
13 medical care all but a minimal amount of his or her income
14 required for personal needs; and

15 b. With respect to whom the director of the MO HealthNet
16 division or the director's designee determines, after notice and
17 opportunity for hearing, that he cannot reasonably be expected to
18 be discharged from the medical institution and to return home.
19 The hearing, if requested, shall proceed under the provisions of
20 chapter 536, RSMo, before a hearing officer designated by the
21 director of the MO HealthNet division; or

22 (b) Pursuant to the judgment of a court on account of
23 benefits incorrectly paid on behalf of such individual;

24 (4) No lien may be imposed under paragraph (b) of
25 subdivision (3) of this subsection on such individual's home if
26 one or more of the following persons is lawfully residing in such
27 home:

28 (a) The spouse of such individual;

1 (b) Such individual's child who is under twenty-one years
2 of age, or is blind or permanently and totally disabled; or

3 (c) A sibling of such individual who has an equity interest
4 in such home and who was residing in such individual's home for a
5 period of at least one year immediately before the date of the
6 individual's admission to the medical institution;

7 (5) Any lien imposed with respect to an individual pursuant
8 to subparagraph b of paragraph (a) of subdivision (3) of this
9 subsection shall dissolve upon that individual's discharge from
10 the medical institution and return home.

11 14. The debt due the state provided by this section is
12 subordinate to the lien provided by section 484.130, RSMo, or
13 section 484.140, RSMo, relating to an attorney's lien and to the
14 participant's expenses of the claim against the third party.

15 15. Application for and acceptance of MO HealthNet benefits
16 under this chapter shall constitute an assignment to the
17 department of social services or MO HealthNet division of any
18 rights to support for the purpose of medical care as determined
19 by a court or administrative order and of any other rights to
20 payment for medical care.

21 16. All participants receiving benefits as defined in this
22 chapter shall cooperate with the state by reporting to the family
23 support division or the MO HealthNet division, within thirty
24 days, any occurrences where an injury to their persons or to a
25 member of a household who receives MO HealthNet benefits is
26 sustained, on such form or forms as provided by the family
27 support division or MO HealthNet division.

28 17. If a person fails to comply with the provision of any

1 judicial or administrative decree or temporary order requiring
2 that person to maintain medical insurance on or be responsible
3 for medical expenses for a dependent child, spouse, or ex-spouse,
4 in addition to other remedies available, that person shall be
5 liable to the state for the entire cost of the medical care
6 provided pursuant to eligibility under any public assistance
7 program on behalf of that dependent child, spouse, or ex-spouse
8 during the period for which the required medical care was
9 provided. Where a duty of support exists and no judicial or
10 administrative decree or temporary order for support has been
11 entered, the person owing the duty of support shall be liable to
12 the state for the entire cost of the medical care provided on
13 behalf of the dependent child or spouse to whom the duty of
14 support is owed.

15 18. The department director or the director's designee may
16 compromise, settle or waive any such claim in whole or in part in
17 the interest of the MO HealthNet program. Notwithstanding any
18 provision in this section to the contrary, the department of
19 social services, MO HealthNet division is not required to seek
20 reimbursement from a liable third party on claims for which the
21 amount it reasonably expects to recover will be less than the
22 cost of recovery or for which recovery efforts will not be
23 cost-effective. Cost-effectiveness is determined based on the
24 following:

- 25 (1) Actual and legal issues of liability as may exist
26 between the [recipient] participant and the liable party;
- 27 (2) Total funds available for settlement; and
- 28 (3) An estimate of the cost to the division of pursuing its

1 claim.

2 214.160. The county commission shall invest or loan said
3 trust fund or funds only in United States government, state,
4 county or municipal bonds, [or] certificates of deposit, first
5 real estate mortgages, or deeds of trust. They shall use the net
6 income from said trust fund or funds or so much thereof as is
7 necessary to support and maintain and beautify any public or
8 private cemetery or any particular part thereof which may be
9 designated by the person, persons or firm or association making
10 said gift or bequest. In maintaining or supporting the cemetery
11 or any particular part or portion thereof the commission shall as
12 nearly as possible follow the expressed wishes of the creator of
13 said trust fund.

14 214.270. As used in sections 214.270 to 214.410, the
15 following terms mean:

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

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

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

27 (4) "Cemetery", property restricted in use for the
28 interment of the human dead by formal dedication or reservation

1 by deed but shall not include any of the foregoing held or
2 operated by the state or federal government or any political
3 subdivision thereof, any incorporated city or town, any county or
4 any religious organization, cemetery association or fraternal
5 society holding the same for sale solely to members and their
6 immediate families;

7 (5) "Cemetery association", any number of persons who shall
8 have associated themselves by articles of agreement in writing as
9 a not-for-profit association or organization, whether
10 incorporated or unincorporated, formed for the purpose of
11 ownership, preservation, care, maintenance, adornment and
12 administration of a cemetery. Cemetery associations shall be
13 governed by a board of directors. Directors shall serve without
14 compensation;

15 (6) "Cemetery operator" or "operator", any person who owns,
16 controls, operates or manages a cemetery;

17 (7) "Cemetery prearranged contract", any contract with a
18 cemetery or cemetery operator for [goods and services covered by
19 this chapter which includes a sale of burial merchandise in which
20 delivery of merchandise or a valid warehouse receipt under
21 sections 214.270 to 214.550 is deferred pursuant to written
22 instructions from the purchaser. It shall also mean any contract
23 for goods and services covered by sections 214.270 to 214.550
24 which includes a sale of burial services to be performed at a
25 future date] burial merchandise or burial services covered by
26 sections 214.270 to 214.410 which is entered into before the
27 death of the individual for whom the burial merchandise or burial
28 services are intended;

1 (8) "Cemetery service" or "burial service", those services
2 performed by a cemetery owner or operator licensed as an endowed
3 care or nonendowed cemetery including setting a monument or
4 marker, setting a tent, excavating a grave, interment,
5 entombment, inurnment, setting a vault, or other related services
6 within the cemetery;

7 (9) "Columbarium", a building or structure for the
8 inurnment of cremated human remains;

9 (10) "Community mausoleum", a mausoleum containing a
10 substantial area of enclosed space and having either a heating,
11 ventilating or air conditioning system;

12 (11) "Department", department of insurance, financial
13 institutions and professional registration;

14 (12) "Developed acreage", the area which has been platted
15 into grave spaces and has been developed with roads, paths,
16 features, or ornamentations and in which burials can be made;

17 (13) "Director", director of the division of professional
18 registration;

19 (14) "Division", division of professional registration;

20 (15) "Endowed care", the maintenance, repair and care of
21 all burial space subject to the endowment within a cemetery,
22 including any improvements made for the benefit of such burial
23 space. Endowed care shall include the general overhead expenses
24 needed to accomplish such maintenance, repair, care and
25 improvements. Endowed care shall include the terms perpetual
26 care, permanent care, continual care, eternal care, care of
27 duration, or any like term;

28 (16) "Endowed care cemetery", a cemetery, or a section of a

1 cemetery, which represents itself as offering endowed care and
2 which complies with the provisions of sections 214.270 to
3 214.410;

4 (17) "Endowed care fund", "endowed care trust", or "trust",
5 any cash or cash equivalent, to include any income therefrom,
6 impressed with a trust by the terms of any gift, grant,
7 contribution, payment, devise or bequest to an endowed care
8 cemetery, or its endowed care trust, or funds to be delivered to
9 an endowed care cemetery's trust received pursuant to a contract
10 and accepted by any endowed care cemetery operator or his agent.
11 This definition includes the terms endowed care funds,
12 maintenance funds, memorial care funds, perpetual care funds, or
13 any like term;

14 (18) "Escrow account", an account established in lieu of an
15 endowed care fund as provided under section 214.330 or an account
16 used to hold deposits under section 214.387;

17 (19) "Escrow agent", an attorney, title company, certified
18 public accountant or other person authorized by the division to
19 exercise escrow powers under the laws of this state;

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

25 (21) "Family burial ground", a cemetery in which no burial
26 space is sold to the public and in which interments are
27 restricted to persons related by blood or marriage;

28 (22) "Fraternal cemetery", a cemetery owned, operated,

1 controlled or managed by any fraternal organization or auxiliary
2 organizations thereof, in which the sale of burial space is
3 restricted solely to its members and their immediate families;

4 (23) "Garden mausoleum", a mausoleum without a substantial
5 area of enclosed space and having its crypt and niche fronts open
6 to the atmosphere. Ventilation of the crypts by forced air or
7 otherwise does not constitute a garden mausoleum as a community
8 mausoleum;

9 (24) "Government cemetery", or "municipal cemetery", a
10 cemetery owned, operated, controlled or managed by the federal
11 government, the state or a political subdivision of the state,
12 including a county or municipality or instrumentality thereof;

13 (25) "Grave" or "plot", a place of ground in a cemetery,
14 used or intended to be used for burial of human remains;

15 (26) "Human remains", the body of a deceased person in any
16 state of decomposition, as well as cremated remains;

17 (27) "Inurnment", placing an urn containing cremated
18 remains in a burial space;

19 (28) "Lawn crypt", a burial vault or other permanent
20 container for a casket which is permanently installed below
21 ground prior to the time of the actual interment. A lawn crypt
22 may permit single or multiple interments in a grave space;

23 (29) "Mausoleum", a structure or building for the
24 entombment of human remains in crypts;

25 (30) "Niche", a space in a columbarium used or intended to
26 be used for inurnment of cremated remains;

27 (31) "Nonendowed care cemetery", or "nonendowed cemetery",
28 a cemetery or a section of a cemetery for which no endowed care

1 trust fund has been established in accordance with sections
2 214.270 to 214.410;

3 (32) "Office", the office of endowed care cemeteries within
4 the division of professional registration;

5 (33) "Owner of burial space", a person to whom the cemetery
6 operator or his authorized agent has transferred the right of use
7 of burial space;

8 (34) "Person", an individual, corporation, partnership,
9 joint venture, association, trust or any other legal entity;

10 (35) "Registry", the list of cemeteries maintained in the
11 division office for public review. The division may charge a fee
12 for copies of the registry;

13 (36) "Religious cemetery", a cemetery owned, operated,
14 controlled or managed by any church, convention of churches,
15 religious order or affiliated auxiliary thereof in which the sale
16 of burial space is restricted solely to its members and their
17 immediate families;

18 (37) "Surface lawn crypt", a sealed burial chamber whose
19 lid protrudes above the land surface;

20 (38) "Total acreage", the entire tract which is dedicated
21 to or reserved for cemetery purposes;

22 (39) "Trustee of an endowed care fund", the separate legal
23 entity qualified under section 214.330 appointed as trustee of an
24 endowed care fund.

25 214.276. 1. The division may refuse to issue or renew any
26 license, required pursuant to sections 214.270 to 214.516 for one
27 or any combination of causes stated in subsection 2 of this
28 section. The division shall notify the applicant in writing of

1 the reasons for the refusal and shall advise the applicant of his
2 or her right to file a complaint with the administrative hearing
3 commission as provided by chapter 621, RSMo.

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

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

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

23 (3) Use of fraud, deception, misrepresentation or bribery
24 in securing any license, issued pursuant to sections 214.270 to
25 214.516 or in obtaining permission to take any examination given
26 or required pursuant to sections 214.270 to 214.516;

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

1 (5) Incompetence, misconduct, gross negligence, fraud,
2 misrepresentation or dishonesty in the performance of the
3 functions or duties of any profession regulated by sections
4 214.270 to 214.516;

5 (6) Violation of, or assisting or enabling any person to
6 violate, any provision of sections 214.270 to 214.516, or any
7 lawful rule or regulation adopted pursuant to sections 214.270 to
8 214.516;

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

11 (8) Disciplinary action against the holder of a license or
12 other right to practice any profession regulated by sections
13 214.270 to 214.516 granted by another state, territory, federal
14 agency or country upon grounds for which revocation or suspension
15 is authorized in this state;

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

18 (10) Assisting or enabling any person to practice or offer
19 to practice any profession licensed or regulated by sections
20 214.270 to 214.516 who is not registered and currently eligible
21 to practice pursuant to sections 214.270 to 214.516;

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

24 (12) Failure to display a valid license;

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

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

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

3 3. After the filing of such complaint, the proceedings
4 shall be conducted in accordance with the provisions of chapter
5 621, RSMo. Upon a finding by the administrative hearing
6 commission that the grounds, provided in subsection 2 of this
7 section, for disciplinary action are met, the division may singly
8 or in combination, censure or place the person named in the
9 complaint on probation on such terms and conditions as the
10 division deems appropriate for a period not to exceed five years,
11 or may suspend, or revoke the license or permit or may impose a
12 penalty allowed by subsection 4 of section 214.410. No new
13 license shall be issued to the owner or operator of a cemetery or
14 to any corporation controlled by such owner for three years after
15 the revocation of the certificate of the owner or of a
16 corporation controlled by the owner.

17 4. [Operators of all existing endowed care or nonendowed
18 care cemeteries shall, prior to August twenty-eighth following
19 August 28, 2001, apply for a license pursuant to this section.
20 All endowed care or nonendowed care cemeteries operating in
21 compliance with sections 214.270 to 214.516 prior to August
22 twenty-eighth following August 28, 2001, shall be granted a
23 license by the division upon receipt of application.

24 5.] The division may settle disputes arising under
25 subsections 2 and 3 of this section by consent agreement or
26 settlement agreement between the division and the holder of a
27 license. Within such a settlement agreement, the division may
28 singly or in combination impose any discipline or penalties

1 allowed by this section or subsection 4 of section 214.410.
2 Settlement of such disputes shall be entered into pursuant to the
3 procedures set forth in section 621.045, RSMo.

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

7 214.277. 1. Upon application by the division, and the
8 necessary burden having been met, a court of general jurisdiction
9 may grant an injunction, restraining order or other order as may
10 be appropriate to enjoin a person from:

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

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

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

26 3.] Any action brought pursuant to this section shall be in
27 addition to and not in lieu of any penalty provided by this
28 chapter and may be brought concurrently with other actions to

1 enforce this chapter.

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

7 (1) It is in writing;

8 (2) It is executed by a cemetery operator who is in
9 compliance with the licensing provisions of this chapter;

10 (3) It identifies the contract purchaser and identifies the
11 cemetery services or other items to be provided;

12 (4) It identifies the name and address of any trustee or
13 escrow agent that will receive payments made pursuant to the
14 contract under the provisions of sections 214.320, 214.330, or
15 214.387, if applicable;

16 (5) It contains the name and address of the cemetery
17 operator; and

18 (6) It identifies any grounds for cancellation by the
19 purchaser or by the cemetery operator on default of payment.

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

27 214.283. 1. Any person, entity, association, city, town,
28 village, county or political subdivision that purchases, receives

1 or holds any real estate used for the burial of dead human
2 bodies, excluding a family burial ground, shall notify the office
3 of the endowed care cemeteries of the name, location and address
4 of such real estate on a form approved by the office, before
5 October 1, 2010, or within thirty days of purchasing, receiving
6 or holding such land or of being notified by the office of the
7 requirements of this provision. No fee shall be charged for such
8 notification nor shall any penalty be assessed for failure to
9 register. This section shall not be deemed to exempt any
10 operator of an endowed care cemetery or non-endowed care cemetery
11 from being duly licensed as required by this chapter.

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

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

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

28 214.300. Any cemetery operator may, after October 13, 1961,

1 qualify to operate a cemetery which has been operated as a
2 nonendowed cemetery for a minimum of two years, as an endowed
3 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
6 thousand dollars for each acre in said cemetery with a minimum of
7 five thousand dollars and a maximum of twenty-five thousand
8 dollars;

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

10 214.310. 1. Any cemetery operator who elects to operate a
11 new cemetery as an endowed care cemetery or who represents to the
12 public that perpetual, permanent, endowed, continual, eternal
13 care, care of duration or similar care will be furnished cemetery
14 property sold shall create an endowed care trust fund and shall
15 deposit a minimum of twenty-five thousand dollars for cemeteries
16 that have in excess of one hundred burials annually or a minimum
17 of five thousand dollars for cemeteries that have one hundred or
18 less burials annually in such fund before selling or disposing of
19 any burial space in said cemetery, or in lieu thereof such
20 cemetery owner may furnish a surety bond issued by a bonding
21 company or insurance company authorized to do business in this
22 state in the face amount of thirty thousand dollars, and such
23 bond shall run to the office of endowed care cemeteries for the
24 benefit of the care trust funds held by such cemetery. This bond
25 shall be for the purpose of guaranteeing an accumulation of
26 twenty-five thousand dollars in such care trust fund and also for
27 the further purpose of assuring that the cemetery owner shall
28 provide annual perpetual or endowment care in an amount equal to

1 the annual reasonable return on a secured cash investment of
2 twenty-five thousand dollars until twenty-five thousand dollars
3 is accumulated in said endowed care trust funds, and these shall
4 be the conditions of such surety bond; provided, however, the
5 liability of the principal and surety on the bond shall in no
6 event exceed thirty thousand dollars. Provided further, that
7 whenever a cemetery owner which has made an initial deposit to
8 the endowed care trust fund demonstrates to the satisfaction of
9 the administrator of the office of endowed care cemeteries that
10 more than twenty-five thousand dollars has been accumulated in
11 the endowed care trust fund, the cemetery owner may petition the
12 administrator of the office of endowed care cemeteries for an
13 order to dissolve the surety bond requirement, so long as at
14 least twenty-five thousand dollars always remains in the endowed
15 care trust fund.

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

20 3. Any endowed care cemetery which does not maintain a
21 **[fully]** adequately staffed office in the county in which the
22 cemetery is located shall have prominently displayed on the
23 premises a sign clearly stating the operator's name, address and
24 telephone number. If the operator does not reside in the county
25 in which the cemetery is located, the sign shall also state the
26 name, address and telephone number of a resident of the county
27 who is the authorized agent of the operator or the location of an
28 office of the cemetery which is within ten miles of such

1 cemetery. In jurisdictions where ordinances require signs to
2 meet certain specifications, a weatherproof notice containing the
3 information required by this subsection shall be sufficient.

4 214.320. 1. An operator of an endowed care cemetery shall
5 establish and deposit in an endowed care trust fund not less than
6 the following amounts for burial space sold or disposed of, with
7 such deposits to the endowed care trust fund to be made
8 ~~[semiannually]~~ monthly on all burial space that has been fully
9 paid for to the date of deposit:

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

13 (2) A minimum of ten percent of the gross sales price of
14 each crypt or niche sold in a community mausoleum, or a minimum
15 of one hundred dollars for each crypt or ~~[ten dollars for each~~
16 ~~niche sold in a garden mausoleum]~~ fifty dollars for each niche
17 sold in a community mausoleum, whichever is greater;

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

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

25 2. Notwithstanding the provisions of subdivision (2) of
26 subsection 1 of this section, a cemetery operator who has made
27 the initial deposit in trust as required by sections 214.270 to
28 214.410 from his own funds, and not from funds deposited with

1 respect to sales of burial space, may deposit only one-half the
2 minimum amounts set forth in subdivisions (1) and (2) of
3 subsection 1 of this section, until he shall have recouped his
4 entire initial deposit. Thereafter, he shall make the minimum
5 deposits required under subdivisions (1), (2) ~~[and],~~ (3), and (4)
6 of subsection 1 of this section.

7 3. As required by section 214.340, each operator of an
8 endowed care cemetery shall~~[, after August 28, 1990,]~~ file with
9 the division of professional registration, on a form provided by
10 the division, an annual endowed care trust fund report. The
11 operator of any cemetery representing the cemetery, or any
12 portion of the cemetery, as an endowed care cemetery shall make
13 available to the division for inspection or audit at any
14 reasonable time only those cemetery records and trust fund
15 records necessary to determine whether the cemetery's endowed
16 care trust fund is in compliance with sections 214.270 to
17 214.410. Each cemetery operator who has established a
18 ~~[segregated]~~ escrow account pursuant to section ~~[214.385]~~ 214.387
19 shall make available to the division for inspection or audit at
20 any reasonable time those cemetery records and financial
21 institution records necessary to determine whether the cemetery
22 operator is in compliance with the provisions of section
23 ~~[214.385.~~ All documents, records, and work product from any
24 inspections or audits performed by or at the direction of the
25 division shall remain in the possession of the division of
26 professional registration and shall not be sent to the state
27 board of embalmers and funeral directors. No charge shall be
28 made for such inspections or audits] 214.387.

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

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

11 5. A cemetery operator shall be exempt from the provisions
12 of chapter 436 for the sale of cemetery services or for grave
13 lots, grave spaces, markers, monuments, memorials, tombstones,
14 crypts, niches or mausoleums, outer burial containers or other
15 receptacle. A cemetery operator shall be prohibited from
16 adjusting or establishing the sales price of items with the
17 intent of evading the trusting or escrow provisions of this
18 chapter.

19 214.325. If the deposits to any endowed care trust fund
20 [required by sections 214.270 to 214.410] are less than the total
21 sum required to be set aside and deposited since the effective
22 date of such sections, the cemetery operator shall correct such
23 deficiency by depositing not less than twenty percent of such
24 deficiency each year for five years [following August 28, 1990,]
25 and shall file, on the form provided by the division, a statement
26 outlining the date and amount such deposits were made. If the
27 cemetery operator fails to correct the deficiency with respect to
28 funds maintained under section 214.330, the cemetery operator

1 shall thereafter not represent the cemetery as an endowed care
2 cemetery. Any funds held in the cemetery's endowed care trust
3 shall continue to be used for endowed care for that cemetery.
4 The cemetery operator shall remain subject to the provisions of
5 sections 214.270 to 214.410 for any cemetery or any section of
6 the cemetery for which endowed care payments have been collected,
7 subject to the penalties contained in section 214.410, and civil
8 actions as well as subject to any regulations promulgated by the
9 division. For purposes of this section, the term "deficiency"
10 shall mean a deficiency in the amount required to be deposited
11 pursuant to section 214.320, or a deficiency created by
12 disbursements in excess of what is permitted under section
13 214.330 and shall not include or be affected by deficiencies or
14 shortages caused by the fluctuating value of investments.

