

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

HOUSE BILL NO. 476

101ST GENERAL ASSEMBLY

0923H.01T

2021

AN ACT

To repeal sections 281.015, 281.020, 281.025, 281.030, 281.035, 281.037, 281.038, 281.040, 281.045, 281.050, 281.055, 281.060, 281.063, 281.065, 281.070, 281.075, 281.085, 281.101, 324.009, 324.012, 324.200, 324.206, 327.011, 327.091, 327.101, 327.131, 327.191, 327.241, 327.612, 337.068, 338.010, 338.710, 339.100, and 339.150, RSMo, and to enact in lieu thereof thirty-seven new sections relating to professional registration, with a delayed effective date for certain sections.

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

Section A. Sections 281.015, 281.020, 281.025, 281.030, 281.035, 281.037, 281.038, 281.040, 281.045, 281.050, 281.055, 281.060, 281.063, 281.065, 281.070, 281.075, 281.085, 281.101, 324.009, 324.012, 324.200, 324.206, 327.011, 327.091, 327.101, 327.131, 327.191, 327.241, 327.612, 337.068, 338.010, 338.710, 339.100, and 339.150, RSMo, are repealed and thirty-seven new sections enacted in lieu thereof, to be known as sections 281.015, 281.020, 281.025, 281.030, 281.035, 281.037, 281.038, 281.040, 281.045, 281.048, 281.050, 281.055, 281.060, 281.063, 281.065, 281.070, 281.075, 281.085, 281.101, 324.009, 324.012, 324.087, 324.200, 324.206, 327.011, 327.091, 327.101, 327.131, 327.191, 327.241, 327.612, 337.068, 338.010, 338.710, 338.730, 339.100, and 339.150, to read as follows:

281.015. Sections 281.005 to 281.115 shall be administered by the director of the department of agriculture of the state of Missouri~~], hereafter referred to as the "director"]~~.

281.020. As used in sections 281.010 to 281.115, the following terms mean:

- (1) "Animal", all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish;
- (2) "Applicator, operator or technician":

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

5 (a) **"Certified applicator", includes certified commercial applicator, certified**
6 **noncommercial applicator, certified private applicator, certified provisional private**
7 **applicator, or certified public operator;**

8 (b) "Certified commercial applicator", any individual, whether or not ~~[he]~~ **the individual**
9 is a private applicator with respect to some uses, who is certified by the director as authorized
10 to use, supervise the use of, ~~[or]~~ determine the need for the use of, **or supervise the**
11 **determination of need for** any pesticide, whether classified for restricted use or for general use,
12 while ~~[he]~~ **the individual** is engaged in the business of using pesticides on the lands of another
13 as a direct service to the public in exchange for a fee or compensation;

14 ~~[(b)]~~ (c) "Certified noncommercial applicator", any individual, whether or not ~~[he]~~ **the**
15 **individual** is a private applicator with respect to some uses, who is certified by the director as
16 authorized to use, or to supervise the use of, any pesticide which is classified for restricted use
17 only on lands owned or rented by ~~[him or his]~~ **the individual or the individual's** employer;

18 ~~[(c)]~~ (d) "Certified private applicator", any individual who is certified by the director as
19 authorized to use~~], or to supervise the use of,]~~ any pesticide ~~[which]~~ **that** is classified for
20 restricted use for purposes of producing any agricultural commodity on property owned or rented
21 by ~~[him or his]~~ **the individual or the individual's** employer or on the property of another
22 person, if used without compensation other than trading of personal services between producers
23 of agricultural commodities~~], on the property of another person];~~

24 (e) **"Certified provisional private applicator", any individual who is sixteen or**
25 **seventeen years of age, an immediate family member of a certified private applicator, and**
26 **certified by the director to use any pesticide that is classified for restricted use for purposes**
27 **of producing any agricultural commodity on property owned or rented by the individual's**
28 **immediate family member, so long as the following requirements are met:**

- 29 a. **The restricted use pesticide (RUP) is not a fumigant;**
30 b. **The RUP does not contain sodium cyanide or sodium fluoroacetate;**
31 c. **The individual will not apply any RUP using aerial application equipment;**
32 d. **The individual will not supervise the use of any RUP; and**
33 e. **The individual will not purchase any RUP;**