15 214.330. 1. [The endowed care fund required by sections
16 214.270 to 214.410 shall be permanently set aside in trust or in
17 accordance with the provisions of subsection 2 of this section.
18 The trustee of the endowed care trust shall be a state- or
19 federally chartered financial institution authorized to exercise
20 trust powers in Missouri and located in this state. The income
21 from the endowed care fund shall be distributed to the cemetery
22 operator at least annually or in other convenient installments.
23 The cemetery operator shall have the duty and responsibility to
24 apply the income to provide care and maintenance only for that
25 part of the cemetery in which burial space shall have been sold
26 and with respect to which sales the endowed care fund shall have
27 been established and not for any other purpose. The principal of
28 such funds shall be kept intact and appropriately invested by the

1 trustee, or the independent investment advisor. An endowed care
2 trust agreement may provide that when the principal in an endowed
3 care trust exceeds two hundred fifty thousand dollars, investment
4 decisions regarding the principal and undistributed income may be
5 made by a federally registered or Missouri-registered independent
6 qualified investment advisor designated by the cemetery owner,
7 relieving the trustee of all liability regarding investment
8 decisions made by such qualified investment advisor. It shall be
9 the duty of the trustee, or the investment advisor, in the
10 investment of such funds to exercise the diligence and care men
11 of ordinary prudence, intelligence and discretion would employ,
12 but with a view to permanency of investment considering probable
13 safety of capital investment, income produced and appreciation of
14 capital investment. The trustee's duties shall be the
15 maintenance of records and the accounting for and investment of
16 moneys deposited by the operator to the endowed care fund. For
17 the purposes of sections 214.270 to 214.410, the trustee or
18 investment advisor shall not be deemed to be responsible for the
19 care, the maintenance, or the operation of the cemetery, or for
20 any other matter relating to the cemetery, including, but not
21 limited to, compliance with environmental laws and regulations.
22 With respect to cemetery property maintained by cemetery care
23 funds, the cemetery operator shall be responsible for the
24 performance of the care and maintenance of the cemetery property
25 owned by the cemetery operator and for the opening and closing of
26 all graves, crypts, or niches for human remains in any cemetery
27 property owned by the cemetery operator.

28 2. If the endowed care cemetery fund is not permanently set

1 aside in a trust fund as required by subsection 1 of this section
2 then the funds shall be permanently set aside in a segregated
3 bank account which requires the signature of the cemetery owner
4 and either the administrator of the office of endowed care
5 cemeteries, or the signature of a licensed practicing attorney
6 with escrow powers in this state as joint signatories for any
7 distribution from the trust fund. No funds shall be expended
8 without the signature of either the administrator of the office
9 of endowed care cemeteries, or a licensed practicing attorney
10 with escrow powers in this state. The account shall be insured
11 by the Federal Deposit Insurance Corporation or comparable
12 deposit insurance and held in the state- or federally chartered
13 financial institution authorized to do business in Missouri and
14 located in this state. The income from the endowed care fund
15 shall be distributed to the cemetery operator at least in annual
16 or semiannual installments. The cemetery operator shall have the
17 duty and responsibility to apply the income to provide care and
18 maintenance only for that part of the cemetery in which burial
19 space shall have been sold and with respect to which sales the
20 endowed care fund shall have been established and not for any
21 other purpose. The principal of such funds shall be kept intact
22 and appropriately invested by the cemetery operator with written
23 approval of either the administrator of the office of endowed
24 care cemeteries or a licensed practicing attorney with escrow
25 powers in this state. It shall be the duty of the cemetery owner
26 in the investment of such funds to exercise the diligence and
27 care a person of reasonable prudence, intelligence and discretion
28 would employ, but with a view to permanency of investment

1 considering probable safety of capital investment, income
2 produced and appreciation of capital investment. The cemetery
3 owner's duties shall be the maintenance of records and the
4 accounting for an investment of moneys deposited by the operator
5 to the endowed care fund. For purposes of sections 214.270 to
6 214.410, the administrator of the office of endowed care
7 cemeteries or the licensed practicing attorney with escrow powers
8 in this state shall not be deemed to be responsible for the care,
9 maintenance, or operation of the cemetery. With respect to
10 cemetery property maintained by cemetery care funds, the cemetery
11 operator shall be responsible for the performance of the care and
12 maintenance of the cemetery property owned by the cemetery
13 operator and for the opening and closing of all graves, crypts,
14 or niches for human remains in any cemetery property owned by the
15 cemetery operator.

16 3. The cemetery operator shall be accountable to the owners
17 of burial space in the cemetery for compliance with sections
18 214.270 to 214.410.

19 4. All endowed care funds shall be administered in
20 accordance with an endowed care fund agreement. The endowed care
21 fund agreement shall be subject to review and approval by the
22 office of endowed care cemeteries or by a licensed practicing
23 attorney with escrow powers in this state. The endowed care
24 cemetery shall be notified in writing by the office of endowed
25 care cemeteries or by a licensed practicing attorney with escrow
26 powers in this state regarding the approval or disapproval of the
27 endowed care fund agreement and regarding any changes required to
28 be made for compliance with this chapter and the rules and

1 regulations promulgated thereunder. A copy of the proposed
2 endowed care fund agreement shall be submitted to the office of
3 endowed care cemeteries. The office of endowed care cemeteries
4 or a licensed practicing attorney with escrow powers in this
5 state shall notify the endowed care cemetery in writing of
6 approval and of any required change. Any amendment or change to
7 the endowed care fund agreement shall be submitted to the office
8 of endowed care cemeteries or to a licensed practicing attorney
9 with escrow powers in this state for review and approval. Said
10 amendment or change shall not be effective until approved by the
11 office of endowed care cemeteries or by a licensed practicing
12 attorney with escrow powers in this state. All endowed care
13 cemeteries shall be under a continuing duty to file with the
14 office of endowed care cemeteries or with a licensed practicing
15 attorney with escrow powers in this state and to submit for
16 approval any and all changes, amendment, or revisions of the
17 endowed care fund agreement.

18 5. No principal shall be distributed from an endowed care
19 trust fund except to the extent that a unitrust election is in
20 effect with respect to such trust under the provisions of section
21 469.411, RSMo.] The endowed care trust fund required by sections
22 214.270 to 214.410 shall be permanently set aside in trust or in
23 accordance with the provisions of subsection 2 of this section.
24 The trustee of the endowed care trust shall be a state or
25 federally chartered financial institution authorized to exercise
26 trust powers in Missouri. The contact information for a trust
27 officer or duly appointed representative of the trustee with
28 knowledge and access to the trust fund accounting and trust fund

1 records must be disclosed to the office or its duly authorized
2 representative upon request.

3 (1) The trust fund records, including all trust fund
4 accounting records, shall be maintained in the state of Missouri
5 at all times or shall be electronically stored so that the
6 records may be made available in the state of Missouri within
7 fifteen business days of receipt of a written request. The
8 operator of an endowed care cemetery shall maintain a current
9 name and address of the trustee and the records custodian for the
10 endowed care trust fund and shall supply such information to the
11 office, or its representative, upon request;

12 (2) Missouri law shall control all endowed care trust funds
13 and the Missouri courts shall have jurisdiction over endowed care
14 trusts regardless of where records may be kept or various
15 administrative tasks may be performed.

16 2. An endowed care trust fund shall be administered in
17 accordance with Missouri law governing trusts, including but not
18 limited to the applicable provisions of chapters 456 and 469,
19 except as specifically provided in this subsection or where the
20 provisions of sections 214.270 to 214.410 provide differently,
21 provided that a cemetery operator shall not in any circumstances
22 be authorized to restrict, enlarge, change, or modify the
23 requirements of this section or the provisions of chapters 456
24 and 469 by agreement or otherwise.

25 (1) Income and principal of an endowed care trust fund
26 shall be determined under the provisions of law applicable to
27 trusts, except that the provisions of section 469.405 shall not
28 apply.

1 (2) No principal shall be distributed from an endowed care
2 trust fund except to the extent that a unitrust election is in
3 effect with respect to such trust under the provisions of section
4 469.411.

5 (3) No right to transfer jurisdiction from Missouri under
6 section 456.1-108 shall exist for endowed care trusts.

7 (4) All endowed care trusts shall be irrevocable.

8 (5) No trustee shall have the power to terminate an endowed
9 care trust fund under the provisions of section 456.4-414.

10 (6) A unitrust election made in accordance with the
11 provisions of chapter 469 shall be made by the cemetery operator
12 in the terms of the endowed care trust fund agreement itself, not
13 by the trustee.

14 (7) No contract of insurance shall be deemed a suitable
15 investment for an endowed care trust fund.

16 (8) The income from the endowed care fund may be
17 distributed to the cemetery operator at least annually on a date
18 designated by the cemetery operator, but no later than sixty days
19 following the end of the trust fund year. Any income not
20 distributed within sixty days following the end of the trust's
21 fiscal year shall be added to and held as part of the principal
22 of the trust fund.

23 3. The cemetery operator shall have the duty and
24 responsibility to apply the income distributed to provide care
25 and maintenance only for that part of the cemetery designated as
26 an endowed care section and not for any other purpose.

27 4. In addition to any other duty, obligation, or
28 requirement imposed by sections 214.270 to 214.410 or the endowed

1 care trust agreement, the trustee's duties shall be the
2 maintenance of records related to the trust and the accounting
3 for and investment of moneys deposited by the operator to the
4 endowed care trust fund.

5 (1) For the purposes of sections 214.270 to 214.410, the
6 trustee shall not be deemed responsible for the care, the
7 maintenance, or the operation of the cemetery, or for any other
8 matter relating to the cemetery, or the proper expenditure of
9 funds distributed by the trustee to the cemetery operator,
10 including, but not limited to, compliance with environmental laws
11 and regulations.

12 (2) With respect to cemetery property maintained by endowed
13 care funds, the cemetery operator shall be responsible for the
14 performance of the care and maintenance of the cemetery property.

15 5. If the endowed care cemetery fund is not permanently set
16 aside in a trust fund as required by subsection 1 of this
17 section, then the funds shall be permanently set aside in an
18 escrow account in the state of Missouri. Funds in an escrow
19 account shall be placed in an endowed care trust fund under
20 subsection 1 if the funds in the escrow account exceed three
21 hundred fifty thousand dollars, unless otherwise approved by the
22 division for good cause. The account shall be insured by the
23 Federal Deposit Insurance Corporation or comparable deposit
24 insurance and held in a state or federally chartered financial
25 institution authorized to do business in Missouri and located in
26 this state.

27 (1) The interest from the escrow account may be distributed
28 to the cemetery operator at least in annual or semiannual

1 installments, but not later than six months following the
2 calendar year. Any interest not distributed within six months
3 following the end of the calendar year shall be added to and held
4 as part of the principal of the account.

5 (2) The cemetery operator shall have the duty and
6 responsibility to apply the interest to provide care and
7 maintenance only for that part of the cemetery in which burial
8 space shall have been sold and with respect to which sales the
9 escrow account shall have been established and not for any other
10 purpose. The principal of such funds shall be kept intact. The
11 cemetery operator's duties shall be the maintenance of records
12 and the accounting for an investment of moneys deposited by the
13 operator to the escrow account. For purposes of sections 214.270
14 to 214.410, the administrator of the office of endowed care
15 cemeteries shall not be deemed to be responsible for the care,
16 maintenance, or operation of the cemetery. With respect to
17 cemetery property maintained by cemetery care funds, the cemetery
18 operator shall be responsible for the performance of the care and
19 maintenance of the cemetery property owned by the cemetery
20 operator.

21 (3) The division may approve an escrow agent if the escrow
22 agent demonstrates the knowledge, skill, and ability to handle
23 escrow funds and financial transactions and is of good moral
24 character.

25 6. The cemetery operator shall be accountable to the owners
26 of burial space in the cemetery for compliance with sections
27 214.270 to 214.410.

28 7. Excluding funds held in an escrow account, all endowed

1 care trust funds shall be administered in accordance with an
2 endowed care trust fund agreement, which shall be submitted to
3 the office by the cemetery operator for review and approval. The
4 endowed care cemetery shall be notified in writing by the office
5 of endowed care cemeteries regarding the approval or disapproval
6 of the endowed care trust fund agreement and regarding any
7 changes required to be made for compliance with sections 214.270
8 to 214.410 and the rules and regulations promulgated thereunder.

9 8. All endowed care cemeteries shall be under a continuing
10 duty to file with the office of endowed care cemeteries and to
11 submit for prior approval any and all changes, amendments, or
12 revisions of the endowed care trust fund agreement, at least
13 thirty days before the effective date of such change, amendment,
14 or revision.

15 9. If the endowed care trust fund agreement, or any
16 changes, amendments, or revisions filed with the office, are not
17 disapproved by the office within thirty days after submission by
18 the cemetery operator, the endowed care trust fund agreement, or
19 the related change, amendment, or revision, shall be deemed
20 approved and may be used by the cemetery operator and the
21 trustee. Notwithstanding any other provision of this section,
22 the office may review and disapprove an endowed care trust fund
23 agreement, or any submitted change, amendment, or revision, after
24 the thirty days provided herein or at any other time if the
25 agreement is not in compliance with sections 214.270 to 214.410
26 or the rules promulgated thereunder. Notice of disapproval by
27 the office shall be in writing and delivered to the cemetery
28 operator and the trustee within ten days of disapproval.

1 10. Funds in an endowed care trust fund or escrow account
2 may be commingled with endowed care funds for other endowed care
3 cemeteries, provided that the cemetery operator and the trustee
4 shall maintain adequate accounting records of the disbursements,
5 contributions, and income allocated for each cemetery.

6 11. By accepting the trusteeship of an endowed care trust
7 or accepting funds as an escrow agent pursuant to sections
8 214.270 to 214.410, the trustee or escrow agent submits
9 personally to the jurisdiction of the courts of this state and
10 the office of endowed care cemeteries regarding the
11 administration of the trust or escrow account. A trustee or
12 escrow agent shall consent in writing to the jurisdiction of the
13 state of Missouri and the office in regards to the trusteeship or
14 the operation of the escrow account and to the appointment of the
15 office of secretary of state as its agent for service of process
16 regarding any administrative or legal actions relating to the
17 trust or the escrow account, if it has no designated agent for
18 service of process located in this state. Such consent shall be
19 filed with the office prior to accepting funds pursuant to
20 sections 214.270 to 214.410 as trustee or as an escrow agent on a
21 form provided by the office by rule.

22 214.335. 1. Any endowed care cemetery may require a
23 contribution to the endowed care fund or to a separate memorial
24 care fund for each memorial or monument installed on a grave in
25 the cemetery. Such contribution, if required by a cemetery,
26 shall not exceed twenty cents per square inch of base area, and
27 shall be charged on every installation regardless of the person
28 performing the installation. Each contribution made pursuant to

1 a contract or agreement entered into after August 28, 1990, shall
2 be entrusted and administered pursuant to sections 214.270 to
3 214.410 for the endowed care fund. Each contribution made
4 pursuant to a contract or agreement entered into before August
5 28, 1990, shall be governed by the law in effect at the time the
6 contract or agreement was entered into.

7 2. If the deposits to any endowed care trust fund are less
8 than the total sum required to be set aside and deposited since
9 the effective date of such sections, the cemetery operator shall
10 correct such deficiency by depositing not less than twenty
11 percent of such deficiency each year for five years and shall
12 file, on the form provided by the division, a statement outlining
13 the date and amount such deposits were made. If the cemetery
14 operator fails to correct the deficiency with respect to funds
15 maintained under section 214.330, the cemetery operator shall
16 thereafter not represent the cemetery as an endowed care
17 cemetery. Any funds held in the cemetery's endowed care trust
18 shall continue to be used for endowed care for that cemetery.
19 The cemetery operator shall remain subject to the provisions of
20 sections 214.270 to 214.410 for any cemetery or any section of
21 the cemetery for which endowed care payments have been collected,
22 subject to the penalties contained in section 214.410, and civil
23 actions, as well as subject to any regulations promulgated by the
24 division. For purposes of this section, the term "deficiency"
25 shall mean a deficiency in the amount required to be deposited
26 pursuant to subsection 1 of this section, or a deficiency created
27 by disbursements in excess of what is permitted under section
28 214.330 and shall not include or be affected by deficiencies or

1 shortages caused by the fluctuating value of investments.

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

8 (1) Name and address of the trustee of the endowed care
9 trust fund and the depository, if different from the trustee;

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

11 (3) Principal contributions received since previous report;

12 (4) Total earnings since previous report;

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

15 (6) Current balance;

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

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

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

23 2. Subdivisions (1) through (7) of the report described in
24 subsection 1 above shall be certified to under oath as complete
25 and correct by a corporate officer of the trustee. Subdivision
26 (8) of such report shall be certified under oath as complete and
27 correct by an officer of the cemetery operator. Both the trustee
28 and cemetery operator or officer shall be subject to the penalty

1 of making a false affidavit or declaration.

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

9 4. Each cemetery operator who establishes [a segregated] an
10 escrow or trust account pursuant to [subsection 1 of section
11 214.385] section 214.387 shall file with the report required
12 under subsection 1 of this section [a segregated] an escrow or
13 trust account report that shall provide the following
14 information:

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

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

20 (3)] The amount on deposit in the [segregated] escrow or
21 trust account established pursuant to section [214.385] 214.387,
22 and the account number in the case of an escrow account.

23 214.345. 1. Any cemetery operator who negotiates the sale
24 of burial space in any cemetery located in this state shall
25 provide each prospective owner of burial space a written
26 statement, which may be a separate form or a part of the sales
27 contract, which states and explains in plain language that the
28 burial space is part of an endowed care cemetery; that the

1 cemetery has established and maintains the endowed care trust
2 fund required by law; and that the information regarding the fund
3 described in section 214.340 is available to the prospective
4 purchaser. If the burial space is in a nonendowed cemetery, or
5 in a nonendowed section of an endowed care cemetery, the cemetery
6 operator shall state he has elected not to establish an endowed
7 care trust fund.

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

12 214.360. No cemetery operator, nor any director, officer or
13 shareholder of any cemetery may borrow or in any other way make
14 use of the endowed care trust funds for his own use, directly or
15 indirectly, or for furthering or developing his or any other
16 cemetery, nor may any trustee lend or make such funds available
17 for said purpose or for the use of any operator or any director,
18 officer or shareholder of any cemetery.

19 214.363. In the event of a cemetery's bankruptcy,
20 insolvency, or assignment for the benefit of creditors, the
21 endowed care trust funds shall not be available to any creditor
22 as assets of the cemetery's owner or to pay any expenses of any
23 bankruptcy or similar proceeding, but shall be retained intact to
24 provide for the future maintenance of the cemetery.

25 214.365. Prior to any action as provided in subsection 2 of
26 section 214.205, and when the division has information that a
27 [public] cemetery is not providing maintenance and care, has been
28 abandoned, or has ceased operation, the division may investigate

1 the cemetery to determine the cemetery's current status. If the
2 division finds evidence that the cemetery is abandoned, is not
3 conducting business, or is not providing maintenance and care,
4 the division may apply to the circuit court for appointment as
5 receiver, trustee, or successor in trust.

6 214.367. 1. Prior to selling or otherwise disposing of a
7 majority of the business assets of a cemetery, or a majority of
8 its stock or other ownership interest, if a corporation or other
9 organized business entity, the cemetery operator shall provide
10 written notification to the division of its intent at least
11 thirty days prior to the date set for the transfer, or the
12 closing of the sale, or the date set for termination of its
13 business. Such notice is confidential and shall not be
14 considered a public record subject to the provisions of chapter
15 610 until the sale of the cemetery has been effectuated. Upon
16 receipt of the written notification, the division may take
17 reasonable and necessary action to determine that the cemetery
18 operator has made proper plans to assure that trust funds or
19 funds held in an escrow account for or on behalf of the cemetery
20 will be set aside and used as provided in sections 214.270 to
21 214.410, including, but not limited to, an audit or examination
22 of books and records. The division may waive the requirements of
23 this subsection or may shorten the period of notification for
24 good cause or if the division determines in its discretion that
25 compliance with its provisions are not necessary.

26 2. A cemetery operator may complete the sale, transfer, or
27 cessation if the division does not disapprove the transaction
28 within thirty days after receiving notice. Nothing in this

1 section shall be construed to restrict any other right or remedy
2 vested in the division or the attorney general.

3 3. A prospective purchaser or transferee of [any endowed
4 care] endowed or unendowed cemetery, with the written consent of
5 the cemetery operator, may obtain a copy of the cemetery's most
6 recent audit or inspection report from the division. The
7 division shall inform the prospective purchaser or transferee,
8 within thirty days, whether the cemetery may continue to operate
9 and be represented as [an endowed care] a cemetery.

10 214.387. 1. [Upon written instructions from the purchaser
11 of burial merchandise or burial services set forth in a cemetery
12 prearranged contract, a cemetery may defer delivery of such
13 burial merchandise or a warehouse receipt for the same under
14 section 214.385, or performance of services, to a date designated
15 by the purchaser, provided the cemetery operator, after deducting
16 sales and administrative costs not to exceed twenty percent of
17 the purchase price, deposits the remaining portion of the
18 purchase price into an escrow or trust account as herein
19 provided, within sixty days following receipt of payment from the
20 purchaser. Funds so deposited pursuant to this section shall be
21 maintained in such account until delivery of the property or the
22 performance of services is made or the contract for the purchase
23 of such property or services is canceled. The account is subject
24 to inspection, examination or audit by the division. No
25 withdrawals may be made from the escrow or trust account
26 established pursuant to this section except as herein provided.

27 2. Upon written instructions from the purchaser of an
28 interment, entombment, or inurnment cemetery service, a cemetery

1 may defer performance of such service to a date designated by the
2 purchaser, provided the cemetery operator, within forty-five days
3 of the date the agreement is paid in full, deposits from its own
4 funds an amount equal to eighty percent of the published retail
5 price into a trustee account. Funds deposited in a trustee
6 account pursuant to this section and section 214.385 shall be
7 maintained in such account until delivery of the service is made
8 or the agreement for the purchase of the service is canceled. No
9 withdrawals may be made from the trustee account established
10 pursuant to this section and section 214.385 except as provided
11 herein. Money in this account shall be invested utilizing the
12 prudent man theory and is subject to audit by the division.
13 Names and addresses of depositories of such money shall be
14 submitted with the annual report.

15 3. Upon the delivery of the interment, entombment, or
16 inurnment cemetery service agreed upon by the cemetery or its
17 agent, or the cancellation of the agreement for the purchase of
18 such service, the cemetery operator may withdraw from the
19 trustee account an amount equal to (i) the market value of the
20 trustee account based on the most recent account statement
21 issued to the cemetery operator, times (ii) the ratio the
22 service's deposit in the account bears to the aggregate deposit
23 of all services which are paid in full but not delivered. The
24 trustee account may be inspected or audited by the division.

25 4. The provisions of this section shall apply to all
26 agreements entered into after August 28, 2002.] With the
27 exception of sales made pursuant to section 214.385, all sales of
28 prearranged burial merchandise and services shall be made

1 pursuant to this section.