34 ~~[(d)]~~ (f) "Certified public operator", any individual who is certified by the director as
35 authorized to use, or to supervise the use of, any pesticide classified for restricted use in the
36 performance of ~~[his]~~ **the individual's** duties as an official or employee of any agency of the state
37 of Missouri or any political subdivision thereof, or any other governmental agency;

38 (g) **"Noncertified restricted use pesticide (RUP) applicator", any person who is not**
39 **certified in accordance with sections 281.010 to 281.115 who uses or determines the need**
40 **for the use of restricted use pesticides under the direct supervision of a certified**

41 **commercial applicator or uses restricted use pesticides under the direct supervision of a**
42 **certified noncommercial applicator or certified public operator;**

43 ~~[(e)]~~ **(h)** "Private applicator", any person not holding a certified private applicator's
44 license **or certified provisional private applicator's license** who ~~[shall be required to obtain~~
45 ~~a permit for the use of any restricted use pesticide]~~ **uses general use pesticides or minimum**
46 **risk pesticides** for the purposes of producing any agricultural commodity on property owned or
47 rented by ~~[him or his]~~ **the person or the person's** employer or on the property of another person,
48 if used without compensation other than trading of personal services between producers of
49 agricultural commodities~~]; such permit shall authorize the one-time emergency purchase of a~~
50 ~~restricted use pesticide for the purpose of a one-time emergency use of that pesticide];~~

51 ~~[(f)]~~ **(i)** "Pesticide technician", any individual working under the direct supervision of
52 a commercial applicator certified in categories as specified by regulation, and who having met
53 the competency requirements of ~~[this chapter]~~ **sections 281.010 to 281.115**, is authorized by the
54 director to determine the need for the use of any pesticide as well as to the use of any pesticide;

55 ~~[(g)]~~ **(j)** "Pesticide technician trainee", any individual working in the physical presence
56 and under the direct supervision of a certified commercial applicator to gain the required on-the-
57 job training in preparation for obtaining a pesticide technician's license;

58 (3) "Beneficial insects", those insects ~~[which]~~ **that**, during their life cycle, are effective
59 pollinators of plants, are parasites or predators of pests, or are otherwise beneficial;

60 (4) "Defoliant", any substance or mixture of substances intended for causing the leaves
61 or foliage to drop from a plant, with or without causing abscission;

62 (5) **"Department" or "department of agriculture", the state department of**
63 **agriculture, and when by sections 281.010 to 281.115 the department of agriculture is**
64 **charged to perform a duty, the director of the department of agriculture is authorized to**
65 **perform such duty;**

66 **(6)** "Desiccant", any substance or mixture of substances intended for artificially
67 accelerating the drying of plant tissue;

68 ~~[(6)]~~ **(7)** "Determining the need for the use of any pesticide", the act of inspecting land
69 for the presence of pests for the purpose of contracting for their control or prevention through
70 the use of pesticides in categories as specified by regulation;

71 ~~[(7)]~~ **(8)** "Device", any instrument or contrivance, other than a firearm, ~~[which]~~ **that** is
72 intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or
73 animal life, other than man and other than bacteria, viruses, or other microorganisms on or in
74 living man or other living animals, but not including equipment used for the application of
75 pesticides when sold separately therefrom;

76 **(9) "Director", the director of the department of agriculture or the director's**
77 **designee;**

78 **(10) "Distribute", to sell, offer for sale, hold for sale, deliver for transportation in**
79 **intrastate commerce, or transport in intrastate commerce;**

80 ~~[(8)]~~ **(11) "Environment", includes water, air, land, and all plants and man and other**
81 **animals living therein, and the interrelationships ~~[which]~~ that exist among these;**

82 ~~[(9)]~~ **(12) "Equipment" ~~[means]~~, any type of ground, water or aerial equipment or**
83 **contrivance using motorized, mechanical or pressurized power and used to apply any pesticide**
84 **on land and anything that may be growing, habitating or stored on or in such land, but shall not**
85 **include any pressurized hand-sized household apparatus used to apply any pesticide, or any**
86 **equipment or contrivance of which the person who is applying the pesticide is the source of**
87 **power or energy in making such pesticide application;**