2 2. Upon written instructions from the purchaser of burial
3 merchandise or burial services set forth in a cemetery
4 prearranged contract, a cemetery may defer delivery of such
5 burial merchandise or a warehouse receipt for the same under
6 section 214.385, or performance of services, to a date designated
7 by the purchaser, provided the cemetery operator, after deducting
8 sales and administrative costs associated with the sale, not to
9 exceed twenty percent of the purchase price, deposits the
10 remaining portion of the purchase price into an escrow or trust
11 account as herein provided, within sixty days following receipt
12 of payment from the purchaser. Funds so deposited pursuant to
13 this section shall be maintained in such account until delivery
14 of the property or the performance of services is made or the
15 contract for the purchase of such property or services is
16 cancelled, and fees and costs associated with the maintenance of
17 the trust or escrow arrangement shall be charged to these funds.
18 The account is subject to inspection, examination or audit by the
19 division. No withdrawals may be made from the escrow or trust
20 account established pursuant to this section except as herein
21 provided.

22 3. Each escrow arrangement must comply with the following:

23 (1) The escrow agent shall be located in Missouri,
24 authorized to exercise escrow powers, and shall maintain the
25 escrow records so that they may be accessed and produced for
26 inspection within five business days of the agent's receipt of a
27 written request made by the office or its duly authorized
28 representative. A cemetery operator shall not serve as an escrow

1 agent for the cemetery operator's account nor shall the escrow
2 agent be employed by or under common ownership with the cemetery
3 operator. The cemetery operator shall maintain a current name
4 and address for the escrow agent with the office, and shall
5 obtain written approval from the office before making any change
6 in the name or address of the escrow agent. Notwithstanding any
7 other provision of law, information regarding the escrow agent
8 shall be deemed an open record;

9 (2) The escrow account funds shall be maintained in
10 depository accounts at a Missouri financial institution that
11 provides Federal Deposit Insurance Corporation or comparable
12 deposit insurance;

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

17 (4) The operator shall establish a separate depository
18 account for each cemetery prearranged contract administered
19 pursuant to this subsection;

20 (5) The division may promulgate by rule a form escrow
21 agreement to be used by a cemetery operator operating pursuant to
22 this section.

23 4. Each trust must comply with the following:

24 (1) The trustee shall be a state or federally chartered
25 financial institution authorized to exercise trust powers in
26 Missouri, provided that a foreign financial institution must be
27 approved by the office;

28 (2) The trust fund records, including all trust fund

1 accounting records, shall either be maintained in the state of
2 Missouri or shall be electronically stored so that the records
3 may be made available within fifteen business days of the
4 trustee's receipt of a written request made by the office or its
5 duly authorized representative. The cemetery operator shall
6 maintain a current name and address of the trustee and the
7 records custodian and shall supply such information to the office
8 or its representative upon request;

9 (3) The principal of such funds shall be appropriately
10 invested pursuant to the prudent investor rule under chapter 469,
11 provided that no trust funds shall be invested in any term
12 insurance product;

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

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

21 (6) A trustee may commingle the funds from trusts of
22 unrelated cemetery operators for investment purposes if the
23 trustee has adequate accounting for the allocations,
24 disbursements, payments, and income among the participating
25 trusts.

26 5. The income from escrow accounts, after payment of
27 expenses associated with the arrangement, shall be distributed to
28 the cemetery operator. All other distributions from trusts and

1 escrow accounts shall be made pursuant to forms approved by the
2 office. For performance of a cemetery prearranged contract, a
3 certificate of performance form signed by the cemetery operator
4 shall be required for distribution. For cancellation of a
5 cemetery prearranged contract, a certificate of cancellation form
6 signed by the cemetery operator and the purchaser shall be
7 required for distribution.

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

10 (1) At any time before the final disposition of the
11 deceased, or before the services or merchandise described in this
12 section are provided, the purchaser may cancel the contract
13 without cause by delivering written notice thereof to the
14 operator. Within fifteen days after its receipt of such notice,
15 the cemetery operator shall pay to the purchaser a net amount
16 equal to eighty percent of all payments made under the contract.
17 The cemetery operator shall be entitled to keep one-half of the
18 interest earned on trust funds. Upon delivery of the purchaser's
19 receipt for such payment to the escrow agent or trustee, the
20 escrow agent or trustee shall distribute to the cemetery operator
21 from the escrow account or trust an amount equal to all deposits
22 made into the escrow account or trust for the contract;

23 (2) Notwithstanding the provisions of subdivision (1) of
24 this subsection, if a purchaser is eligible, becomes eligible, or
25 desires to become eligible, to receive public assistance under
26 chapter 208 or any other applicable state or federal law, the
27 purchaser may irrevocably waive and renounce his right to cancel
28 the contract pursuant to the provisions of subdivision (1) of

1 this section, which waiver and renunciation shall be made in
2 writing and delivered to the cemetery operator;

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

8 (4) Notwithstanding the provisions of subdivision (1) of
9 this subsection, once any purchase order is entered for the
10 production or manufacture of burial merchandise, per the
11 purchaser's written request, the purchaser's obligation to pay
12 for said burial merchandise shall be noncancellable;

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

16 7. Burial merchandise sold through a contract with a
17 cemetery or cemetery operator which is entered into after the
18 death of the individual for whom the burial merchandise is
19 intended shall not be subject to any trusting or escrow
20 requirement of this section.

21 8. This section shall apply to all agreements entered into
22 after August 28, 2010.

23 214.389. 1. The division may direct a trustee, financial
24 institution, or escrow agent to suspend distribution from an
25 endowed care trust fund or escrow account if the cemetery
26 operator does not have a current and active cemetery operator
27 license, has failed to file an annual report, or if, after an
28 audit or examination, the division determines there is a

1 deficiency in an endowed care trust fund or escrow account
2 maintained under section 214.330 and the cemetery operator has
3 failed to file a corrective action plan detailing how the
4 deficiency shall be remedied. For purposes of this section, a
5 deficiency shall only be deemed to exist if, after an audit or
6 examination, the division determines a cemetery operator has
7 failed to deposit the total aggregate of funds required to be
8 deposited in trust or an escrow account pursuant to section
9 214.320 or subsection 1 of section 214.335, or has received
10 disbursements from the trust or escrow account in excess of what
11 is permitted under section 214.330. No deficiency shall be
12 deemed to be created by fluctuations in the value of investments
13 held in trust or escrow.

14 2. The division shall provide written notification to the
15 cemetery operator and the trustee, financial institution, or
16 escrow agent within fourteen days of discovering a potential
17 violation as described in this section. Upon receipt of written
18 notification from the division, the cemetery operator shall have
19 sixty days to cure any alleged violations or deficiencies cited
20 in the notification without a suspension of distribution. If,
21 after the sixty-day time period, the division feels the cemetery
22 has not cured the alleged violations or deficiencies cited in the
23 notification, the division may send a notice of suspension to the
24 cemetery operator that the division is ordering a suspension of
25 distribution as described in this section. In the event of a
26 suspension of distribution, the amount of any distribution
27 suspended shall become principal, with credit against the
28 deficiency, unless the cemetery operator files an appeal with a

1 court of competent jurisdiction or with the administrative
2 hearing commission, as provided herein. In the event of an
3 appeal, a cemetery operator may request the court or
4 administrative hearing commission stay the suspension of
5 distribution after a showing of necessity and good cause or
6 authorize payment from the endowed care trust fund or escrow
7 account for necessary expenses from any amount subject to
8 distribution.

9 3. Upon receipt of an order from the division suspending
10 distribution pursuant to this section, a trustee, financial
11 institution, or escrow agent shall immediately suspend
12 distribution as required by the order. A trustee, financial
13 institution, or escrow agent shall be exempt from liability for
14 failure to distribute funds as ordered by the division.

15 4. A cemetery operator may appeal an order suspending
16 distribution pursuant to this section to the administrative
17 hearing commission. The administrative hearing commission shall
18 receive notice of such appeal within thirty days from the date
19 the notice of suspension was mailed by certified mail. Failure
20 of a person whose license was suspended to notify the
21 administrative hearing commission of his or her intent to appeal
22 waives all rights to appeal the suspension. Upon notice of such
23 person's intent to appeal, a hearing shall be held before the
24 administrative hearing commission pursuant to chapter 621.

25 5. A cemetery operator may apply for reinstatement of
26 distributions upon demonstration that the deficiencies or other
27 problems have been cured or that the operator has otherwise come
28 into compliance.

1 6. The division may promulgate rules to implement the
2 provisions of this section. Any rule or portion of a rule, as
3 that term is defined in section 536.010, that is created under
4 the authority delegated in this section shall become effective
5 only if it complies with and is subject to all of the provisions
6 of chapter 536, and, if applicable, section 536.028. This
7 section and chapter 536 are nonseverable and if any of the powers
8 vested with the general assembly pursuant to chapter 536, to
9 review, to delay the effective date, or to disapprove and annul a
10 rule are subsequently held unconstitutional, then the grant of
11 rulemaking authority and any rule proposed or adopted after
12 August 28, 2010, shall be invalid and void.

13 214.392. 1. The division shall:

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

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

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

25 (4) Exercise all budgeting, purchasing, reporting and other
26 related management functions;

27 (5) Be authorized, within the limits of the funds
28 appropriated to conduct investigations, examinations, or audits

1 to determine compliance with sections 214.270 to 214.410;

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

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

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

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

18 2. Any rule or portion of a rule, as that term is defined
19 in section 536.010, RSMo, that is created under the authority
20 delegated in this section shall become effective only if it
21 complies with and is subject to all of the provisions of chapter
22 536, RSMo, and, if applicable, section 536.028, RSMo. This
23 section and chapter 536, RSMo, are nonseverable and if any of the
24 powers vested with the general assembly pursuant to chapter 536,
25 RSMo, to review, to delay the effective date or to disapprove and
26 annul a rule are subsequently held unconstitutional, then the
27 grant of rulemaking authority and any rule proposed or adopted
28 after August 28, 2001, shall be invalid and void.

1 214.400. Sections 214.270 to 214.410 shall be known as the
2 "Cemetery Endowed Care Trust Fund Law".

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

9 2. Any cemetery operator who shall willfully violate any
10 provision of ~~[section]~~ sections 214.320, 214.330, 214.335,
11 214.340, 214.360 ~~[or]~~, 214.385, or 214.387 shall be deemed guilty
12 of a class D felony and upon conviction thereof shall be fined a
13 sum not to exceed ten thousand dollars or shall be confined not
14 more than five years or both. This section shall not apply to
15 cemeteries or cemetery associations which do not sell lots in the
16 cemetery.

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

24 4. Any person who shall willfully violate any provision of
25 section 214.320, 214.330, 214.335, 214.340, 214.360 or 214.385 or
26 violates any rule, regulation or order of the division may, in
27 accordance with the regulations issued by the division, be
28 assessed an administrative penalty by the division. The penalty

1 shall not exceed five thousand dollars for each violation and
2 each day of the continuing violation shall be deemed a separate
3 violation for purposes of administrative penalty assessment.
4 However, no administrative penalty may be assessed until the
5 person charged with the violation has been given the opportunity
6 for a hearing on the violation. Penalty assessments received
7 shall be deposited in the endowed care cemetery audit fund
8 created in section 193.265, RSMo.

9 214.500. Any cemetery located in a city [not within a
10 county,] which has become the property of such city pursuant to
11 section 214.205 or a public tax sale may be sold to another
12 cemetery operator or a not-for-profit corporation which is
13 unrelated to the previous cemetery operator.

14 214.504. Any cemetery operator who purchases a cemetery
15 from a city [not within a county] pursuant to sections 214.500 to
16 214.516 shall not be liable for any wrongful interments or errors
17 made in the sale of plots prior to the cemetery operator's
18 purchase of the cemetery, nor shall such cemetery operator be
19 liable for multiple ownership of plots sold by such cemetery
20 operator due to a lack of adequate records in such cemetery
21 operator's possession at the time of such cemetery operator's
22 purchase of such cemetery from the city, provided the cemetery
23 operator offers a plot of equal value for the interment, if such
24 party can prove ownership of the right to bury a person by
25 presenting a contract for the right to burial.

26 214.508. Any cemetery operator who purchases a cemetery
27 from a city [not within a county] shall not be held liable or
28 responsible for any conditions existing or actions taken which

1 occurred prior to the cemetery operator's purchase from such
2 city; except that, the exemption provided in this section shall
3 not relieve any previous owner or wrongdoer for their actions
4 related to such cemetery.

5 214.512. Any subsequent cemetery owner after a city [not
6 within a county] shall be exempt from the provisions of section
7 214.325 and section 214.410 for any deficiency existing prior to
8 such city's ownership; except that, such exemption shall not
9 relieve any previous cemetery owners or wrongdoers from the
10 provisions of such sections.

11 214.516. Any cemetery owner subsequent to a city [not
12 within a county], regardless of whether such cemetery was
13 previously registered as an endowed care cemetery, held itself
14 out to be an endowed care cemetery or was a nonendowed care
15 cemetery, shall comply with section 214.310 and register such
16 cemetery as an endowed care cemetery as if it were a newly
17 created cemetery with no interments at the time of such
18 registration. Any contracts for the right of burial sold after
19 compliance with section 214.310 and all subsequent action of a
20 subsequent cemetery owner shall comply fully with the provisions
21 of sections 214.270 to 214.410.

22 214.550. 1. For purposes of this section, the following
23 terms mean:

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

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

28 (3) "Religious cemetery", a cemetery owned, operated,

1 controlled, or managed by any church that has or would qualify
2 for federal tax-exempt status as a nonprofit religious
3 organization pursuant to section 501(c) of the Internal Revenue
4 Code as amended;

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

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

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

19 4. A scatter garden established pursuant to this section
20 shall be maintained by the operator of the religious cemetery for
21 as long as such operator is in existence. Upon dissolution of
22 such operator, all records of cremains shall be transferred to
23 the clerk of the city, town, or village in which the scatter
24 garden is located, or if the scatter garden is located in any
25 unincorporated area, to the county recorder.

26 324.1100. As used in sections 324.1100 to 324.1148, the
27 following terms mean:

28 (1) "Board", the board of private investigator examiners

1 established in section 324.1102;

2 (2) "Client", any person who engages the services of a
3 private investigator;

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

6 (4) "Director", the director of the division of
7 professional registration;

8 (5) "Division", the division of professional registration;

9 (6) "Law enforcement officer", a law enforcement officer as
10 defined in section 556.061, RSMo;

11 [(5)] (7) "Organization", a corporation, trust, estate,
12 partnership, cooperative, or association;

13 [(6)] (8) "Person", an individual or organization;

14 [(7)] (9) "Private investigator", any person who receives
15 any consideration, either directly or indirectly, for engaging in
16 the private investigator business;

17 [(8)] (10) "Private investigator agency", a person who
18 regularly employs any other person, other than an organization,
19 to engage in the private investigator business;

20 [(9)] (11) "Private investigator business", the furnishing
21 of, making of, or agreeing to make, any investigation for the
22 purpose of obtaining information pertaining to:

23 (a) Crimes or wrongs done or threatened against the United
24 States or any state or territory of the United States;

25 (b) The identity, habits, conduct, business, occupation,
26 honesty, integrity, credibility, knowledge, trustworthiness,
27 efficiency, loyalty, activity, movement, whereabouts,
28 affiliations, associations, transactions, acts, reputation, or

1 character of any person;

2 (c) The location, disposition, or recovery of lost or
3 stolen property;

4 (d) Securing evidence to be used before any court, board,
5 officer, or investigating committee;

6 (e) Sale of personal identification information to the
7 public; or

8 (f) The cause of responsibility for libel, losses,
9 accident, or damage or injury to persons or property or
10 protection of life or property.

11 324.1102. 1. The "Board of Private Investigator Examiners"
12 is hereby created within the division of professional
13 registration. The board shall be a body corporate and may sue
14 and be sued.

15 2. The board shall be composed of five members, including
16 two public members, appointed by the governor with the advice and
17 consent of the senate. Except for the public members, each
18 member of the board shall be a citizen of the United States, a
19 resident of Missouri for at least one year, a registered voter,
20 at least thirty years of age, and shall have been actively
21 engaged in the private investigator business for the previous
22 five years. No more than one private investigator board member
23 may be employed by, or affiliated with, the same private
24 investigator agency. The initial private investigator board
25 members shall not be required to be licensed but shall obtain a
26 license within one hundred eighty days after the effective date
27 of the rules promulgated under sections 324.1100 to 324.1148
28 regarding licensure. The public members shall each be a citizen

1 of the United States, a resident of Missouri, a registered voter
2 and a person who is not and never was a member of any profession
3 licensed or regulated under sections 324.1100 to 324.1148 or the
4 spouse of such person; and a person who does not have and never
5 has had a material, financial interest in either the providing of
6 the professional services regulated by sections 324.1100 to
7 324.1148, or an activity or organization directly related to any
8 profession licensed or regulated under sections 324.1100 to
9 324.1148. The duties of the public members shall not include the
10 determination of the technical requirements to be met for
11 licensure or whether any person meets such technical requirements
12 or of the technical competence or technical judgment of a
13 licensee or a candidate for licensure.

14 3. The members shall be appointed for terms of **[two]** five
15 years, except those first appointed, in which case two members,
16 who shall be private investigators, shall be appointed for terms
17 of four years, two members shall be appointed for terms of three
18 years, and one member shall be appointed for a one-year term.
19 Any vacancy on the board shall be filled for the unexpired term
20 of the member and in the manner as the first appointment. **[No**
21 member may serve consecutive terms.]

22 4. The members of the board may receive compensation, as
23 determined by the director for their services, if appropriate,
24 and shall be reimbursed for actual and necessary expenses
25 incurred in performing their official duties on the board.

26 5. There is hereby created in the state treasury the "Board
27 of Private Investigator Examiners Fund", which shall consist of
28 money collected under sections 324.1100 to 324.1148. The state

1 treasurer shall be custodian of the fund and [shall] may approve
2 disbursements from the fund in accordance with the provisions of
3 sections 30.170 and 30.180, RSMo. Upon appropriation, money in
4 the fund shall be used solely for the administration of sections
5 324.1100 to 324.1148. The provisions of section 33.080, RSMo, to
6 the contrary notwithstanding, money in this fund shall not be
7 transferred and placed to the credit of general revenue until the
8 amount in the fund at the end of the biennium exceeds two times
9 the amount of the appropriation from the board's funds for the
10 preceding fiscal year or, if the board requires by rule permit
11 renewal less frequently than yearly, then three times the
12 appropriation from the board's funds for the preceding fiscal
13 year. The amount, if any, in the fund which shall lapse is that
14 amount in the fund which exceeds the appropriate multiple of the
15 appropriations from the board's funds for the preceding fiscal
16 year.

17 [324.1102. 1. The "Board of Private Investigator
18 Examiners" is hereby created within the division of
19 professional registration. The board shall be a body
20 corporate and may sue and be sued.

21 2. The board shall be composed of five members,
22 including two public members, appointed by the governor
23 with the advice and consent of the senate. Except for
24 the public members, each member of the board shall be a
25 citizen of the United States, a resident of Missouri,
26 at least thirty years of age, and shall have been
27 actively engaged in the private investigator business
28 for the previous five years. No more than one private
29 investigator board member may be employed by, or
30 affiliated with, the same private investigator agency.
31 The initial private investigator board members shall
32 not be required to be licensed but shall obtain a
33 license within one hundred eighty days after the
34 effective date of the rules promulgated under sections
35 324.1100 to 324.1148 regarding licensure. The public
36 members shall each be a registered voter and a person
37 who is not and never was a member of any profession
38 licensed or regulated under sections 324.1100 to

1 324.1148 or the spouse of such person; and a person who
2 does not have and never has had a material, financial
3 interest in either the providing of the professional
4 services regulated by sections 324.1100 to 324.1148, or
5 an activity or organization directly related to any
6 profession licensed or regulated under sections
7 324.1100 to 324.1148. The duties of the public members
8 shall not include the determination of the technical
9 requirements to be met for licensure or whether any
10 person meets such technical requirements or of the
11 technical competence or technical judgment of a
12 licensee or a candidate for licensure.

13 3. The members shall be appointed for terms of
14 two years, except those first appointed, in which case
15 two members, who shall be private investigators, shall
16 be appointed for terms of four years, two members shall
17 be appointed for terms of three years, and one member
18 shall be appointed for a one-year term. Any vacancy on
19 the board shall be filled for the unexpired term of the
20 member and in the manner as the first appointment. No
21 member may serve consecutive terms.

22 4. The members of the board may receive
23 compensation, as determined by the director for their
24 services, if appropriate, and shall be reimbursed for
25 actual and necessary expenses incurred in performing
26 their official duties on the board.

27 5. There is hereby created in the state treasury
28 the "Board of Private Investigator Examiners Fund",
29 which shall consist of money collected under sections
30 324.1100 to 324.1148. The state treasurer shall be
31 custodian of the fund and shall approve disbursements
32 from the fund in accordance with the provisions of
33 sections 30.170 and 30.180, RSMo. Upon appropriation,
34 money in the fund shall be used solely for the
35 administration of sections 324.1100 to 324.1148.
36 Notwithstanding the provisions of section 33.080, RSMo,
37 to the contrary, any moneys remaining in the fund at
38 the end of the biennium shall not revert to the credit
39 of the general revenue fund. The state treasurer shall
40 invest moneys in the fund in the same manner as other
41 funds are invested. Any interest and moneys earned on
42 such investments shall be credited to the fund.]

43 324.1103. For the purposes of sections 324.1100 to
44 324.1148, the division shall:

45 (1) Employ board personnel, within the limits of the
46 appropriations for that purpose as established in sections
47 324.1100 to 324.1148;

1 (2) Exercise all administrative functions;

2 (3) Deposit all fees collected under sections 324.1100 to
3 324.1148 by transmitting such funds to the department of revenue
4 for deposit in the state treasury to the credit of the board of
5 private investigators examiners fund.

6 324.1106. The following persons shall not be deemed to be
7 engaging in the private investigator business:

8 (1) A person employed exclusively and regularly by one
9 employer in connection only with the affairs of such employer and
10 where there exists an employer-employee relationship;

11 (2) Any officer or employee of the United States, or of
12 this state or a political subdivision thereof while engaged in
13 the performance of the officer's or employee's official duties;

14 (3) Any employee, agent, or independent contractor employed
15 by any government agency, division, or department of the state
16 whose work relationship is established by a written contract
17 while working within the scope of employment established under
18 such contract;

19 (4) An attorney performing duties as an attorney, or an
20 attorney's paralegal or employee retained by such attorney
21 assisting in the performance of such duties or investigation on
22 behalf of such attorney;

23 (5) A certified public accountant performing duties as a
24 certified public accountant who holds an active license issued by
25 any state and the employees of such certified public accountant
26 or certified public accounting firm assisting in the performance
27 of duties or investigation on behalf of such certified public
28 accountant or certified public accounting firm;

1 (6) A collection agency or an employee thereof while acting
2 within the scope of employment, while making an investigation
3 incidental to the business of the agency, including an
4 investigation of the location of a debtor or a debtor's property
5 where the contract with an assignor creditor is for the
6 collection of claims owed or due, or asserted to be owed or due,
7 or the equivalent thereof;

8 [(6)] (7) Insurers and insurance producers licensed by the
9 state, performing duties in connection with insurance transacted
10 by them;

11 [(7)] (8) Any bank subject to the jurisdiction of the
12 director of the division of finance of the state of Missouri or
13 the comptroller of currency of the United States;

14 [(8)] (9) An insurance adjuster. For the purposes of
15 sections 324.1100 to 324.1148, an "insurance adjuster" means any
16 person who receives any consideration, either directly or
17 indirectly, for adjusting in the disposal of any claim under or
18 in connection with a policy of insurance or engaging in
19 soliciting insurance adjustment business;

20 [(9)] (10) Any private fire investigator whose primary
21 purpose of employment is the determination of the origin, nature,
22 cause, or calculation of losses relevant to a fire;

23 [(10)] (11) Employees of [a not-for-profit] an
24 organization, whether for-profit or not-for-profit, or its
25 affiliate or subsidiary, whether for-profit or not-for-profit,
26 whose investigatory activities are limited to making and
27 processing requests for criminal history records and other
28 background information from state, federal, or local databases,

1 including requests for employee background check information
2 under section 660.317, RSMo;

3 [(11)] (12) Any real estate broker, real estate
4 salesperson, or real estate appraiser acting within the scope of
5 his or her license;

6 [(12)] (13) Expert witnesses who have been certified or
7 accredited by a national or state association associated with the
8 expert's scope of expertise;

9 [(13)] (14) Any person who does not hold themselves out to
10 the public as a private investigator [but is under] and is
11 exclusively employed by or under exclusive contract with a state
12 agency or political subdivision;

13 [(14)] (15) Any person performing duties or [conducting
14 investigations] activities relating to serving legal process when
15 such person's [investigation is] duties or activities are
16 incidental to the serving of legal process; or

17 [(15)] (16) A consumer reporting agency [is] as defined in
18 15 U.S.C. Section [1681(a)] 1681a and its contract and salaried
19 employees.

20 [324.1106. The following persons shall not be
21 deemed to be engaging in the private investigator
22 business:

23 (1) A person employed exclusively and regularly
24 by one employer in connection only with the affairs of
25 such employer and where there exists an
26 employer-employee relationship;

27 (2) Any officer or employee of the United States,
28 or of this state or a political subdivision thereof
29 while engaged in the performance of the officer's or
30 employee's official duties;

31 (3) Any employee, agent, or independent
32 contractor employed by any government agency, division,
33 or department of the state whose work relationship is
34 established by a written contract while working within
35 the scope of employment established under such

1 contract;

2 (4) An attorney performing duties as an attorney,
3 or an attorney's paralegal or employee retained by such
4 attorney assisting in the performance of such duties or
5 investigation on behalf of such attorney;

6 (5) A collection agency or an employee thereof
7 while acting within the scope of employment, while
8 making an investigation incidental to the business of
9 the agency, including an investigation of the location
10 of a debtor or a debtor's property where the contract
11 with an assignor creditor is for the collection of
12 claims owed or due, or asserted to be owed or due, or
13 the equivalent thereof;

14 (6) Insurers and insurance producers licensed by
15 the state, performing duties in connection with
16 insurance transacted by them;

17 (7) Any bank subject to the jurisdiction of the
18 director of the division of finance of the state of
19 Missouri or the comptroller of currency of the United
20 States;

21 (8) An insurance adjuster. For the purposes of
22 sections 324.1100 to 324.1148, an "insurance adjuster"
23 means any person who receives any consideration, either
24 directly or indirectly, for adjusting in the disposal
25 of any claim under or in connection with a policy of
26 insurance or engaging in soliciting insurance
27 adjustment business;

28 (9) Any private fire investigator whose primary
29 purpose of employment is the determination of the
30 origin, nature, cause, or calculation of losses
31 relevant to a fire;

32 (10) Employees of a not-for-profit organization
33 or its affiliate or subsidiary who makes and processes
34 requests on behalf of health care providers and
35 facilities for employee criminal and other background
36 information under section 660.317, RSMo;

37 (11) Any real estate broker, real estate
38 salesperson, or real estate appraiser acting within the
39 scope of his or her license;

40 (12) Expert witnesses who have been certified or
41 accredited by a national or state association
42 associated with the expert's scope of expertise;

43 (13) Any person who does not hold themselves out
44 to the public as a private investigator but is under
45 contract with a state agency or political subdivision;
46 or

47 (14) Any person performing duties or conducting
48 investigations relating to serving legal process when
49 such person's investigation is incidental to the
50 serving of legal process;

51 (15) A consumer reporting agency as defined in 15

1 U.S.C. Section 1681(a) and its contract and salaried
2 employees.]

3 324.1110. 1. The board of private investigator examiners
4 shall require as a condition of licensure as a private
5 investigator that the applicant pass a written examination as
6 evidence of knowledge of investigator rules and regulations.

7 2. The [department] board shall conduct a complete
8 investigation of the background of each applicant for licensure
9 as a private investigator to determine whether the applicant is
10 qualified for licensure under sections 324.1100 to 324.1148. The
11 board shall [and will] outline basic qualification requirements
12 for licensing as a private investigator and agency.

13 3. In the event requirements have been met so that testing
14 has been waived, qualification shall be dependent on a showing
15 of, for the two previous years:

16 (1) Registration and good standing as a business in this
17 state; and

18 (2) Two hundred fifty thousand dollars in business general
19 liability insurance.

20 4. The board may review applicants seeking reciprocity. An
21 applicant seeking reciprocity shall have undergone a licensing
22 procedure similar to that required by this state and shall meet
23 this state's minimum insurance requirements.

24 324.1112. 1. The board of private investigator examiners
25 may deny a request for a license if the applicant:

26 (1) Has committed any act which, if committed by a
27 licensee, would be grounds for the suspension or revocation of a
28 license under the provisions of sections 324.1100 to 324.1148;

29 (2) [Within two years prior to the application date:

1 (a)] Has been convicted of or entered a plea of guilty or
2 nolo contendere to a felony offense, including the receiving of a
3 suspended imposition of sentence following a plea or finding of
4 guilty to a felony offense;

5 [(b)] (3) Has been convicted of or entered a plea of guilty
6 or nolo contendere to a misdemeanor offense involving moral
7 turpitude, including receiving a suspended imposition of sentence
8 following a plea of guilty to a misdemeanor offense;

9 (4) Has been refused a license under sections 324.1100 to
10 324.1148 or had a license revoked or denied in this state or any
11 other state;

12 [(c)] (5) Has falsified or willfully misrepresented
13 information in an employment application, records of evidence, or
14 in testimony under oath;

15 [(d)] (6) Has been dependent on or abused alcohol or drugs;
16 or

17 [(e)] (7) Has used, possessed, or trafficked in any illegal
18 substance;

19 [(3)] (8) Has been refused a license under the provisions
20 of sections 324.1100 to 324.1148 or had a license revoked in this
21 state or in any other state;

22 [(4)] (9) While unlicensed, committed or aided and abetted
23 the commission of any act for which a license is required by
24 sections 324.1100 to 324.1148 after August 28, 2007; or

25 [(5)] (10) Knowingly made any false statement in the
26 application.

27 2. The board shall consider any evidence of the applicant's
28 rehabilitation when considering a request for licensure.

1 324.1114. 1. Every application submitted under the
2 provisions of sections 324.1100 to 324.1148 shall be accompanied
3 by a fee as determined by the board [as follows:

4 (1) For an individual license, agency license and employees
5 being licensed to work under an agency license; or

6 (2) If a license is issued for a period of less than one
7 year, the fee shall be prorated for the months, or fraction
8 thereof, for which the license is issued].

9 2. The board shall set fees as authorized by sections
10 324.1100 to 324.1148 at a level to produce revenue which will not
11 substantially exceed the cost and expense of administering
12 sections 324.1100 to 324.1148.

13 3. The fees prescribed by sections 324.1100 to 324.1148
14 shall be exclusive and notwithstanding any other provision of
15 law. No municipality may require any person licensed under
16 sections 324.1100 to 324.1148 to furnish any bond, pass any
17 examination, or pay any license fee or occupational tax relative
18 to practicing the person's profession.

19 4. A private investigator license shall allow only the
20 individual licensed by the state of Missouri to conduct
21 investigations. An agency license shall be applied for
22 separately and held by [an individual] a person who is licensed
23 as a private investigator. The agency may hire individuals to
24 work for the agency conducting investigations for the agency
25 only. Persons hired shall make application as determined by the
26 board and meet all requirements set forth by the board except
27 that they shall not be required to meet any experience
28 requirements and shall be allowed to begin working immediately

1 upon the agency submitting their applications.

2 [324.1118. A private investigator agency shall
3 not hire an individual, who is not licensed as a
4 private investigator, as an employee if the individual:

5 (1) Has committed any act which, if committed by
6 a licensee, would be grounds for the suspension or
7 revocation of a license under the provisions of
8 sections 324.1100 to 324.1148;

9 (2) Within two years prior to the hiring date:

10 (a) Has been convicted of or entered a plea of
11 guilty or nolo contendere to a felony offense,
12 including the receiving of a suspended imposition of
13 sentence following a plea or finding of guilty to a
14 felony offense;

15 (b) Has been convicted of or entered a plea of
16 guilty or nolo contendere to a misdemeanor offense
17 involving moral turpitude;

18 (c) Has falsified or willfully misrepresented
19 information in an employment application, records of
20 evidence, or in testimony under oath;

21 (d) Has been dependent on or abused alcohol or
22 drugs; or

23 (e) Has used, possessed, or trafficked in any
24 illegal substance;

25 (3) Has been refused a license under the
26 provisions of sections 324.1100 to 324.1148 or had a
27 license revoked in this state or in any other state;

28 (4) While unlicensed, committed or aided and
29 abetted the commission of any act for which a license
30 is required by sections 324.1100 to 324.1148 after
31 August 28, 2007; or

32 (5) Knowingly made any false statement in the
33 application.]

34 324.1118. A private investigator agency shall not hire an
35 individual, who is not licensed as a private investigator, as an
36 employee if the individual:

37 (1) Has committed any act which, if committed by a
38 licensee, would be grounds for the suspension or revocation of a
39 license under the provisions of sections 324.1100 to 324.1148;

40 (2) Within two years prior to the application date:

41 (a) Has been convicted of or entered a plea of guilty or
42 nolo contendere to a felony offense, including the receiving of a

1 suspended imposition of sentence following a plea or finding of
2 guilty to a felony offense;

3 (b) Has been convicted of or entered a plea of guilty or
4 nolo contendere to a misdemeanor offense involving moral
5 turpitude, including receiving a suspended imposition of sentence
6 following a plea of guilty to a misdemeanor offense;

7 (c) Has falsified or willfully misrepresented information
8 in an employment application, records of evidence, or in
9 testimony under oath;

10 (d) Has been dependent on or abused alcohol or drugs; or

11 (e) Has used, possessed, or trafficked in any illegal
12 substance;

13 (3) Has been refused a license under the provisions of
14 sections 324.1100 to 324.1148 or had a license revoked in this
15 state or in any other state;

16 (4) While unlicensed, committed or aided and abetted the
17 commission of any act for which a license is required by sections
18 324.1100 to 324.1148 after August 28, 2007; or

19 (5) Knowingly made any false statement in the application.

20 324.1124. 1. The [board of private investigator examiners]
21 division shall determine the form of the license [which shall
22 include the:

23 (1) Name of the licensee;

24 (2) Name under which the licensee is to operate; and

25 (3) Number and date of the license].

26 2. The license shall be posted at all times in a
27 conspicuous place in the principal place of business of the
28 licensee. Upon the issuance of a license, a pocket card of such

1 size, design, and content as determined by the division shall be
2 issued without charge to each licensee. Such card shall be
3 evidence that the licensee is licensed under sections 324.1100 to
4 324.1148. When any person to whom a card is issued terminates
5 such person's position, office, or association with the licensee,
6 the card shall be surrendered to the licensee and within five
7 days thereafter shall be mailed or delivered by the licensee to
8 the board of private investigator examiners for cancellation.
9 Within thirty days after any change of address, a licensee shall
10 notify the board of the address change. The principal place of
11 business may be at a residence or at a business address, but it
12 shall be the place at which the licensee maintains a permanent
13 office.

14 324.1126. 1. Any license issued under sections 324.1100 to
15 324.1148 shall [expire two years after the date of its issuance.
16 Renewal of any such license shall be made in the manner
17 prescribed for obtaining an original license, including payment
18 of the appropriate fee, except that:

19 (1) The application upon renewal need only provide
20 information required of original applicants if the information
21 shown on the original application or any renewal thereof on file
22 with the board is no longer accurate;

23 (2) A new photograph shall be submitted with the
24 application for renewal only if the photograph on file with the
25 board has been on file more than two years; and

26 (3) The applicant does not have to be tested again but must
27 instead provide proof that the applicant successfully completed
28 sixteen hours of continuing education credits; and

1 (4) Additional information may be required by rules and
2 regulations adopted by the board of private investigator
3 examiners] be valid for two years. An application for renewal of
4 such license shall be mailed to every person to whom a license
5 was issued or renewed during the current licensing period. The
6 applicant shall complete the application and return it to the
7 board by the renewal date with a renewal fee in an amount to be
8 set by the board and with evidence of continuing education under
9 section 324.1122. Any licensee who practices during the time the
10 license has expired shall be considered to be engaged in
11 prohibited acts under section 324.1104 and shall be subject to
12 the penalties provided for violation of the provisions of
13 sections 324.1100 to 324.1148. If a person is otherwise eligible
14 to renew the person's certification or license, the person may
15 renew an expired certification or license within two years from
16 the date of expiration. To renew such expired certification or
17 license, the person shall submit an application for renewal, pay
18 the renewal fee, pay a delinquent renewal fee as established by
19 the board, and present evidence, in the form prescribed by the
20 board, of having completed the continuing education requirements
21 for renewal specified in section 324.1122. Upon a finding of
22 extenuating circumstances, the commission may waive the payment
23 of the delinquent fee. If a person has failed to renew the
24 person's license within two years of its expiration, the license
25 shall be void. A new photograph shall be submitted with the
26 application for renewal only if the photograph on file with the
27 board has been on file for more than two years.

28 2. A licensee shall at all times be legally responsible for

1 the good conduct of each of the licensee's employees or agents
2 while engaged in the business of the licensee and the licensee is
3 legally responsible for any acts committed by such licensee's
4 employees or agents which are in violation of sections 324.1100
5 to 324.1148. A person receiving an agency license shall directly
6 manage the agency and employees.

7 3. A license issued under sections 324.1100 to 324.1148
8 shall not be assignable.

9 324.1128. 1. Any licensee may divulge to the board, any
10 law enforcement officer, prosecuting attorney, or such person's
11 representative any information such person may acquire about any
12 criminal offense. [The licensee may instruct his or her client
13 to divulge such information if the client is the victim, but such
14 person shall not divulge to any other person, except as he or she
15 may be required by law, any information acquired by such person
16 at the direction of the employer or client for whom the
17 information was obtained.] The licensee shall not divulge to any
18 other person, except as required by law, any other information
19 acquired by the licensee at the direction of his or her employer
20 or client for whom the information was obtained. A licensee may
21 instruct his or her client to divulge any information to the
22 board, any law enforcement officer, prosecuting attorney, or
23 other such person's representative related to a criminal offense
24 if the client is the victim of the criminal offense.

25 2. No licensee officer, director, partner, associate, or
26 employee thereof shall:

27 (1) Knowingly make any false report to his or her employer
28 or client for whom information was being obtained;

1 (2) Cause any written report to be submitted to a client
2 except by the licensee, and the person submitting the report
3 shall exercise diligence in ascertaining whether or not the facts
4 and information in such report are true and correct;

5 (3) Use a title, wear a uniform, use an insignia or an
6 identification card, or make any statement with the intent to
7 give an impression that such person is connected in any way with
8 the federal government, a state government, or any political
9 subdivision of a state government;

10 (4) Appear as an assignee party in any proceeding involving
11 claim and delivery, replevin or other possessory action, action
12 to foreclose a chattel mortgage, mechanic's lien, materialman's
13 lien, or any other lien;

14 (5) Manufacture false evidence; or

15 (6) Create any video recording of an individual in their
16 domicile without the individual's permission. Furthermore, if
17 such video recording is made, it shall not be admissible as
18 evidence in any civil proceeding.

19 324.1132. Every advertisement by a licensee soliciting or
20 advertising business shall contain the licensee's name, city, and
21 state as it appears in the records of the board of private
22 investigator examiners. No individual or business can advertise
23 as a private investigator, private detective, or private
24 investigator agency without including their state private
25 investigator or private investigator agency license number in the
26 advertisement. A licensee shall not advertise or conduct
27 business from any Missouri address other than that shown on the
28 records of the board as the licensee's principal place of

1 business unless the licensee has received an additional agency
2 license for such location after compliance with the provisions of
3 sections 324.1100 to 324.1148 and such additional requirements
4 necessary for the protection of the public as the board may
5 prescribe by regulation. A licensee shall notify the board in
6 writing within ten days after closing or changing the location of
7 a branch office. The fee for the additional license shall be
8 [one-half the cost of the fee for the agency's original license]
9 determined by the board.

10 324.1134. 1. The board may suspend or refuse to renew any
11 certificate of registration or authority, permit or license
12 required under sections 324.1100 to 324.1148 for one or any
13 combination of causes stated in subsection 2 of this section.
14 The board shall notify the applicant in writing of the reasons
15 for the suspension or refusal and shall advise the applicant of
16 the applicant's right to file a complaint with the administrative
17 hearing commission as provided by chapter 621, RSMo. As an
18 alternative to a refusal to issue or renew any certificate,
19 registration or authority, the board may, at its discretion,
20 issue a license which is subject to probation, restriction or
21 limitation to an applicant for licensure for any one or any
22 combination of causes stated in subsection 2 of this section.
23 The board's order of probation, limitation or restriction shall
24 contain a statement of the discipline imposed, the basis
25 therefor, the date such action shall become effective, and a
26 statement that the applicant has thirty days to request in
27 writing a hearing before the administrative hearing commission.
28 If the board issues a probationary, limited or restricted license

1 to an applicant for licensure, either party may file a written
2 petition with the administrative hearing commission within thirty
3 days of the effective date of the probationary, limited or
4 restricted license seeking review of the board's determination.
5 If no written request for a hearing is received by the
6 administrative hearing commission within the thirty-day period,
7 the right to seek review of the board's decision shall be
8 considered as waived.

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

16 (1) Making any false statement or giving any false
17 information or given any false information in connection with an
18 application for a license or a renewal or reinstatement thereof;

19 (2) Violating any provision of sections 324.1100 to
20 324.1148;

21 (3) Violating any rule of the board of private investigator
22 examiners adopted under the authority contained in sections
23 324.1100 to 324.1148;

24 (4) Impersonating, or permitting or aiding and abetting an
25 employee to impersonate, a law enforcement officer or employee of
26 the United States of America, or of any state or political
27 subdivision thereof;

28 (5) Committing, or permitting any employee to commit any

1 act, while the license was expired, which would be cause for the
2 suspension or revocation of a license, or grounds for the denial
3 of an application for a license;

4 (6) Knowingly violating, or advising, encouraging, or
5 assisting the violation of, any court order or injunction in the
6 course of business as a licensee;

7 (7) Using any letterhead, advertisement, or other printed
8 matter, or in any manner whatever represented that such person is
9 an instrumentality of the federal government, a state, or any
10 political subdivision thereof;

11 (8) Using a name different from that under which such
12 person is currently licensed in any advertisement, solicitation,
13 or contract for business; [or]

14 (9) Violating or assisting or enabling any person to
15 violate any provision of this chapter or any lawful rule or
16 regulation adopted pursuant to the authority granted in this
17 chapter; or

18 (10) Committing any act which is grounds for denial of an
19 application for a license under section 324.1112.

20 3. The record of conviction, or a certified copy thereof,
21 shall be conclusive evidence of such conviction, and a plea or
22 verdict of guilty is deemed to be a conviction within the meaning
23 thereof.

24 4. The agency may continue under the direction of another
25 employee if the licensee's license is suspended or revoked by the
26 board. The board shall establish a time frame in which the
27 agency shall identify an acceptable person who is qualified to
28 assume control of the agency, as required by the board.

1 5. After the filing of a complaint before the
2 administrative hearing commission, the proceedings shall be
3 conducted in accordance with the provisions of chapter 621, RSMo.
4 Upon a finding by the administrative hearing commission that the
5 grounds in subsection 1 of this section for disciplinary action
6 are met, the board may singly or in combination censure or place
7 the person named in the complaint on probation under such terms
8 and conditions as the board deems appropriate for a period not to
9 exceed five years, may suspend for a period not to exceed three
10 years, or revoke the license.

11 324.1136. 1. Each licensee shall maintain a record
12 containing such information relative to the licensee's employees
13 as may be prescribed by the board of private investigator
14 examiners. Such licensee shall file with the board the complete
15 address of the location of the licensee's principal place of
16 business. The board may require the filing of other information
17 for the purpose of identifying such principal place of business.

18 2. Each private investigator or investigator agency
19 operating under the provisions of sections 324.1100 to 324.1148
20 shall be required to keep a complete record of the business
21 transactions of such investigator or investigator agency for a
22 period of seven years. Upon the service of a court order issued
23 by a court of competent jurisdiction or upon the service of a
24 subpoena issued by the board that is based on a complaint
25 supported by oath or affirmation, which particularly describes
26 the records and reports, any licensed private investigator who is
27 the owner, partner, director, corporate officer, or custodian of
28 business records shall provide an opportunity for the inspection

1 of the same and to inspect reports made. Any information
2 obtained by the board shall be kept confidential, except as may
3 be necessary to commence and prosecute any legal proceedings.
4 The board shall not personally enter a licensee's place of
5 business to inspect records, but shall utilize an employee of the
6 division of professional registration to act as a gatherer of
7 information and facts to present to the board regarding any
8 complaint or inspection under investigation.