88 ~~[(10)]~~ **(13) "Fungus", any nonchlorophyll-bearing thallophyte, ~~[that]~~ which is~~;~~ any**
89 **nonchlorophyll-bearing plant of a lower order than mosses and liverworts, ~~such as~~~~[, for~~**
90 **~~example,~~ rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other**
91 **living animals, and except those on or in processed food, beverages, or pharmaceuticals;**

92 **(14) "General use pesticide", any pesticide, when applied in accordance with its**
93 **directions for use, warnings, and cautions, and for the uses for which it is registered, or for**
94 **one or more of such uses, or in accordance with a widespread and commonly recognized**
95 **practice, that will not generally cause unreasonable adverse effects on the environment;**

96 **(15) "Immediate family", familial relationships limited to the spouse, parents,**
97 **stepparents, foster parents, father-in-law, mother-in-law, children, stepchildren, foster**
98 **children, sons-in-law, daughters-in-law, grandparents, brothers, sisters, brothers-in-law,**
99 **sisters-in-law, aunts, uncles, nieces, nephews, and first cousins. "First cousin" means the**
100 **child of a parent's sibling, i.e., the child of an aunt or uncle;**

101 ~~[(11)]~~ **(16) "Individual", any responsible, natural human being;**

102 ~~[(12)]~~ **(17) "Insect", any of the numerous small invertebrate animals generally having the**
103 **body more or less obviously segmented, for the most part belonging to the class Insecta,**
104 **comprising six-legged, usually winged forms, ~~such as~~~~[, for example,~~ beetles, bugs, bees, flies,**
105 **and to other allied classes of arthropods whose members are wingless and usually have more**
106 **than six legs, ~~such as~~~~[, for example,~~ spiders, mites, ticks, centipedes, and wood lice;**

107 ~~[(13)]~~ **(18) "Land", all land and water areas, including airspace, and all plants, animals,**
108 **structures, buildings, contrivances and machinery, appurtenant thereto or situated thereon, fixed**
109 **or mobile, including any used for transportation;**

110 **(19) "Minimum risk pesticide", any pesticide product exempted under 40 CFR**
111 **Section 152.25(f) from registration requirements under the Federal Insecticide, Fungicide,**
112 **and Rodenticide Act (FIFRA), as amended;**

113 ~~[(14)]~~ **(20)** "Misuse of a pesticide", a use of any ~~[registered]~~ pesticide in a manner
114 inconsistent with its labeling; provided, that the use of a lesser concentration than provided on
115 the label shall not be considered the misuse of a pesticide when used strictly for agricultural
116 purposes, and when requested in writing by the person on whose behalf a pesticide is used;

117 ~~[(15)]~~ **(21)** "Nematode", invertebrate animals of the phylum Nematelminthes and class
118 Nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies
119 covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas
120 or eelworms;

121 **(22) "Nontarget organism", any plant, animal, or organism other than the target**
122 **pests that a pesticide is intended to affect;**

123 ~~[(16)]~~ **(23)** "Person", any individual, partnership, association, fiduciary, corporation, or
124 any organized group of persons whether incorporated or not;

125 ~~[(17)]~~ **(24)** "Pest":

126 (a) Any insect, snail, slug, rodent, nematode, fungus, weed; or

127 (b) Any other form of terrestrial or aquatic plant or animal life or virus, bacterium, or
128 other microorganism, except viruses, bacteria, or other microorganisms on or in living man or
129 other living animals, ~~[which]~~ **that** is normally considered to be a pest;

130 ~~[(18)]~~ **(25)** "Pesticide":

131 (a) Any substance or mixture of substances intended for preventing, destroying,
132 repelling, or mitigating any pest; or

133 (b) Any substance or mixture of substances intended for use as a plant regulator,
134 defoliant, or desiccant;

135 ~~[(19)]~~ **(26)** "Pesticide dealer", any individual who is engaged in the business of
136 distributing, selling, offering for sale, or holding for sale at retail, or direct wholesale to the end
137 user, any pesticide classified for restricted use;

138 **(27) "Pesticide dealership", any location or outlet where restricted use pesticides**
139 **are held for sale, distributed, or sold;**

140 ~~[(20)]~~ **(28)** "Plant regulator", any substance or mixture of substances, intended, through
141 physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for
142 otherwise altering the behavior of plants or the produce thereof, but shall not include substances
143 to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant
144 inoculants, or soil amendments. The term "plant regulator" does not include any of those
145 nutrient mixtures or soil amendments ~~[which]~~ **that** are commonly known as vitamin-hormone