9 [2.] 3. For the purpose of enforcing the provisions of
10 sections 324.1100 to 324.1148, and in making investigations
11 relating to any violation thereof, the board shall have the power
12 to subpoena and bring before the board any person in this state
13 and require the production of any books, records, or papers which
14 the board deems relevant to the inquiry. The board also may
15 administer an oath to and take the testimony of any person, or
16 cause such person's deposition to be taken, except that any
17 applicant or licensee or officer, director, partner, or associate
18 thereof shall not be entitled to any fees or mileage. A subpoena
19 issued under this section shall be governed by the Missouri rules
20 of civil procedure and shall comply with any confidentiality
21 standards or legal limitations imposed by privacy or open records
22 acts, fair credit reporting acts, polygraph acts, driver privacy
23 protection acts, judicially recognized privileged communications,
24 and the bill of rights of both the United States and Missouri
25 Constitutions. Any person duly subpoenaed who fails to obey such
26 subpoena without reasonable cause, or without such cause refuses
27 to be examined or to answer any legal or pertinent question as to
28 the character or qualification of such applicant or licensee or

1 such applicant's alleged unlawful or deceptive practices or
2 methods, shall be guilty of a class A misdemeanor. The testimony
3 of witnesses in any investigative proceeding shall be under oath.

4 4. Any licensee who is required by fully executed written
5 contract or court order to destroy, seal, or return to a party to
6 a lawsuit, or to the court, records related to work performed
7 under that contract or court order shall maintain in his or her
8 files, a fully executed copy of the contract or court order
9 requiring destruction, sealing, or return of the records.
10 Maintenance of the contract or court order shall fulfill the
11 requirements of this section.

12 324.1140. 1. The board of private investigator examiners
13 shall [certify] license persons who are qualified to train
14 private investigators.

15 2. [In order to be certified as a trainer under this
16 section, a trainer shall:

17 (1) Be twenty-one or more years of age;

18 (2) Have a minimum of one-year supervisory experience with
19 a private investigator agency; and

20 (3) Be personally licensed as a private investigator under
21 sections 324.1100 to 324.1148 and qualified to train private
22 investigators.

23 3.] Persons wishing to become [certified] licensed trainers
24 shall make application to the board of private investigator
25 examiners on a form prescribed by the board and accompanied by a
26 fee determined by the board. The application shall contain a
27 statement of the plan of operation of the training offered by the
28 applicant and the materials and aids to be used and any other

1 information required by the board.

2 [4.] 3. A [certificate] license shall be granted to a
3 trainer if the board finds that the applicant:

4 (1) [Meets the requirements of subsection 2 of this
5 section;

6 (2)] Has sufficient knowledge of private investigator
7 business in order to train private investigators sufficiently;

8 [(3)] (2) Has supplied all required information to the
9 board; and

10 [(4)] (3) Has paid the required fee.

11 [5.] 4. The [certificate] license issued under this section
12 shall [expire on the third year after the year in which it is
13 issued and shall be renewable triennially upon application and
14 payment of a fee] be valid for two years and shall be renewable
15 biennially upon application and payment of the renewal fee
16 established by the board. An application for renewal of license
17 shall be mailed to every person to whom a license was issued or
18 renewed during the current licensing period. The applicant shall
19 complete the application and return it to the board by the
20 renewal date with a renewal fee in an amount to be set by the
21 board and with evidence of continuing education under section
22 324.1122. Any licensee who practices during the time the license
23 has expired shall be considered engaging in prohibited acts under
24 section 324.1104 and shall be subject to the penalties provided
25 for the violation of the provisions of sections 324.1100 to
26 324.1148. If a person is otherwise eligible to renew the
27 person's certification or license, the person may renew an
28 expired certification or license within two years from the date

1 of expiration. To renew such expired certificate or license, the
2 person shall submit an application for renewal, pay the renewal
3 fee, pay a delinquent renewal fee as established by the board,
4 and present evidence in the form prescribed by the board of
5 having completed the continuing education requirements for
6 renewal specified in section 324.1122. Upon a finding of
7 extenuating circumstances, the commission may waive the payment
8 of the delinquent fee. If a person has failed to renew the
9 person's license within two years of its expiration, the license
10 shall be void.

11 324.1147. The provisions of sections 324.1100 to 324.1148
12 shall not be construed to release any person from civil liability
13 or criminal prosecution under any other law of this state.

14 327.031. 1. The "Missouri Board for Architects,
15 Professional Engineers, Professional Land Surveyors and Landscape
16 Architects" is hereby established and shall consist of [fourteen]
17 fifteen members: a chairperson, who may be either an architect,
18 a professional engineer [or], a professional land surveyor, or a
19 landscape architect; three architects, who shall constitute the
20 architectural division of the board; [three] four professional
21 engineers, who shall constitute its professional engineering
22 division; three professional land surveyors, who shall constitute
23 its professional land surveying division; three landscape
24 architects, who shall constitute its landscape [architecture]
25 architectural division; and a voting public member.

26 2. After receiving his or her commission and before
27 entering upon the discharge of his or her official duties, each
28 member of the board shall take, subscribe to and file in the

1 office of the secretary of state the official oath required by
2 the constitution.

3 3. The chairperson shall be the administrative and
4 executive officer of the board, and it shall be his or her duty
5 to supervise and expedite the work of the board and its
6 divisions, and, at his or her election, when a tie exists between
7 the divisions of the board, to break the tie by recording his or
8 her vote for or against the action upon which the divisions are
9 in disagreement. Each member of the architectural division shall
10 have one vote when voting on an action pending before the board;
11 each member of the professional engineering division shall have
12 one vote when voting on an action pending before the board; [the
13 chairperson of the landscape architecture division or the
14 chairperson's designee] each member of the professional land
15 surveying division shall have one vote when voting on an action
16 pending before the board; and each member of the landscape
17 architectural division shall have one vote when voting on an
18 action pending before the board[; and each member of the
19 professional land surveying division shall have one vote when
20 voting on an action pending before the board]. Every motion or
21 proposed action upon which the divisions of the board are tied
22 shall be deemed lost, and the chairperson shall so declare,
23 unless the chairperson shall elect to break the tie as provided
24 in this section. [Seven] Eight voting members of the board [and
25 two members] including at least one member of each division shall
26 constitute a quorum, respectively, for the transaction of board
27 business.

28 4. Each division of the board shall, at its first meeting

1 in each even-numbered year, elect one of its members as division
2 chairperson for a term of two years. Two voting members of each
3 division of the board shall constitute a quorum for the
4 transaction of division business. The chairpersons of the
5 architectural division, professional engineering division [and
6 the], professional land surveying division, and landscape
7 architectural division so elected shall be vice chairpersons of
8 the board, and when the chairperson of the board is an architect,
9 the chairperson of the architectural division shall be the
10 ranking vice chairperson, and when the chairperson of the board
11 is a professional engineer, the chairperson of the professional
12 engineering division shall be the ranking vice chairperson, [and]
13 when the chairperson of the board is a professional land
14 surveyor, the chairperson of the professional land surveying
15 division shall be the ranking vice chairperson, and when the
16 chairperson of the board is a landscape architect, the
17 chairperson of the landscape architectural division shall be the
18 ranking vice chairperson. The chairperson of each division shall
19 be the administrative and executive officer of his or her
20 division, and it shall be his or her duty to supervise and
21 expedite the work of the division, and, in case of a tie vote on
22 any matter, the chairperson shall, at his or her election, break
23 the tie by his or her vote. Every motion or question pending
24 before the division upon which a tie exists shall be deemed lost,
25 and so declared by the chairperson of the division, unless the
26 chairperson shall elect to break such tie by his or her vote.

27 5. Any person appointed to the board, except a public
28 member, shall be a currently licensed architect, licensed

1 professional engineer, licensed professional land surveyor or
2 registered or licensed landscape architect in Missouri, as the
3 vacancy on the board may require, who has been a resident of
4 Missouri for at least five years, who has been engaged in active
5 practice as an architect, professional engineer, professional
6 land surveyor or landscape architect, as the case may be, for at
7 least ten consecutive years immediately preceding such person's
8 appointment and who is and has been a citizen of the United
9 States for at least five years immediately preceding such
10 person's appointment. Active service as a faculty member while
11 holding the rank of assistant professor or higher in an
12 accredited school of engineering shall be regarded as active
13 practice of engineering, for the purposes of this chapter.
14 Active service as a faculty member, after meeting the
15 qualifications required by section 327.314, while holding the
16 rank of assistant professor or higher in an accredited school of
17 engineering and teaching land surveying courses shall be regarded
18 [an] as active practice of land surveying for the purposes of
19 this chapter. Active service as a faculty member while holding
20 the rank of assistant professor or higher in an accredited school
21 of landscape architecture shall be regarded as active practice of
22 landscape architecture, for the purposes of this chapter. Active
23 service as a faculty member while holding the rank of assistant
24 professor or higher in an accredited school of architecture shall
25 be regarded as active practice of architecture for the purposes
26 of this chapter; provided, however, that no faculty member of an
27 accredited school of architecture shall be eligible for
28 appointment to the board unless such person has had at least

1 three years' experience in the active practice of architecture
2 other than in teaching. The public member shall be, at the time
3 of appointment, a citizen of the United States; a resident of
4 this state for a period of one year and a registered voter; a
5 person who is not and never was a member of any profession
6 licensed or regulated pursuant to this chapter or the spouse of
7 such person; and a person who does not have and never has had a
8 material, financial interest in either the providing of the
9 professional services regulated by this chapter, or an activity
10 or organization directly related to any profession licensed or
11 regulated pursuant to this chapter. All members, including
12 public members, shall be chosen from lists submitted by the
13 director of the division of professional registration. The
14 duties of the public member shall not include the determination
15 of the technical requirements to be met for licensure or whether
16 any person meets such technical requirements or of the technical
17 competence or technical judgment of a licensee or a candidate for
18 licensure.

19 6. The governor shall appoint the chairperson and the other
20 members of the board when a vacancy occurs either by the
21 expiration of a term or otherwise, and each board member shall
22 serve until such member's successor is appointed and has
23 qualified. Beginning August 28, 2010, the position of
24 chairperson shall [alternate among an architect, a professional
25 engineer and a professional land surveyor] rotate sequentially
26 with an architect, then professional engineer, then professional
27 land surveyor, then landscape architect, and shall be a licensee
28 who has previously served as a member of the board. The

1 appointment of the chairperson shall be for a term of four years
2 which shall be deemed to have begun on the date of his or her
3 appointment and shall end upon the appointment of the
4 chairperson's successor. The chairperson shall not serve more
5 than one term. All other appointments, except to fill an
6 unexpired term, shall be for terms of four years; but no person
7 shall serve on the board for more than two consecutive four-year
8 terms, and each four-year term shall be deemed to have begun on
9 the date of the expiration of the term of the board member who is
10 being replaced or reappointed, as the case may be. Any
11 appointment to the board which is made when the senate is not in
12 session shall be submitted to the senate for its advice and
13 consent at its next session following the date of the
14 appointment.

15 7. In the event that a vacancy is to occur on the board
16 because of the expiration of a term, then ninety days prior to
17 the expiration, or as soon as feasible after a vacancy otherwise
18 occurs, [the president of the American Institute of
19 Architects/Missouri if the vacancy to be filled requires the
20 appointment of an architect,] the president of the Missouri
21 Association of Landscape Architects if the vacancy to be filled
22 requires the appointment of a landscape architect, the president
23 of the Missouri Society of Professional Engineers if the vacancy
24 to be filled requires the appointment of an engineer, [and] the
25 president of the Missouri Society of Professional Surveyors if
26 the vacancy to be filled requires the appointment of a land
27 surveyor, and the president of the Missouri Association of
28 Landscape Architects if the vacancy to be filled requires the

1 appointment of a landscape architect, shall submit to the
2 director of the division of professional registration a list of
3 five architects or five professional engineers, [five landscape
4 architects] or five professional land surveyors, or five
5 landscape architects as the case may require, qualified and
6 willing to fill the vacancy in question, with the recommendation
7 that the governor appoint one of the five persons so listed; and
8 with the list of names so submitted, the president of the
9 appropriate organization shall include in a letter of transmittal
10 a description of the method by which the names were chosen. This
11 subsection shall not apply to public member vacancies.

12 8. The board may sue and be sued as the Missouri board for
13 architects, professional engineers, professional land surveyors
14 and landscape architects, and its members need not be named as
15 parties. Members of the board shall not be personally liable
16 either jointly or severally for any act or acts committed in the
17 performance of their official duties as board members, nor shall
18 any board member be personally liable for any court costs which
19 accrue in any action by or against the board.

20 9. Upon appointment by the governor and confirmation by the
21 senate of the landscape [architecture] architectural division,
22 the landscape architectural council is hereby abolished and all
23 of its powers, duties and responsibilities are transferred to and
24 imposed upon the Missouri board for architects, professional
25 engineers, professional land surveyors and landscape architects
26 established pursuant to this section. Every act performed by or
27 under the authority of the Missouri board for architects,
28 professional engineers, professional land surveyors and landscape

1 architects shall be deemed to have the same force and effect as
2 if performed by the landscape architectural council pursuant to
3 sections 327.600 to 327.635. All rules and regulations of the
4 landscape architectural council shall continue in effect and
5 shall be deemed to be duly adopted rules and regulations of the
6 Missouri board [of] for architects, professional engineers,
7 professional [landscape architects and land surveyors] land
8 surveyors and landscape architects until such rules and
9 regulations are revised, amended or repealed by the board as
10 provided by law, such action to be taken by the board on or
11 before January 1, 2002.

12 10. Upon appointment by the governor and confirmation by
13 the senate of the landscape [architecture] architectural
14 division, all moneys deposited in the landscape architectural
15 council fund created in section 327.625 shall be transferred to
16 the state board for architects, professional engineers,
17 professional land surveyors and landscape architects fund created
18 in section 327.081. The landscape architectural council fund
19 shall be abolished upon the transfer of all moneys in it to the
20 state board [of] for architects, professional engineers,
21 professional land surveyors and landscape architects.

22 327.041. 1. The board shall have the duty and the power to
23 carry out the purposes and to enforce and administer the
24 provisions of this chapter, to require, by summons or subpoena,
25 with [the advice of the attorney general and upon] the vote of
26 two-thirds of the voting board members, the attendance and
27 testimony of witnesses, and the production of drawings, plans,
28 plats, specifications, books, papers or any document representing

1 any matter under hearing or investigation, pertaining to the
2 issuance, probation, suspension or revocation of certificates of
3 registration or certificates of authority provided for in this
4 chapter, or pertaining to the unlawful practice of architecture,
5 professional engineering, professional land surveying or
6 landscape architecture.

7 2. The board shall, within the scope and purview of the
8 provisions of this chapter, prescribe the duties of its officers
9 and employees and adopt, publish and enforce the rules and
10 regulations of professional conduct which shall establish and
11 maintain appropriate standards of competence and integrity in the
12 professions of architecture, professional engineering,
13 professional land surveying and landscape architecture, and
14 adopt, publish and enforce procedural rules and regulations as
15 may be considered by the board to be necessary or proper for the
16 conduct of the board's business and the management of its
17 affairs, and for the effective administration and interpretation
18 of the provisions of this chapter. Any rule or portion of a
19 rule, as that term is defined in section 536.010, RSMo, that is
20 created under the authority delegated in this chapter shall
21 become effective only if it complies with and is subject to all
22 of the provisions of chapter 536, RSMo, and, if applicable,
23 section 536.028, RSMo. This section and chapter 536, RSMo, are
24 nonseverable and if any of the powers vested with the general
25 assembly pursuant to chapter 536, RSMo, to review, to delay the
26 effective date or to disapprove and annul a rule are subsequently
27 held unconstitutional, then the grant of rulemaking authority and
28 any rule proposed or adopted after August 28, 2001, shall be

1 invalid and void.

2 3. Rules promulgated by the board pursuant to sections
3 327.272 to 327.635 shall be consistent with and shall not
4 supersede the rules promulgated by the department of natural
5 resources pursuant to chapter 60, RSMo.

6 327.351. 1. The professional license issued to every
7 professional land surveyor in Missouri, including certificates of
8 authority issued to corporations as provided in section 327.401,
9 shall be renewed on or before the license or certificate renewal
10 date provided that the required fee is paid. The license of any
11 professional land surveyor or the certificate of authority of any
12 such corporation which is not renewed within three months of the
13 renewal date shall be suspended automatically, subject to the
14 right of the holder of such suspended license or certificate to
15 have it reinstated within nine months of the date of suspension,
16 if the reinstatement fee is paid. Any license or certificate of
17 authority suspended and not reinstated within nine months of the
18 suspension date shall expire and be void and the holder of such
19 expired license or certificate shall have no rights or privileges
20 thereunder, but any person or corporation whose license or
21 certificate has expired may, within the discretion of the board
22 and upon payment of the required fee, be reregistered or
23 relicensed under such person's or corporation's original license
24 number.

25 2. Each application for the renewal of a license or of a
26 certificate of authority shall be on a form furnished to the
27 applicant and shall be accompanied by the required fee; but no
28 renewal fee need be paid by any professional land surveyor over

1 the age of seventy-five.

2 3. Beginning January 1, 1996, as a condition for renewal of
3 a license issued pursuant to section 327.314, a license holder
4 shall be required to successfully complete twenty units of
5 professional development that meet the standards established by
6 the board regulations within the preceding two calendar years.
7 Any license holder who completes more than twenty units of
8 professional development within the preceding two calendar years
9 may have the excess, not to exceed ten units, applied to the
10 requirement for the next two-year period.

11 4. The board shall not renew the license of any license
12 holder who has failed to complete the professional development
13 requirements pursuant to subsection 3 of this section, unless
14 such license holder can show good cause why he or she was unable
15 to comply with such requirements. If the board determines that
16 good cause was shown, the board shall permit the license holder
17 to make up all outstanding required units of professional
18 development.

19 5. A license holder may at any time prior to the
20 termination of his or her license request to be classified as
21 inactive. Inactive licenses may be maintained by payment of an
22 annual fee determined by the board. Holders of inactive licenses
23 shall not be required to complete professional development as
24 required in subsection 3 of this section. Holders of inactive
25 licenses shall not practice as professional land surveyors within
26 this state, but may continue to use the title "professional land
27 surveyor" or the initials "PLS" after such person's name. If the
28 board determines that good cause was shown, the board shall

1 permit the professional land surveyor to make up all outstanding
2 required units of professional development.

3 6. A holder of an inactive license may return such license
4 to an active license to practice professional land surveying by
5 paying the required fee, and either:

6 (1) Completing one-half of the two-year requirement for
7 professional development multiplied by the number of years of
8 lapsed or inactive status. The maximum requirement for
9 professional development units shall be two and one-half times
10 the two-year requirement. The minimum requirement for
11 professional development units shall be no less than the two-year
12 requirement. Such requirement shall be satisfied within the two
13 years prior to the date of reinstatement; or

14 (2) Taking such examination as the board deems necessary to
15 determine such person's qualifications. Such examination shall
16 cover areas designed to demonstrate the applicant's proficiency
17 in current methods of land surveying practice.

18 7. Exemption to the required professional development units
19 shall be granted to registrants during periods of serving
20 honorably on full-time active duty in the military service.

21 8. At the time of application for license renewal, each
22 licensee shall report, on a form provided by the board, the
23 professional development activities undertaken during the
24 preceding renewal period to satisfy the requirements pursuant to
25 subsection 3 of this section. The licensee shall maintain a file
26 in which records of activities are kept, including dates,
27 subjects, duration of program, and any other appropriate
28 documentation, for a period of four years after the program date.

1 327.411. 1. Each architect and each professional engineer
2 and each professional land surveyor and each landscape architect
3 shall have a personal seal in a form prescribed by the board, and
4 he or she shall affix the seal to all final documents including,
5 but not limited to, plans, specifications, estimates, plats,
6 reports, surveys, proposals and other documents or instruments
7 prepared by the licensee, or under such licensee's immediate
8 personal supervision. Such licensee shall either prepare or
9 personally supervise the preparation of all documents sealed by
10 the licensee, and such licensee shall be held personally
11 responsible for the contents of all such documents sealed by such
12 licensee, whether prepared or drafted by another licensee or not.

13 2. The personal seal of an architect or professional
14 engineer or professional land surveyor or landscape architect
15 shall be the legal equivalent of the licensee's signature
16 whenever and wherever used, and the owner of the seal shall be
17 responsible for the architectural, engineering, surveying, or
18 landscape architectural documents, as the case may be, when the
19 licensee places his or her personal seal on such plans,
20 specifications, estimates, plats, reports, surveys or other
21 documents or instruments for, or to be used in connection with,
22 any architectural or engineering project, survey, or landscape
23 architectural project. Licensees shall undertake to perform
24 architectural, professional engineering, professional land
25 surveying and landscape architectural services only when they are
26 qualified by education, training, and experience in the specific
27 technical areas involved.

28 3. Notwithstanding any provision of this section, any

1 architect, professional engineer, professional land surveyor, or
2 landscape architect may, but is not required to, attach a
3 statement over his or her signature, authenticated by his or her
4 personal seal, specifying the particular plans, specifications,
5 plats, reports, surveys or other documents or instruments, or
6 portions thereof, intended to be authenticated by the seal, and
7 disclaiming any responsibility for all other plans,
8 specifications, estimates, reports, or other documents or
9 instruments relating to or intended to be used for any part or
10 parts of the architectural or engineering project or survey or
11 landscape architectural project.

12 4. Nothing in this section, or any rule or regulation of
13 the board shall require any professional to seal preliminary or
14 incomplete documents.

15 332.011. As used in this chapter, the following words and
16 terms mean:

17 (1) "Accredited dental hygiene school", any program which
18 teaches a course in dental hygiene which is accredited by the
19 Commission on Dental Accreditation of the American Dental
20 Association and which shall have a minimum of two academic years
21 of curriculum provided in a college or institution of higher
22 education;

23 (2) "Accredited dental school", any college, university,
24 school, or other institution which teaches dentistry which has
25 been certified by the American Dental Association;

26 (3) "Board", the Missouri dental board;

27 (4) "Certified dental assistant", a dental assistant who is
28 currently certified by the Dental Assisting National Board, Inc.;

1 (5) "Dental assistant", an employee of a duly registered
2 and currently licensed dentist in Missouri, other than either a
3 dental hygienist or a certified dental assistant;

4 (6) "Expanded-functions dental assistant", any dental
5 assistant who has passed a basic dental assisting skills mastery
6 examination or a certified dental assistant, either of whom has
7 successfully completed a board-approved expanded-functions
8 course, passed a competency examination, and [can show proof of
9 competency in a specific expanded function to the] has obtained a
10 permit authorizing them to perform expanded-functions duties from
11 the Missouri dental board;

12 (7) "Expanded-functions duties", reversible acts that would
13 be considered the practice of dentistry as defined in section
14 332.071 that the board specifies by rule may be delegated to a
15 dental assistant or dental hygienist who possesses an expanded-
16 functions permit.

17 332.098. 1. Dentists delegating expanded-functions duties
18 to dental assistants or dental hygienists shall do so in
19 accordance with rules set forth by the board. No person shall
20 perform expanded-functions duties in this state except under his
21 or her own name and unless the board has issued to such person a
22 permit to perform expanded-functions duties in this state;
23 however, no provision of this section or this chapter shall be
24 construed to make it unlawful for a duly registered and currently
25 licensed dentist in this state to perform dental services that
26 would be considered expanded-functions duties in this state or to
27 make it unlawful for dental assistants, certified dental
28 assistants, or expanded-functions dental assistants to perform

1 polishing of teeth. Under section 332.093, the board shall not
2 promulgate any rule allowing the delegation of acts to a dental
3 assistant that would conflict with the practice of dental hygiene
4 as defined in section 332.091. Expanded-functions permits shall
5 be renewed every five years. The board may promulgate rules
6 specifying the criteria by which expanded-functions permits may
7 be issued and renewed. Expanded-functions permits shall be
8 subject to discipline as provided in section 332.321.

9 2. Any rule or portion of a rule, as that term is defined
10 in section 536.010, that is created under the authority delegated
11 in this section shall become effective only if it complies with
12 and is subject to all of the provisions of chapter 536 and, if
13 applicable, section 536.028. This section and chapter 536 are
14 nonseverable and if any of the powers vested with the general
15 assembly pursuant to chapter 536 to review, to delay the
16 effective date, or to disapprove and annul a rule are
17 subsequently held unconstitutional, then the grant of rulemaking
18 authority and any rule proposed or adopted after August 28, 2010,
19 shall be invalid and void.

20 334.100. 1. The board may refuse to issue or renew any
21 certificate of registration or authority, permit or license
22 required pursuant to this chapter for one or any combination of
23 causes stated in subsection 2 of this section. The board shall
24 notify the applicant in writing of the reasons for the refusal
25 and shall advise the applicant of the applicant's right to file a
26 complaint with the administrative hearing commission as provided
27 by chapter 621, RSMo. As an alternative to a refusal to issue or
28 renew any certificate, registration or authority, the board may,

1 at its discretion, issue a license which is subject to probation,
2 restriction or limitation to an applicant for licensure for any
3 one or any combination of causes stated in subsection 2 of this
4 section. The board's order of probation, limitation or
5 restriction shall contain a statement of the discipline imposed,
6 the basis therefor, the date such action shall become effective,
7 and a statement that the applicant has thirty days to request in
8 writing a hearing before the administrative hearing commission.
9 If the board issues a probationary, limited or restricted license
10 to an applicant for licensure, either party may file a written
11 petition with the administrative hearing commission within thirty
12 days of the effective date of the probationary, limited or
13 restricted license seeking review of the board's determination.
14 If no written request for a hearing is received by the
15 administrative hearing commission within the thirty-day period,
16 the right to seek review of the board's decision shall be
17 considered as waived.

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

25 (1) Use of any controlled substance, as defined in chapter
26 195, RSMo, or alcoholic beverage to an extent that such use
27 impairs a person's ability to perform the work of any profession
28 licensed or regulated by this chapter;

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

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

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

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

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

1 consultation;

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

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

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

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

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

25 (h) Signing a blank prescription form; or dispensing,
26 prescribing, administering or otherwise distributing any drug,
27 controlled substance or other treatment without sufficient
28 examination, or for other than medically accepted therapeutic or

1 experimental or investigative purposes duly authorized by a state
2 or federal agency, or not in the course of professional practice,
3 or not in good faith to relieve pain and suffering, or not to
4 cure an ailment, physical infirmity or disease, except as
5 authorized in section 334.104;

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

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

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

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

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

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

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

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

27 (q) Advertising by an applicant or licensee which is false
28 or misleading, or which violates any rule of the board, or which

1 claims without substantiation the positive cure of any disease,
2 or professional superiority to or greater skill than that
3 possessed by any other physician. An applicant or licensee shall
4 also be in violation of this provision if the applicant or
5 licensee has a financial interest in any organization,
6 corporation or association which issues or conducts such
7 advertising;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (18) Failure or refusal to properly guard against
25 contagious, infectious or communicable diseases or the spread
26 thereof; maintaining an unsanitary office or performing
27 professional services under unsanitary conditions; or failure to
28 report the existence of an unsanitary condition in the office of

1 a physician or in any health care facility to the board, in
2 writing, within thirty days after the discovery thereof;

3 (19) Any candidate for licensure or person licensed to
4 practice as a physical therapist, paying or offering to pay a
5 referral fee or, notwithstanding section 334.010 to the contrary,
6 practicing or offering to practice professional physical therapy
7 independent of the prescription and direction of a person
8 licensed and registered as a physician and surgeon pursuant to
9 this chapter, as a dentist pursuant to chapter 332, RSMo, as a
10 podiatrist pursuant to chapter 330, RSMo, as an advanced practice
11 registered nurse under chapter 335, or any licensed and
12 registered physician, dentist, [or] podiatrist, or advanced
13 practice registered nurse practicing in another jurisdiction,
14 whose license is in good standing;

15 (20) Any candidate for licensure or person licensed to
16 practice as a physical therapist, treating or attempting to treat
17 ailments or other health conditions of human beings other than by
18 professional physical therapy and as authorized by sections
19 334.500 to 334.620;

20 (21) Any person licensed to practice as a physician or
21 surgeon, requiring, as a condition of the physician-patient
22 relationship, that the patient receive prescribed drugs, devices
23 or other professional services directly from facilities of that
24 physician's office or other entities under that physician's
25 ownership or control. A physician shall provide the patient with
26 a prescription which may be taken to the facility selected by the
27 patient and a physician knowingly failing to disclose to a
28 patient on a form approved by the advisory commission for

1 professional physical therapists as established by section
2 334.625 which is dated and signed by a patient or guardian
3 acknowledging that the patient or guardian has read and
4 understands that the physician has a pecuniary interest in a
5 physical therapy or rehabilitation service providing prescribed
6 treatment and that the prescribed treatment is available on a
7 competitive basis. This subdivision shall not apply to a
8 referral by one physician to another physician within a group of
9 physicians practicing together;

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

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

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

23 (25) Being unable to practice as a physician and surgeon or
24 with a specialty with reasonable skill and safety to patients by
25 reasons of medical or osteopathic incompetency, or because of
26 illness, drunkenness, excessive use of drugs, narcotics,
27 chemicals, or as a result of any mental or physical condition.
28 The following shall apply to this subdivision:

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

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

28 (c) In addition to ordering a physical or mental

1 examination to determine competency, the board may,
2 notwithstanding any other law limiting access to medical or other
3 health data, obtain medical data and health records relating to a
4 physician or applicant without the physician's or applicant's
5 consent;

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

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

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

1 in subsection 4 of this section.

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

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

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

1 shall toll this time period.

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

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

19 334.506. 1. As used in this section, "approved health care
20 provider" means a person holding a current and active license as
21 a physician and surgeon under this chapter, a chiropractor under
22 chapter 331, RSMo, a dentist under chapter 332, RSMo, a
23 podiatrist under chapter 330, RSMo, a physician assistant under
24 this chapter, an advanced practice registered nurse under chapter
25 335, or any licensed and registered physician, chiropractor,
26 dentist, or podiatrist practicing in another jurisdiction whose
27 license is in good standing.

28 2. A physical therapist shall not initiate treatment for a

1 new injury or illness without a prescription from an approved
2 health care provider.

3 3. A physical therapist may provide educational resources
4 and training, develop fitness or wellness programs for
5 asymptomatic persons, or provide screening or consultative
6 services within the scope of physical therapy practice without
7 the prescription and direction of an approved health care
8 provider.

9 4. A physical therapist may examine and treat without the
10 prescription and direction of an approved health care provider
11 any person with a recurring self-limited injury within one year
12 of diagnosis by an approved health care provider or a chronic
13 illness that has been previously diagnosed by an approved health
14 care provider. The physical therapist shall:

15 (1) Contact the patient's current approved health care
16 provider within seven days of initiating physical therapy
17 services under this subsection;

18 (2) Not change an existing physical therapy referral
19 available to the physical therapist without approval of the
20 patient's current approved health care provider;

21 (3) Refer to an approved health care provider any patient
22 whose medical condition at the time of examination or treatment
23 is determined to be beyond the scope of practice of physical
24 therapy;

25 (4) Refer to an approved health care provider any patient
26 whose condition for which physical therapy services are rendered
27 under this subsection has not been documented to be progressing
28 toward documented treatment goals after six visits or fourteen

1 days, whichever first occurs;

2 (5) Notify the patient's current approved health care
3 provider prior to the continuation of treatment if treatment
4 rendered under this subsection is to continue beyond thirty days.
5 The physical therapist shall provide such notification for each
6 successive period of thirty days.

7 5. The provision of physical therapy services of evaluation
8 and screening pursuant to this section shall be limited to a
9 physical therapist, and any authority for evaluation and
10 screening granted within this section may not be delegated. Upon
11 each reinitiation of physical therapy services, a physical
12 therapist shall provide a full physical therapy evaluation prior
13 to the reinitiation of physical therapy treatment. Physical
14 therapy treatment provided pursuant to the provisions of
15 subsection 4 of this section may be delegated by physical
16 therapists to physical therapist assistants only if the patient's
17 current approved health care provider has been so informed as
18 part of the physical therapist's seven-day notification upon
19 reinitiation of physical therapy services as required in
20 subsection 4 of this section. Nothing in this subsection shall
21 be construed as to limit the ability of physical therapists or
22 physical therapist assistants to provide physical therapy
23 services in accordance with the provisions of this chapter, and
24 upon the referral of an approved health care provider. Nothing
25 in this subsection shall prohibit an approved health care
26 provider from acting within the scope of their practice as
27 defined by the applicable chapters of RSMo.

28 6. No person licensed to practice, or applicant for

1 licensure, as a physical therapist or physical therapist
2 assistant shall make a medical diagnosis.

3 7. A physical therapist shall only delegate physical
4 therapy treatment to a physical therapist assistant or to a
5 person in an entry level of a professional education program
6 approved by the Commission for Accreditation of Physical
7 Therapists and Physical Therapist Assistant Education (CAPTE) who
8 satisfies supervised clinical education requirements related to
9 the person's physical therapist or physical therapist assistant
10 education. The entry-level person shall be under on-site
11 supervision of a physical therapist.

12 334.613. 1. The board may refuse to issue or renew a
13 license to practice as a physical therapist or physical therapist
14 assistant for one or any combination of causes stated in
15 subsection 2 of this section. The board shall notify the
16 applicant in writing of the reasons for the refusal and shall
17 advise the applicant of the applicant's right to file a complaint
18 with the administrative hearing commission as provided by chapter
19 621, RSMo. As an alternative to a refusal to issue or renew a
20 license to practice as a physical therapist or physical therapist
21 assistant, the board may, at its discretion, issue a license
22 which is subject to probation, restriction, or limitation to an
23 applicant for licensure for any one or any combination of causes
24 stated in subsection 2 of this section. The board's order of
25 probation, limitation, or restriction shall contain a statement
26 of the discipline imposed, the basis therefor, the date such
27 action shall become effective, and a statement that the applicant
28 has thirty days to request in writing a hearing before the

1 administrative hearing commission. If the board issues a
2 probationary, limited, or restricted license to an applicant for
3 licensure, either party may file a written petition with the
4 administrative hearing commission within thirty days of the
5 effective date of the probationary, limited, or restricted
6 license seeking review of the board's determination. If no
7 written request for a hearing is received by the administrative
8 hearing commission within the thirty-day period, the right to
9 seek review of the board's decision shall be considered as
10 waived.

11 2. The board may cause a complaint to be filed with the
12 administrative hearing commission as provided by chapter 621,
13 RSMo, against any holder of a license to practice as a physical
14 therapist or physical therapist assistant who has failed to renew
15 or has surrendered his or her license for any one or any
16 combination of the following causes:

17 (1) Use of any controlled substance, as defined in chapter
18 195, RSMo, or alcoholic beverage to an extent that such use
19 impairs a person's ability to perform the work of a physical
20 therapist or physical therapist assistant;

21 (2) The person has been finally adjudicated and found
22 guilty, or entered a plea of guilty or nolo contendere, in a
23 criminal prosecution under the laws of any state or of the United
24 States, for any offense reasonably related to the qualifications,
25 functions, or duties of a physical therapist or physical
26 therapist assistant, for any offense an essential element of
27 which is fraud, dishonesty, or an act of violence, or for any
28 offense involving moral turpitude, whether or not sentence is

1 imposed;

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

6 (4) Misconduct, fraud, misrepresentation, dishonesty,
7 unethical conduct, or unprofessional conduct in the performance
8 of the functions or duties of a physical therapist or physical
9 therapist assistant, including but not limited to the following:

10 (a) Obtaining or attempting to obtain any fee, charge,
11 tuition, or other compensation by fraud, deception, or
12 misrepresentation; willfully and continually overcharging or
13 overtreating patients; or charging for sessions of physical
14 therapy which did not occur unless the services were contracted
15 for in advance, or for services which were not rendered or
16 documented in the patient's records;

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

21 (c) Willfully and continually performing inappropriate or
22 unnecessary treatment or services;

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

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

1 (f) Performing services which have been declared by board
2 rule to be of no physical therapy value;

3 (g) Final disciplinary action by any professional
4 association, professional society, licensed hospital or medical
5 staff of the hospital, or physical therapy facility in this or
6 any other state or territory, whether agreed to voluntarily or
7 not, and including but not limited to any removal, suspension,
8 limitation, or restriction of the person's professional
9 employment, malpractice, or any other violation of any provision
10 of this chapter;

11 (h) Administering treatment without sufficient examination,
12 or for other than medically accepted therapeutic or experimental
13 or investigative purposes duly authorized by a state or federal
14 agency, or not in the course of professional physical therapy
15 practice;

16 (i) Engaging in or soliciting sexual relationships, whether
17 consensual or nonconsensual, while a physical therapist or
18 physical therapist assistant/patient relationship exists; making
19 sexual advances, requesting sexual favors, or engaging in other
20 verbal conduct or physical contact of a sexual nature with
21 patients or clients;

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

25 (k) Failing to furnish details of a patient's physical
26 therapy records to treating physicians, other physical
27 therapists, or hospitals upon proper request; or failing to
28 comply with any other law relating to physical therapy records;

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

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

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

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

10 (p) Failing to inform the board of the physical therapist's
11 or physical therapist assistant's current telephone number,
12 residence, and business address;

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

22 (5) Any conduct or practice which is or might be harmful or
23 dangerous to the mental or physical health of a patient or the
24 public; or incompetency, gross negligence, or repeated negligence
25 in the performance of the functions or duties of a physical
26 therapist or physical therapist assistant. For the purposes of
27 this subdivision, "repeated negligence" means the failure, on
28 more than one occasion, to use that degree of skill and learning

1 ordinarily used under the same or similar circumstances by the
2 member of the applicant's or licensee's profession;

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

7 (7) Impersonation of any person licensed as a physical
8 therapist or physical therapist assistant or allowing any person
9 to use his or her license or diploma from any school;

10 (8) Revocation, suspension, restriction, modification,
11 limitation, reprimand, warning, censure, probation, or other
12 final disciplinary action against a physical therapist or
13 physical therapist assistant for a license or other right to
14 practice as a physical therapist or physical therapist assistant
15 by another state, territory, federal agency or country, whether
16 or not voluntarily agreed to by the licensee or applicant,
17 including but not limited to the denial of licensure, surrender
18 of the license, allowing the license to expire or lapse, or
19 discontinuing or limiting the practice of physical therapy while
20 subject to an investigation or while actually under investigation
21 by any licensing authority, medical facility, branch of the armed
22 forces of the United States of America, insurance company, court,
23 agency of the state or federal government, or employer;

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

26 (10) Assisting or enabling any person to practice or offer
27 to practice who is not licensed and currently eligible to
28 practice under this chapter; or knowingly performing any act

1 which in any way aids, assists, procures, advises, or encourages
2 any person to practice physical therapy who is not licensed and
3 currently eligible to practice under this chapter;

4 (11) Issuance of a license to practice as a physical
5 therapist or physical therapist assistant based upon a material
6 mistake of fact;

7 (12) Failure to display a valid license pursuant to
8 practice as a physical therapist or physical therapist assistant;

9 (13) Knowingly making, or causing to be made, or aiding, or
10 abetting in the making of, a false statement in any document
11 executed in connection with the practice of physical therapy;

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

20 (15) Using, or permitting the use of, the person's name
21 under the designation of "physical therapist", "physiotherapist",
22 "registered physical therapist", "P.T.", "Ph.T.", "P.T.T.",
23 "D.P.T.", "M.P.T." or "R.P.T.", "physical therapist assistant",
24 "P.T.A.", "L.P.T.A.", "C.P.T.A.", or any similar designation with
25 reference to the commercial exploitation of any goods, wares or
26 merchandise;

27 (16) Knowingly making or causing to be made a false
28 statement or misrepresentation of a material fact, with intent to

1 defraud, for payment under chapter 208, RSMo, or chapter 630,
2 RSMo, or for payment from Title XVIII or Title XIX of the federal
3 Medicare program;

4 (17) Failure or refusal to properly guard against
5 contagious, infectious, or communicable diseases or the spread
6 thereof; maintaining an unsanitary facility or performing
7 professional services under unsanitary conditions; or failure to
8 report the existence of an unsanitary condition in any physical
9 therapy facility to the board, in writing, within thirty days
10 after the discovery thereof;

11 (18) Any candidate for licensure or person licensed to
12 practice as a physical therapist or physical therapist assistant
13 paying or offering to pay a referral fee or, notwithstanding
14 section 334.010 to the contrary, practicing or offering to
15 practice professional physical therapy independent of the
16 prescription and direction of a person licensed and registered as
17 a physician and surgeon under this chapter, as a physician
18 assistant under this chapter, as a chiropractor under chapter
19 331, RSMo, as a dentist under chapter 332, RSMo, as a podiatrist
20 under chapter 330, RSMo, as an advanced practice registered nurse
21 under chapter 335, or any licensed and registered physician,
22 chiropractor, dentist, [or], podiatrist, or advanced practice
23 registered nurse practicing in another jurisdiction, whose
24 license is in good standing;

25 (19) Any candidate for licensure or person licensed to
26 practice as a physical therapist or physical therapist assistant
27 treating or attempting to treat ailments or other health
28 conditions of human beings other than by professional physical

1 therapy and as authorized by sections 334.500 to 334.685;

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

5 (21) Failing to maintain adequate patient records under
6 334.602;

7 (22) Attempting to engage in conduct that subverts or
8 undermines the integrity of the licensing examination or the
9 licensing examination process, including but not limited to
10 utilizing in any manner recalled or memorized licensing
11 examination questions from or with any person or entity, failing
12 to comply with all test center security procedures, communicating
13 or attempting to communicate with any other examinees during the
14 test, or copying or sharing licensing examination questions or
15 portions of questions;

16 (23) Any candidate for licensure or person licensed to
17 practice as a physical therapist or physical therapist assistant
18 who requests, receives, participates or engages directly or
19 indirectly in the division, transferring, assigning, rebating or
20 refunding of fees received for professional services or profits
21 by means of a credit or other valuable consideration such as
22 wages, an unearned commission, discount or gratuity with any
23 person who referred a patient, or with any relative or business
24 associate of the referring person;

25 (24) Being unable to practice as a physical therapist or
26 physical therapist assistant with reasonable skill and safety to
27 patients by reasons of incompetency, or because of illness,
28 drunkenness, excessive use of drugs, narcotics, chemicals, or as

1 a result of any mental or physical condition. The following
2 shall apply to this subdivision:

3 (a) In enforcing this subdivision the board shall, after a
4 hearing by the board, upon a finding of probable cause, require a
5 physical therapist or physical therapist assistant to submit to a
6 reexamination for the purpose of establishing his or her
7 competency to practice as a physical therapist or physical
8 therapist assistant conducted in accordance with rules adopted
9 for this purpose by the board, including rules to allow the
10 examination of the pattern and practice of such physical
11 therapist's or physical therapist assistant's professional
12 conduct, or to submit to a mental or physical examination or
13 combination thereof by a facility or professional approved by the
14 board;

15 (b) For the purpose of this subdivision, every physical
16 therapist and physical therapist assistant licensed under this
17 chapter is deemed to have consented to submit to a mental or
18 physical examination when directed in writing by the board;

19 (c) In addition to ordering a physical or mental
20 examination to determine competency, the board may,
21 notwithstanding any other law limiting access to medical or other
22 health data, obtain medical data and health records relating to a
23 physical therapist, physical therapist assistant or applicant
24 without the physical therapist's, physical therapist assistant's
25 or applicant's consent;

26 (d) Written notice of the reexamination or the physical or
27 mental examination shall be sent to the physical therapist or
28 physical therapist assistant, by registered mail, addressed to

1 the physical therapist or physical therapist assistant at the
2 physical therapist's or physical therapist assistant's last known
3 address. Failure of a physical therapist or physical therapist
4 assistant to submit to the examination when directed shall
5 constitute an admission of the allegations against the physical
6 therapist or physical therapist assistant, in which case the
7 board may enter a final order without the presentation of
8 evidence, unless the failure was due to circumstances beyond the
9 physical therapist's or physical therapist assistant's control.
10 A physical therapist or physical therapist assistant whose right
11 to practice has been affected under this subdivision shall, at
12 reasonable intervals, be afforded an opportunity to demonstrate
13 that the physical therapist or physical therapist assistant can
14 resume the competent practice as a physical therapist or physical
15 therapist assistant with reasonable skill and safety to patients;

16 (e) In any proceeding under this subdivision neither the
17 record of proceedings nor the orders entered by the board shall
18 be used against a physical therapist or physical therapist
19 assistant in any other proceeding. Proceedings under this
20 subdivision shall be conducted by the board without the filing of
21 a complaint with the administrative hearing commission;

22 (f) When the board finds any person unqualified because of
23 any of the grounds set forth in this subdivision, it may enter an
24 order imposing one or more of the disciplinary measures set forth
25 in subsection 3 of this section.

26 3. After the filing of such complaint before the
27 administrative hearing commission, the proceedings shall be
28 conducted in accordance with the provisions of chapter 621, RSMo.

1 Upon a finding by the administrative hearing commission that the
2 grounds provided in subsection 2 of this section for disciplinary
3 action are met, the board may, singly or in combination:

4 (1) Warn, censure or place the physical therapist or
5 physical therapist assistant named in the complaint on probation
6 on such terms and conditions as the board deems appropriate for a
7 period not to exceed ten years;

8 (2) Suspend the physical therapist's or physical therapist
9 assistant's license for a period not to exceed three years;

10 (3) Restrict or limit the physical therapist's or physical
11 therapist assistant's license for an indefinite period of time;

12 (4) Revoke the physical therapist's or physical therapist
13 assistant's license;

14 (5) Administer a public or private reprimand;

15 (6) Deny the physical therapist's or physical therapist
16 assistant's application for a license;

17 (7) Permanently withhold issuance of a license;

18 (8) Require the physical therapist or physical therapist
19 assistant to submit to the care, counseling or treatment of
20 physicians designated by the board at the expense of the physical
21 therapist or physical therapist assistant to be examined;

22 (9) Require the physical therapist or physical therapist
23 assistant to attend such continuing educational courses and pass
24 such examinations as the board may direct.

25 4. In any order of revocation, the board may provide that
26 the physical therapist or physical therapist assistant shall not
27 apply for reinstatement of the physical therapist's or physical
28 therapist assistant's license for a period of time ranging from

1 two to seven years following the date of the order of revocation.
2 All stay orders shall toll this time period.

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

8 6. In any investigation, hearing or other proceeding to
9 determine a physical therapist's, physical therapist assistant's
10 or applicant's fitness to practice, any record relating to any
11 patient of the physical therapist, physical therapist assistant,
12 or applicant shall be discoverable by the board and admissible
13 into evidence, regardless of any statutory or common law
14 privilege which such physical therapist, physical therapist
15 assistant, applicant, record custodian, or patient might
16 otherwise invoke. In addition, no such physical therapist,
17 physical therapist assistant, applicant, or record custodian may
18 withhold records or testimony bearing upon a physical
19 therapist's, physical therapist assistant's, or applicant's
20 fitness to practice on the [ground] grounds of privilege between
21 such physical therapist, physical therapist assistant, applicant,
22 or record custodian and a patient.

23 334.735. 1. As used in sections 334.735 to 334.749, the
24 following terms mean:

25 (1) "Applicant", any individual who seeks to become
26 licensed as a physician assistant;

27 (2) "Certification" or "registration", a process by a
28 certifying entity that grants recognition to applicants meeting

1 predetermined qualifications specified by such certifying entity;

2 (3) "Certifying entity", the nongovernmental agency or
3 association which certifies or registers individuals who have
4 completed academic and training requirements;

5 (4) "Department", the department of insurance, financial
6 institutions and professional registration or a designated agency
7 thereof;

8 (5) "License", a document issued to an applicant by the
9 board acknowledging that the applicant is entitled to practice as
10 a physician assistant;

11 (6) "Physician assistant", a person who has graduated from
12 a physician assistant program accredited by the American Medical
13 Association's Committee on Allied Health Education and
14 Accreditation or by its successor agency, who has passed the
15 certifying examination administered by the National Commission on
16 Certification of Physician Assistants and has active
17 certification by the National Commission on Certification of
18 Physician Assistants who provides health care services delegated
19 by a licensed physician. A person who has been employed as a
20 physician assistant for three years prior to August 28, 1989, who
21 has passed the National Commission on Certification of Physician
22 Assistants examination, and has active certification of the
23 National Commission on Certification of Physician Assistants;

24 (7) "Recognition", the formal process of becoming a
25 certifying entity as required by the provisions of sections
26 334.735 to 334.749;

27 (8) "Supervision", control exercised over a physician
28 assistant working within the same facility as the supervising

1 physician sixty-six percent of the time a physician assistant
2 provides patient care, except a physician assistant may make
3 follow-up patient examinations in hospitals, nursing homes,
4 patient homes, and correctional facilities, each such examination
5 being reviewed, approved and signed by the supervising physician,
6 except as provided by subsection 2 of this section. For the
7 purposes of this section, the percentage of time a physician
8 assistant provides patient care with the supervising physician
9 on-site shall be measured each calendar quarter. The supervising
10 physician must be readily available in person or via
11 telecommunication during the time the physician assistant is
12 providing patient care. The board shall promulgate rules
13 pursuant to chapter 536, RSMo, for documentation of joint review
14 of the physician assistant activity by the supervising physician
15 and the physician assistant. The physician assistant shall be
16 limited to practice at locations where the supervising physician
17 is no further than thirty miles by road using the most direct
18 route available, or in any other fashion so distanced as to
19 create an impediment to effective intervention and supervision of
20 patient care or adequate review of services. Any other
21 provisions of this chapter notwithstanding, for up to ninety days
22 following the effective date of rules promulgated by the board to
23 establish the waiver process under subsection 2 of this section,
24 any physician assistant practicing in a health professional
25 shortage area as of April 1, 2007, shall be allowed to practice
26 under the on-site requirements stipulated by the supervising
27 physician on the supervising physician form that was in effect on
28 April 1, 2007.

1 2. The board shall promulgate rules under chapter 536,
2 RSMo, to direct the advisory commission on physician assistants
3 to establish a formal waiver mechanism by which an individual
4 physician-physician assistant team may apply for alternate
5 minimum amounts of on-site supervision and maximum distance from
6 the supervising physician. After review of an application for a
7 waiver, the advisory commission on physician assistants shall
8 present its recommendation to the board for its advice and
9 consent on the approval or denial of the application. The rule
10 shall establish a process by which the public is invited to
11 comment on the application for a waiver, and shall specify that a
12 waiver may only be granted if a supervising physician and
13 physician assistant demonstrate to the board's satisfaction in
14 accordance with its uniformly applied criteria that:

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

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

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

28 (4) The applicant will practice in an area designated at

1 the time of application as a health professional shortage area;

2 (5) Nothing in this section shall be construed to require a
3 physician-physician assistant team to increase their on-site
4 requirement allowed in their initial waiver in order to qualify
5 for renewal of such waiver;

6 (6) If a waiver has been granted by the board of healing
7 arts on or after August 28, 2009, to a physician-physician
8 assistant team working in a rural health clinic under the federal
9 Rural Health Clinic Services Act, P.L. 95-210, as amended, no
10 additional waiver shall be required for the physician-physician
11 assistant team, so long as the rural health clinic maintains its
12 status as a rural health clinic under such federal act, and such
13 **[physician assistant and supervising physician]** physician-
14 physician assistant team comply with federal supervision
15 requirements. No supervision requirements in addition to the
16 minimum federal law shall be required for the physician-physician
17 assistant team in a rural health clinic if a waiver has been
18 granted by the board. However, the board shall be able to void a
19 current waiver after conducting a hearing and upon a finding of
20 fact that the physician-physician assistant team has failed to
21 comply with such federal act or either member of the team has
22 violated a provision of this chapter;

23 (7) A physician assistant shall only be required to seek a
24 renewal of a waiver every five years or when his or her
25 supervising physician is a different physician than the physician
26 shown on the waiver application or they move their primary
27 practice location more than ten miles from the location shown on
28 the waiver application.

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

3 (1) Taking patient histories;

4 (2) Performing physical examinations of a patient;

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

7 (4) Performing routine therapeutic procedures;

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

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

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

19 (8) Assisting in surgery;

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

23 (10) Physician assistants shall not perform abortions.

24 4. Physician assistants shall not prescribe nor dispense
25 any drug, medicine, device or therapy [independent of
26 consultation with the supervising physician] unless pursuant to a
27 physician supervision agreement in accordance with the law, nor
28 prescribe lenses, prisms or contact lenses for the aid, relief or

1 correction of vision or the measurement of visual power or visual
2 efficiency of the human eye, nor administer or monitor general or
3 regional block anesthesia during diagnostic tests, surgery or
4 obstetric procedures. Prescribing and dispensing of drugs,
5 medications, devices or therapies by a physician assistant shall
6 be pursuant to a physician assistant supervision agreement which
7 is specific to the clinical conditions treated by the supervising
8 physician and the physician assistant shall be subject to the
9 following:

10 (1) A physician assistant shall only prescribe controlled
11 substances in accordance with section 334.747;

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

16 (3) All prescriptions shall conform with state and federal
17 laws and regulations and shall include the name, address and
18 telephone number of the physician assistant and the supervising
19 physician;

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

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

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

1 less.

2 5. A physician assistant shall clearly identify himself or
3 herself as a physician assistant and shall not use or permit to
4 be used in the physician assistant's behalf the terms "doctor",
5 "Dr." or "doc" nor hold himself or herself out in any way to be a
6 physician or surgeon. No physician assistant shall practice or
7 attempt to practice without physician supervision or in any
8 location where the supervising physician is not immediately
9 available for consultation, assistance and intervention, except
10 as otherwise provided in this section, and in an emergency
11 situation, nor shall any physician assistant bill a patient
12 independently or directly for any services or procedure by the
13 physician assistant.

14 6. For purposes of this section, the licensing of physician
15 assistants shall take place within processes established by the
16 state board of registration for the healing arts through rule and
17 regulation. The board of healing arts is authorized to establish
18 rules pursuant to chapter 536, RSMo, establishing licensing and
19 renewal procedures, supervision, supervision agreements, fees,
20 and addressing such other matters as are necessary to protect the
21 public and discipline the profession. An application for
22 licensing may be denied or the license of a physician assistant
23 may be suspended or revoked by the board in the same manner and
24 for violation of the standards as set forth by section 334.100,
25 or such other standards of conduct set by the board by rule or
26 regulation. Persons licensed pursuant to the provisions of
27 chapter 335, RSMo, shall not be required to be licensed as
28 physician assistants. All applicants for physician assistant

1 licensure who complete a physician assistant training program
2 after January 1, 2008, shall have a master's degree from a
3 physician assistant program.

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

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

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

21 10. It is the responsibility of the supervising physician
22 to determine and document the completion of at least a one-month
23 period of time during which the licensed physician assistant
24 shall practice with a supervising physician continuously present
25 before practicing in a setting where a supervising physician is
26 not continuously present.

27 11. No contract or other agreement shall require a
28 physician to act as a supervising physician for a physician

1 assistant against the physician's will. A physician shall have
2 the right to refuse to act as a supervising physician, without
3 penalty, for a particular physician assistant. No contract or
4 other agreement shall limit the supervising physician's ultimate
5 authority over any protocols or standing orders or in the
6 delegation of the physician's authority to any physician
7 assistant, but this requirement shall not authorize a physician
8 in implementing such protocols, standing orders, or delegation to
9 violate applicable standards for safe medical practice
10 established by hospital's medical staff.

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

13 13. No physician shall be designated to serve as
14 supervising physician for more than three full-time equivalent
15 licensed physician assistants. This limitation shall not apply
16 to physician assistant agreements of hospital employees providing
17 inpatient care service in hospitals as defined in chapter 197,
18 RSMo.

19 335.075. 1. Before hiring a registered nurse, licensed
20 practical nurse, or advanced practice registered nurse in
21 Missouri, an employer shall verify that the applicant has a
22 current, valid license to practice nursing under chapter 335.
23 This section shall not apply for employment which does not
24 require the possession of a current, valid license to practice
25 nursing.

26 2. Employers shall have a process in place to verify
27 licensure status of each registered nurse, licensed practical
28 nurse, or advanced practice registered nurse coinciding with the

1 license renewal.

2 335.081. So long as the person involved does not represent
3 or hold himself or herself out as a nurse licensed to practice in
4 this state, no provision of sections 335.011 to 335.096 shall be
5 construed as prohibiting:

6 (1) The practice of any profession for which a license is
7 required and issued pursuant to the laws of this state by a
8 person duly licensed to practice that profession;

9 (2) The services rendered by technicians, nurses' aides or
10 their equivalent trained and employed in public or private
11 hospitals and licensed long-term care facilities except the
12 services rendered in licensed long-term care facilities shall be
13 limited to administering medication, excluding injectable other
14 than insulin;

15 (3) The providing of nursing care by friends or members of
16 the family of the person receiving such care;

17 (4) The incidental care of the sick, aged, or infirm by
18 domestic servants or persons primarily employed as housekeepers;

19 (5) The furnishing of nursing assistance in the case of an
20 emergency situation;

21 (6) The practice of nursing under proper supervision:

22 (a) As a part of the course of study by students enrolled
23 in approved schools of professional nursing or in schools of
24 practical nursing;

25 (b) By graduates of accredited nursing programs pending the
26 results of the first licensing examination or ninety days after
27 graduation, whichever first occurs;

28 (c) A graduate nurse who is prevented from attending the

1 first licensing examination following graduation by reason of
2 active duty in the military may practice as a graduate nurse
3 pending the results of the first licensing examination scheduled
4 by the board following the release of such graduate nurse from
5 active military duty or pending the results of the first
6 licensing examination taken by the graduate nurse while involved
7 in active military service whichever comes first;

8 (7) The practice of nursing in this state by any legally
9 qualified nurse duly licensed to practice in another state whose
10 engagement requires such nurse to accompany and care for a
11 patient temporarily residing in this state for a period not to
12 exceed six months;

13 (8) The practice of any legally qualified nurse who is
14 employed by the government of the United States or any bureau,
15 division or agency thereof, while in the discharge of his or her
16 official duties or to the practice of any legally qualified nurse
17 serving in the armed forces of the United States while stationed
18 within this state;

19 (9) Nonmedical nursing care of the sick with or without
20 compensation when done in connection with the practice of the
21 religious tenets of any church by adherents thereof, as long as
22 they do not engage in the practice of nursing as defined in
23 sections 335.011 to 335.096;

24 (10) The practice of any legally qualified and licensed
25 nurse of another state, territory, or foreign country whose
26 responsibilities include transporting patients into, out of, or
27 through this state while actively engaged in patient transport
28 that does not exceed forty-eight hours in this state.

1 337.528. 1. If the committee finds merit to a complaint by
2 an individual incarcerated or under the care and control of the
3 department of corrections or by an individual who has been
4 ordered to be taken into custody, detained, or held under
5 sections 632.480 to 632.513 and takes further investigative
6 action, no documentation may appear on file or disciplinary
7 action may be taken in regards to the licensee's license unless
8 the provisions of subsection 2 of section 337.525 have been
9 violated. Any case file documentation that does not result in
10 the committee filing an action under subsection 2 of section
11 337.525 shall be destroyed within three months after the final
12 case disposition by the board. No notification to any other
13 licensing board in another state or any national registry
14 regarding any investigative action shall be made unless the
15 provisions of subsection 2 of section 337.525 have been violated.

16 2. Upon written request of the licensed professional
17 counselor subject to a complaint, prior to August 28, 2007, by an
18 individual incarcerated or under the care and control of the
19 department of corrections or prior to August 28, 2010, by an
20 individual who has been ordered to be taken into custody,
21 detained, or held under sections 632.480 to 632.513 that did not
22 result in the committee filing an action under subsection 2 of
23 section 337.525, the committee and the division of professional
24 registration shall in a timely fashion:

25 (1) Destroy all documentation regarding the complaint;

26 (2) Notify any other licensing board in another state or
27 any national registry regarding the committee's actions if they
28 have been previously notified of the complaint; and

1 (3) Send a letter to the licensee that clearly states that
2 the committee found the complaint to be unsubstantiated, that the
3 committee has taken the requested action, and notify the licensee
4 of the provisions of subsection 3 of this section.

5 3. Any person who has been the subject of an
6 unsubstantiated complaint as provided in subsection 1 or 2 of
7 this section shall not be required to disclose the existence of
8 such complaint in subsequent applications or representations
9 relating to their counseling professions.

10 337.600. As used in sections 337.600 to 337.689, the
11 following terms mean:

12 (1) "Advanced macro social worker", the applications of
13 social work theory, knowledge, methods, principles, values, and
14 ethics; and the professional use of self to community and
15 organizational systems, systemic and macrocosm issues, and other
16 indirect nonclinical services; specialized knowledge and advanced
17 practice skills in case management, information and referral,
18 nonclinical assessments, counseling, outcome evaluation,
19 mediation, nonclinical supervision, nonclinical consultation,
20 expert testimony, education, outcome evaluation, research,
21 advocacy, social planning and policy development, community
22 organization, and the development, implementation and
23 administration of policies, programs, and activities. A licensed
24 advanced macro social worker may not treat mental or emotional
25 disorders or provide psychotherapy without the direct supervision
26 of a licensed clinical social worker, or diagnose a mental
27 disorder;

28 (2) "Clinical social work", the application of social work

1 theory, knowledge, values, methods, principles, and techniques of
2 case work, group work, client-centered advocacy, community
3 organization, administration, planning, evaluation, consultation,
4 research, psychotherapy and counseling methods and techniques to
5 persons, families and groups in assessment, diagnosis, treatment,
6 prevention and amelioration of mental and emotional conditions;

7 (3) "Committee", the state committee for social workers
8 established in section 337.622;

9 (4) "Department", the Missouri department of insurance,
10 financial institutions and professional registration;

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

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

14 (7) "Independent practice", any practice of social workers
15 outside of an organized setting such as a social, medical, or
16 governmental agency in which a social worker assumes
17 responsibility and accountability for services required;

18 (8) "Licensed advanced macro social worker", any person who
19 offers to render services to individuals, groups, families,
20 couples, organizations, institutions, communities, government
21 agencies, corporations, or the general public for a fee, monetary
22 or otherwise, implying that the person is trained, experienced,
23 and licensed as an advanced macro social worker, and who holds a
24 current valid license to practice as an advanced macro social
25 worker;

26 (9) "Licensed baccalaureate social worker", any person who
27 offers to render services to individuals, groups, organizations,
28 institutions, corporations, government agencies, or the general

1 public for a fee, monetary or otherwise, implying that the person
2 is trained, experienced, and licensed as a baccalaureate social
3 worker, and who holds a current valid license to practice as a
4 baccalaureate social worker;

5 (10) "Licensed clinical social worker", any person who
6 offers to render services to individuals, groups, organizations,
7 institutions, corporations, government agencies, or the general
8 public for a fee, monetary or otherwise, implying that the person
9 is trained, experienced, and licensed as a clinical social
10 worker, and who holds a current, valid license to practice as a
11 clinical social worker;

12 (11) "Licensed master social worker", any person who offers
13 to render services to individuals, groups, families, couples,
14 organizations, institutions, communities, government agencies,
15 corporations, or the general public for a fee, monetary or
16 otherwise, implying that the person is trained, experienced, and
17 licensed as a master social worker, and who holds a current valid
18 license to practice as a master social worker. A licensed master
19 social worker may not treat mental or emotional disorders,
20 provide psychotherapy without the direct supervision of a
21 licensed clinical social worker, or diagnose a mental disorder;

22 (12) "Master social work", the application of social work
23 theory, knowledge, methods, and ethics and the professional use
24 of self to restore or enhance social, psychosocial, or
25 biopsychosocial functioning of individuals, couples, families,
26 groups, organizations, communities, institutions, government
27 agencies, or corporations. The practice includes the
28 applications of specialized knowledge and advanced practice

1 skills in the areas of assessment, treatment planning,
2 implementation and evaluation, case management, mediation,
3 information and referral, counseling, client education,
4 supervision, consultation, education, research, advocacy,
5 community organization and development, planning, evaluation,
6 implementation and administration of policies, programs, and
7 activities. Under supervision as provided in this section, the
8 practice of master social work may include the practices reserved
9 to clinical social workers or advanced macro social workers for
10 no more than forty-eight consecutive calendar months for the
11 purpose of obtaining licensure under section 337.615 or 337.645;

12 (13) "Practice of advanced macro social work", rendering,
13 offering to render, or supervising those who render to
14 individuals, couples, families, groups, organizations,
15 institutions, corporations, government agencies, communities, or
16 the general public any service involving the application of
17 methods, principles, and techniques of advanced practice macro
18 social work;

19 (14) "Practice of baccalaureate social work", rendering,
20 offering to render, or supervising those who render to
21 individuals, families, groups, organizations, institutions,
22 corporations, or the general public any service involving the
23 application of methods, principles, and techniques of
24 baccalaureate social work;

25 (15) "Practice of clinical social work", rendering,
26 offering to render, or supervising those who render to
27 individuals, couples, groups, organizations, institutions,
28 corporations, or the general public any service involving the

1 application of methods, principles, and techniques of clinical
2 social work;

3 (16) "Practice of master social work", rendering, offering
4 to render, or supervising those who render to individuals,
5 couples, families, groups, organizations, institutions,
6 corporations, government agencies, communities, or the general
7 public any service involving the application of methods,
8 principles, and techniques of master social work;

9 (17) ["Provisional licensed clinical social worker", any
10 person who is a graduate of an accredited school of social work
11 and meets all requirements of a licensed clinical social worker,
12 other than the supervised clinical social work experience
13 prescribed by subdivision (2) of subsection 1 of section 337.615,
14 and who is supervised by a person who is qualified to practice
15 clinical social work, as defined by rule;

16 (18)] "Qualified advanced macro supervisor", any licensed
17 social worker who meets the qualifications of a qualified
18 clinical supervisor or a licensed advanced macro social worker
19 who has:

20 (a) Practiced in the field of social work as a licensed
21 social worker for which he or she is supervising the applicant
22 for a minimum [uninterrupted period] of five years;

23 (b) Successfully completed a minimum of sixteen hours of
24 supervisory training from the Association of Social Work Boards,
25 the National Association of Social Workers, an accredited
26 university, or a program approved by the state committee for
27 social workers. All organizations providing the supervisory
28 training shall adhere to the basic content and quality standards

1 outlined by the state committee on social work; and

2 (c) Met all the requirements of sections 337.600 to
3 337.689, and as defined by rule by the state committee for social
4 workers;

5 [(19)] (18) "Qualified baccalaureate supervisor", any
6 licensed social worker who meets the qualifications of a
7 qualified clinical supervisor, qualified master supervisor,
8 qualified advanced macro supervisor, or a licensed baccalaureate
9 social worker who has:

10 (a) Practiced in the field of social work as a licensed
11 social worker for which he or she is supervising the applicant
12 for a minimum [uninterrupted period] of five years;

13 (b) Successfully completed a minimum of sixteen hours of
14 supervisory training from the Association of Social Work Boards,
15 the National Association of Social Workers, an accredited
16 university, or a program approved by the state committee for
17 social workers. All organizations providing the supervisory
18 training shall adhere to the basic content and quality standards
19 outlined by the state committee on social workers; and

20 (c) Met all the requirements of sections 337.600 to
21 337.689, and as defined by rule by the state committee for social
22 workers;

23 [(20)] (19) "Qualified clinical supervisor", any licensed
24 clinical social worker who has:

25 (a) Practiced in the field of social work as a licensed
26 social worker for which he or she is supervising the applicant
27 [uninterrupted since August 28, 2004, or] for a minimum of five
28 years;

1 (b) Successfully completed a minimum of sixteen hours of
2 supervisory training from the Association of Social Work Boards,
3 the National Association of Social Workers, an accredited
4 university, or a program approved by the state committee for
5 social workers. All organizations providing the supervisory
6 training shall adhere to the basic content and quality standards
7 outlined by the state committee on social work; and

8 (c) Met all the requirements of sections 337.600 to
9 337.689, and as defined by rule by the state committee for social
10 workers;

11 [(21)] (20) "Social worker", any individual that has:

12 (a) Received a baccalaureate or master's degree in social
13 work from an accredited social work program approved by the
14 council on social work education;

15 (b) Received a doctorate or Ph.D. in social work; or

16 (c) A current social worker license as set forth in
17 sections 337.600 to 337.689.

18 337.603. No person shall use the title of "licensed
19 clinical social worker" [,] or "clinical social worker" [or
20 "provisional licensed clinical social worker"], or engage in the
21 practice of clinical social work in this state, unless the person
22 is licensed as required by the provisions of sections 337.600 to
23 337.689. Only individuals who are licensed clinical social
24 workers shall practice clinical social work. Sections 337.600 to
25 337.689 shall not apply to:

26 (1) Any person registered, certificated, or licensed by
27 this state, another state, or any recognized national
28 certification agent acceptable to the committee to practice any

1 other occupation or profession while rendering services similar
2 in nature to clinical social work in the performance of the
3 occupation or profession which the person is registered,
4 certificated, or licensed; and

5 (2) The practice of any social worker who is employed by
6 any agency or department of the state of Missouri while
7 discharging the person's duties in that capacity.

8 337.615. 1. Each applicant for licensure as a clinical
9 social worker shall furnish evidence to the committee that:

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

14 (2) The applicant has completed three thousand hours of
15 supervised clinical experience with a qualified clinical
16 supervisor, as defined in section 337.600, in no less than
17 twenty-four months and no more than forty-eight consecutive
18 calendar months;

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

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

28 2. Any person holding a current license, certificate of

1 registration, or permit from another state or territory of the
2 United States or the District of Columbia to practice clinical
3 social work who has had no disciplinary action taken against the
4 license, certificate of registration, or permit for the preceding
5 five years may be granted a license to practice clinical social
6 work in this state if the person meets one of the following
7 criteria:

8 (1) Has received a masters or doctoral degree from a
9 college or university program of social work accredited by the
10 council of social work education and has been licensed to
11 practice clinical social work for the preceding five years; or

12 (2) Is currently licensed or certified as a clinical social
13 worker in another state, territory of the United States, or the
14 District of Columbia having substantially the same requirements
15 as this state for clinical social workers.

16 3. The committee shall issue a license to each person who
17 files an application and fee as required by the provisions of
18 sections 337.600 to 337.689 and who furnishes evidence
19 satisfactory to the committee that the applicant has complied
20 with the provisions of subdivisions (1) to (4) of subsection 1 of
21 this section or with the provisions of subsection 2 of this
22 section. [The committee shall issue a provisional clinical
23 social worker license to any applicant who meets all requirements
24 of subdivisions (1), (3) and (4) of subsection 1 of this section,
25 but who has not completed the twenty-four months of supervised
26 clinical experience required by subdivision (2) of subsection 1
27 of this section, and such applicant may reapply for licensure as
28 a clinical social worker upon completion of the twenty-four

1 months of supervised clinical experience.]

2 337.618. Each license issued pursuant to the provisions of
3 sections 337.600 to 337.689 shall expire on a renewal date
4 established by the director. The term of licensure shall be
5 twenty-four months. The committee shall require a minimum number
6 of thirty clock hours of continuing education for renewal of a
7 license issued pursuant to sections 337.600 to 337.689. The
8 committee shall renew any license[, other than a provisional
9 license,] upon application for a renewal, completion of the
10 required continuing education hours and upon payment of the fee
11 established by the committee pursuant to the provisions of
12 section 337.612. As provided by rule, the board may waive or
13 extend the time requirements for completion of continuing
14 education for reasons related to health, military service,
15 foreign residency, or for other good cause. All requests for
16 waivers or extensions of time shall be made in writing and
17 submitted to the board before the renewal date.

18 337.643. 1. No person shall use the title of licensed
19 master social worker and engage in the practice of master social
20 work in this state unless the person is licensed as required by
21 the provisions of this section and section 337.644.

22 2. A licensed master social worker shall be deemed
23 qualified to practice the applications of social work theory,
24 knowledge, methods and ethics and the professional use of self to
25 restore or enhance social, psychosocial, or biopsychosocial
26 functioning of individuals, couples, families, groups,
27 organizations, and communities. "Master social work practice"
28 includes the applications of specialized knowledge and advanced

1 practice skills in the management, information and referral,
2 counseling, supervision, consultation, education, research,
3 advocacy, community organization, and the development,
4 implementation, and administration of policies, programs, and
5 activities. Under supervision as provided in sections 337.600 to
6 337.689, the practice of master social work may include the
7 practices reserved to clinical social workers or advanced macro
8 social workers for no more than forty-eight consecutive calendar
9 months for the purpose of obtaining licensure under section
10 337.615 or 337.645.

11 337.700. As used in sections 337.700 to 337.739, the
12 following terms mean:

13 (1) "Committee", the state committee for [family and]
14 marital and family therapists;

15 (2) "Department", the Missouri department of insurance,
16 financial institutions and professional registration;

17 (3) "Director", the director of the division of
18 professional registration;

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

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

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

26 (7) "Marital and family therapy", the use of scientific and
27 applied marriage and family theories, methods and procedures for
28 the purpose of describing, diagnosing, evaluating and modifying

1 marital, family and individual behavior within the context of
2 marital and family systems, including the context of marital
3 formation and dissolution. Marriage and family therapy is based
4 on systems theories, marriage and family development, normal and
5 dysfunctional behavior, human sexuality and psychotherapeutic,
6 marital and family therapy theories and techniques and includes
7 the use of marriage and family therapy theories and techniques in
8 the diagnosis, evaluation, assessment and treatment of
9 intrapersonal or interpersonal dysfunctions within the context of
10 marriage and family systems. Marriage and family therapy may
11 also include clinical research into more effective methods for
12 the treatment and prevention of the above-named conditions;

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

19 (9) "Provisional licensed marital and family therapist",
20 any person who is a graduate of an acceptable education
21 institution described in subsection 1 of section 337.715 with at
22 least a master's degree in marital and family therapy, or its
23 equivalent as defined by state committee regulation, and meets
24 all requirements of a licensed marital and family therapist other
25 than the supervised clinical experience set forth in section
26 337.715, and who is supervised by a person who is qualified to be
27 a supervisor, as defined by state committee regulation.

28 337.703. No person shall use the title of "licensed marital

1 and family therapist", "marital and family therapist",
2 "provisional licensed marital and family therapist", or engage in
3 the practice of marital and family therapy in this state unless
4 the person is licensed as required by the provisions of sections
5 337.700 to 337.739. Sections 337.700 to 337.739 shall not apply
6 to:

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

17 (2) The practice of any marital and family therapist who is
18 employed by any political subdivision, school district, agency or
19 department of the state of Missouri while discharging the
20 therapist's duties in that capacity; and

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

23 337.705. No official, employee, board, commission, or
24 agency of the state of Missouri, any county, municipality, school
25 district, or other political subdivision of this state shall
26 discriminate between persons licensed under sections 337.700 to
27 337.739 when promulgating rules or when requiring or recommending
28 services that legally may be performed by persons licensed under

1 sections 337.700 to 337.739.

2 337.706. 1. For a period of six months from September 1,
3 1995, a person may apply for licensure without examination and
4 shall be exempt from the academic requirements of sections
5 337.700 to 337.739 if the division is satisfied that the
6 applicant:

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

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

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

14 3. [After March 1, 1996,] No person may engage in marital
15 and family therapy for compensation or hold himself or herself
16 out as a "licensed marital and family therapist", "marital and
17 family therapist", [or] "provisional licensed marital and family
18 therapist", or "supervised marital and family therapist" unless
19 the person complies with all educational and examination
20 requirements and is licensed in accordance with the provisions of
21 sections 337.700 to 337.739.

22 337.715. 1. Each applicant for licensure or provisional
23 licensure as a marital and family therapist shall furnish
24 evidence to the committee that:

25 (1) The applicant has a master's degree or a doctoral
26 degree in marital and family therapy, or its equivalent as
27 defined by committee regulation, from an acceptable educational
28 institution accredited by a regional accrediting body or

1 accredited by an accrediting body which has been approved by the
2 United States Department of Education;

3 (2) The applicant for licensure as a marital and family
4 therapist has twenty-four months of postgraduate supervised
5 clinical experience acceptable to the [division] committee, as
6 the [division] state committee determines by rule;

7 (3) After August 28, 2008, the applicant shall have
8 completed a minimum of three semester hours of graduate-level
9 course work in diagnostic systems either within the curriculum
10 leading to a degree as defined in subdivision (1) of this
11 subsection or as post-master's graduate-level course work. Each
12 applicant shall demonstrate supervision of diagnosis as a core
13 component of the postgraduate supervised clinical experience as
14 defined in subdivision (2) of this subsection;

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

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

24 2. Any person otherwise qualified for licensure holding a
25 current license, certificate of registration, or permit from
26 another state or territory of the United States or the District
27 of Columbia to practice marriage and family therapy may be
28 granted a license without examination to engage in the practice

1 of marital and family therapy in this state upon application to
2 the state committee, payment of the required fee as established
3 by the state committee, and satisfaction of the following:

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

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

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

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

14 337.718. 1. Each license issued pursuant to the provisions
15 of sections 337.700 to 337.739 shall expire on a renewal date
16 established by the director. The term of licensure shall be
17 twenty-four months; however, the director may establish a shorter
18 term for the first licenses issued pursuant to sections 337.700
19 to 337.739. The division shall renew any license upon
20 application for a renewal and upon payment of the fee established
21 by the division pursuant to the provisions of section 337.712.
22 Effective August 28, 2008, as a prerequisite for renewal, each
23 [licensee] licensed marital and family therapist shall furnish to
24 the committee satisfactory evidence of the completion of the
25 requisite number of hours of continuing education as defined by
26 rule, which shall be no more than forty contact hours biennially.
27 The continuing education requirements may be waived by the
28 committee upon presentation to the committee of satisfactory

1 evidence of illness or for other good cause.

2 2. The committee may issue temporary permits to practice
3 under extenuating circumstances as determined by the committee
4 and defined by rule.

5 337.727. The committee shall promulgate rules and
6 regulations pertaining to:

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

11 (2) Fees required by the provisions of sections 337.700 to
12 337.739;

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

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

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

19 (6) The standards and methods to be used in assessing
20 competency as a [licensed] marital and family therapist;

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

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

27 (9) Establishment of a policy and procedure for reciprocity
28 with other states, including states which do not have marital and

1 family therapist licensing laws or states whose licensing laws
2 are not substantially the same as those of this state; and

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

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

19 2. Each nonpublic committee member shall be a resident of
20 the state of Missouri for one year, shall be a United States
21 citizen, and shall meet all the requirements for licensing
22 enumerated in sections 337.700 to 337.739, shall be licensed
23 [pursuant to] as a licensed marital and family therapist under
24 sections 337.700 to 337.739, except the members of the first
25 committee, who shall be licensed within six months of their
26 appointment, and are actively engaged in the practice of marital
27 and family therapy. If a member of the committee shall, during
28 the member's term as a committee member, remove the member's

1 domicile from the state of Missouri, then the committee shall
2 immediately notify the governor, and the seat of that committee
3 member shall be declared vacant. All such vacancies shall be
4 filled by appointment as in the same manner as the first
5 appointment, and the member so appointed shall serve for the
6 unexpired term of the member whose seat has been declared vacant.
7 The public members shall be at the time of each member's
8 appointment a citizen of the United States; a resident of this
9 state for a period of one year and a registered voter; a person
10 who is not and never was a member of any profession licensed or
11 regulated pursuant to this chapter or the spouse of such person;
12 a person who does not have and never has had a material,
13 financial interest in either the provision of the professional
14 services regulated by this chapter, or an activity or
15 organization directly related to any profession licensed or
16 regulated pursuant to this chapter.

17 3. The committee shall hold a regular annual meeting at
18 which it shall select from among its members a chairman and a
19 secretary. A quorum of the committee shall consist of a majority
20 of its members. In the absence of the chairman, the secretary
21 shall conduct the office of the chairman.

22 4. No member of the committee shall receive any
23 compensation for the performance of the member's official duties
24 but shall be entitled to reimbursement for necessary and actual
25 expenses incurred in the performance of the member's duties. The
26 committee shall share resources and facilities with the office
27 for the committee for professional counselors provided for in
28 sections 337.500 to 337.540. All staff for the committee shall

1 be provided by the director of the division of professional
2 registration.

3 5. The governor may remove any member of the committee for
4 misconduct, inefficiency, incompetency or neglect of office.

5 338.333. 1. No person or distribution outlet shall act as
6 a wholesale drug distributor or pharmacy distributor without
7 first obtaining license to do so from the Missouri board of
8 pharmacy and paying the required fee. The board may grant
9 temporary licenses when the wholesale drug distributor or
10 pharmacy distributor first applies for a license to operate
11 within the state. Temporary licenses shall remain valid until
12 such time as the board shall find that the applicant meets or
13 fails to meet the requirements for regular licensure. No license
14 shall be issued or renewed for a wholesale drug distributor or
15 pharmacy distributor to operate unless the same shall be operated
16 in a manner prescribed by law and according to the rules and
17 regulations promulgated by the board of pharmacy with respect
18 thereto. Separate licenses shall be required for each
19 distribution site owned or operated by a wholesale drug
20 distributor or pharmacy distributor, unless such drug distributor
21 or pharmacy distributor meets the requirements of section
22 338.335.

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

28 3. The board may permit out-of-state wholesale drug

1 distributors or out-of-state pharmacy distributors to be licensed
2 as required by sections 338.210 to 338.370 on the basis of
3 reciprocity to the extent that an out-of-state wholesale drug
4 distributor or out-of-state pharmacy distributor both:

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

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

13 338.335. 1. Separate licenses shall be required for each
14 distribution site owned or operated by a wholesale drug
15 distributor or pharmacy distributor unless drugs are delivered
16 only on a consignment basis as defined by the board, or the
17 entity meets the requirements of subsection 2 of this section.

18 2. A wholesale drug distributor distributing drug-related
19 devices in Missouri is not required to obtain a license from the
20 board for out-of-state distribution sites owned by the wholesale
21 drug distributor if:

22 (1) The wholesale drug distributor has one or more
23 distribution sites located in Missouri, and all such in-state
24 distribution sites receiving shipments of drug-related devices
25 are licensed by the board as a distributor;

26 (2) The wholesale drug distributor's out-of-state
27 distribution sites shipping to the in-state distribution site are
28 in compliance with their respective state's licensing laws;

1 (3) The wholesale drug distributor's out-of-state
2 distribution sites that deliver drug-related devices regulated by
3 the board into Missouri for patient use, deliver such devices
4 only to the licensed wholesale drug distributor's in-state
5 distribution site.

6 3. A Missouri wholesale drug distributor receiving
7 shipments of drug-related devices from an out-of-state facility
8 that is not required to be licensed as a distributor pursuant to
9 subsection 2 of this section shall be responsible for all
10 shipments received.

11 338.337. It shall be unlawful for any out-of-state
12 wholesale drug distributor or out-of-state pharmacy acting as a
13 distributor to do business in this state without first obtaining
14 a license to do so from the board of pharmacy and paying the
15 required fee, except as otherwise provided by section 338.335 and
16 this section. Application for an out-of-state wholesale drug
17 distributor's license under this section shall be made on a form
18 furnished by the board. The issuance of a license under sections
19 338.330 to 338.370 shall not change or affect tax liability
20 imposed by the Missouri department of revenue on any out-of-state
21 wholesale drug distributor or out-of-state pharmacy. Any
22 out-of-state wholesale drug distributor that is a drug
23 manufacturer and which produces and distributes from a facility
24 which has been inspected and approved by the Food and Drug
25 Administration, maintains current approval by the federal Food
26 and Drug Administration, and has provided a copy of the most
27 recent Food and Drug Administration Establishment Inspection
28 Report to the board, and which is licensed by the state in which

1 the distribution facility is located, or, if located within a
2 foreign jurisdiction, is authorized and in good standing to
3 operate as a drug manufacturer within such jurisdiction, need not
4 be licensed as provided in this section but such out-of-state
5 distributor shall register its business name and address with the
6 board of pharmacy and pay a filing fee in an amount established
7 by the board.

8 344.010. As used in this chapter the following words or
9 phrases mean:

10 (1) "Board", the Missouri board of nursing home
11 administrators;

12 (2) "Long-term care facility", any residential care
13 facility, assisted living facility, intermediate care facility or
14 skilled nursing facility, as defined in section 198.006, RSMo, or
15 similar facility licensed by states other than Missouri;

16 (3) "Nursing home", any institution or facility defined as
17 an assisted living facility, residential care facility,
18 intermediate care facility, or skilled nursing facility for
19 licensing purposes by section 198.006, RSMo, whether proprietary
20 or nonprofit;

21 (4) "Nursing home administrator", a person who administers,
22 manages, supervises, or is in general administrative charge of a
23 nursing home, whether such individual has an ownership interest
24 in the home, and whether his functions and duties are shared with
25 one or more individuals.

26 344.020. No person shall act or serve in the capacity of a
27 nursing home administrator without first procuring a license from
28 the Missouri board of nursing home administrators as provided in

1 sections 344.010 to 344.108. The board may issue a separate
2 license to administrators of residential care facilities that
3 were licensed as a residential care facility II on or before
4 August 27, 2006, that continue to meet the licensure standards
5 for a residential care facility II in effect on August 27, 2006,
6 and assisted living facilities, as defined in section 198.006,
7 RSMo. Any individual who receives a license to operate a
8 residential care facility or an assisted living facility is not
9 thereby authorized to operate any intermediate care facility or
10 skilled nursing facility as those terms are defined in section
11 198.006, RSMo.

12 383.130. As used in sections 383.130 and 383.133, the
13 following terms shall mean:

14 (1) "Disciplinary action", any final action taken by the
15 board of trustees or similarly empowered officials of a hospital
16 [or], ambulatory surgical center, [or] owner or operator of a
17 temporary nursing staffing agency, home health agency, nursing
18 home or any nursing facility as such term is defined in chapter
19 198, or any entity that employs or contracts with licensed health
20 care professionals to provide healthcare services to individuals
21 to reprimand, discipline or restrict the practice of a health
22 care professional. Only such reprimands, discipline, or
23 restrictions in response to activities which are also grounds for
24 disciplinary actions according to the professional licensing law
25 for that health care professional shall be considered
26 disciplinary actions for the purposes of this definition;

27 (2) "Health care professional", a physician or surgeon
28 licensed under the provisions of chapter 334, RSMo, a dentist

1 licensed under the provisions of chapter 332, RSMo, or a
2 podiatrist licensed under the provisions of chapter 330, RSMo, or
3 a pharmacist licensed under the provisions of chapter 338, RSMo,
4 a psychologist licensed under the provisions of chapter 337,
5 RSMo, or a nurse licensed under the provisions of chapter 335,
6 RSMo, while acting within their scope of practice;

7 (3) "Hospital", a place devoted primarily to the
8 maintenance and operation of facilities for the diagnosis,
9 treatment or care for not less than twenty-four hours in any week
10 of three or more nonrelated individuals suffering from illness,
11 disease, injury, deformity or other abnormal physical conditions;
12 or a place devoted primarily to provide for not less than
13 twenty-four hours in any week medical or nursing care for three
14 or more nonrelated individuals. The term "hospital" does not
15 include convalescent, nursing, shelter or boarding homes as
16 defined in chapter 198, RSMo;

17 (4) "Licensing authority", the appropriate board or
18 authority which is responsible for the licensing or regulation of
19 the health care professional;

20 (5) "Temporary nursing staffing agency", any person, firm,
21 partnership, or corporation doing business within the state that
22 supplies, on a temporary basis, registered nurses, licensed
23 practical nurses to a hospital, nursing home, or other facility
24 requiring the services of those persons.

25 383.133. 1. The chief executive office or similarly
26 empowered official of any hospital, ambulatory surgical center,
27 as such terms are defined in chapter 197, RSMo, [or] temporary
28 nursing staffing agency, nursing home, any nursing facility as

1 such term is defined in chapter 198, or any entity that employs
2 or contracts with licensed health care professionals to provide
3 healthcare services to individuals shall report to the
4 appropriate health care professional licensing authority any
5 disciplinary action against any health care professional or the
6 voluntary resignation of any health care professional against
7 whom any complaints or reports have been made which might have
8 led to disciplinary action.

9 2. All reports required by this section shall be submitted
10 within fifteen days of the final disciplinary action and shall
11 contain, but need not be limited to, the following information:

12 (1) The name, address and telephone number of the person
13 making the report;

14 (2) The name, address and telephone number of the person
15 who is the subject of the report;

16 (3) A description of the facts, including as much detail
17 and information as possible, which gave rise to the issuance of
18 the report, including the dates of occurrence deemed to
19 necessitate the filing of the report;

20 (4) If court action is involved and known to the reporting
21 agent, the identity of the court, including the date of filing
22 and the docket number of the action.

23 3. Upon request, the licensing authority may furnish a
24 report of any disciplinary action received by it under the
25 provisions of this section to any entity required to report under
26 this section. Such licensing authority may also furnish, upon
27 request, a report of disciplinary action taken by the licensing
28 authority to any other administrative or law enforcement agency

1 acting within the scope of its statutory authority.

2 4. There shall be no liability on the part of, and no cause
3 of action of any nature shall arise against any health care
4 professional licensing authority or any entity required to report
5 under this section, or any of their agents or employees for any
6 action taken in good faith and without malice in carrying out the
7 provisions of this section.

8 5. Neither a report required to be filed under subsection 2
9 of this section nor the record of any proceeding shall be used
10 against a health care professional in any other administrative or
11 judicial proceeding.

12 6. Violation of any provision of this section is an
13 infraction.

14 Section 1. An applicant for or holder of a hospital license
15 may define or revise the premises of a hospital campus to include
16 tracts of property which are adjacent but for a common street or
17 highway, as defined in section 300.010 and its accompanying
18 public right-of-way.

19 [214.290. Any cemetery operator who within ninety
20 days from the effective date of sections 214.270 to
21 214.410 elects to operate a cemetery which exists on
22 the effective date of sections 214.270 to 214.410 as an
23 endowed care cemetery or who represents to the public
24 that perpetual, permanent, endowed, continual, eternal
25 care, care of duration or similar care will be
26 furnished cemetery property sold, shall before selling
27 or disposing of any interment space or lots in said
28 cemetery after the date of such election, establish a
29 minimum endowed care and maintenance fund in cash in
30 the amount required by section 214.300 unless an
31 endowed care fund is already in existence to which
32 regular deposits have been made (whether or not the
33 fund then existing shall be in the minimum amount
34 required under section 214.300).]

35 √