146 horticultural products, intended for improvement, maintenance, survival, health and propagation
 147 of plants, and ~~[which]~~ **that** are not for pest destruction and are nontoxic, nonpoisonous in the
 148 undiluted package concentration;

149 ~~[(21)] "Private applicator permit", a written certificate, issued by the director or his~~
 150 ~~authorized agent, authorizing the purchase, possession or use of certain restricted use pesticides~~
 151 ~~by a private applicator. Such permit shall authorize the one-time emergency purchase of a~~
 152 ~~restricted use pesticide for the purpose of a one-time emergency use of such pesticide;~~

153 ~~———(22)]~~ **(29)** "Restricted use pesticide", any pesticide when applied in accordance with its
 154 directions for use, warnings and cautions and for the uses for which it is registered, or for one
 155 or more of such uses, or in accordance with a widespread and commonly recognized practice,
 156 the director determines may cause, without additional regulatory restrictions, unreasonable
 157 adverse effects on the environment, including injury to the applicator;

158 ~~[(23)]~~ **(30)** "Sale", selling or offering for sale any pesticide;

159 ~~[(24)]~~ **(31)** "Snails" or "slugs" includes all harmful mollusks;

160 ~~[(25)]~~ **(32)** "Unreasonable adverse effects on the environment", any unreasonable risk
 161 to man or the environment, taking into account the economic, social, and environmental costs
 162 and benefits of the use of any pesticide;

163 ~~[(26)]~~ **(33)** "Under the direct supervision of a certified applicator", when a pesticide is
 164 used by a competent person acting under the instructions and control of a certified applicator
 165 who is available if and when needed, even though such certified applicator is not physically
 166 present at the time and place the pesticide is used;

167 ~~[(27)]~~ **(34)** "Use", mixing, **loading, or** applying ~~[, storing or disposing of a]~~ **any**
 168 **pesticide; cleaning pesticide equipment; or storing or disposing of pesticide containers,**
 169 **pesticides, spray mix, equipment wash waters, and other pesticide-containing materials;**

170 ~~[(28)]~~ **(35)** "Weed", any plant ~~[which]~~ **that** grows where not wanted; ~~and~~

171 ~~———(29)]~~ **(36)** "Wildlife", all living things that are neither human, domesticated, or pests,
 172 including, but not limited to, mammals, protected birds, and aquatic life.

281.025. 1. The director shall administer and enforce the provisions of sections 281.010
 2 to 281.115 and shall have authority to issue regulations after a public hearing following due
 3 notice of not less than thirty days to all interested persons, in conformance with the provisions
 4 of chapter 536, to carry out the provisions of sections 281.010 to 281.115. Where the director
 5 finds that such regulations are needed to carry out the purpose and intent of sections 281.010 to
 6 281.115, such regulations may relate to, but need not be limited to, prescribing the time, place,
 7 manner, methods, materials, and amounts and concentrations, in connection with the use of the
 8 pesticide, and may restrict or prohibit use of pesticides in designated areas during specified
 9 periods of time and shall encompass all reasonable factors ~~[which]~~ **that** the director deems

10 necessary to prevent damage or injury. In issuing such regulations, the director may give
11 consideration to pertinent research findings and recommendations of other agencies of this state,
12 the federal government, or other reliable sources. The director may by regulation require that
13 notice of a proposed application of a pesticide be given to landowners adjoining the property to
14 be treated or in the immediate vicinity thereof, if ~~[he]~~ **the director** finds that such notice is
15 necessary to carry out the purpose of sections 281.010 to 281.115. ~~[The director may, by~~
16 ~~regulation, provide for the one-time emergency purchase and one-time emergency use of a~~
17 ~~restricted use pesticide by a private applicator.]~~

18 2. The pesticides on the list of restricted use pesticides, as determined by the federal
19 agency having jurisdiction over the classification of pesticides, shall be so restricted in the state
20 of Missouri. The director shall publish, at least annually, a list of pesticides ~~[which]~~ **that** have
21 restricted uses. Such publication shall be made available to the public upon request. If the
22 director determines that a pesticide, when used in accordance with its directions for use,
23 warnings and cautions, and for uses for which it is registered, may cause, without additional
24 regulatory restrictions, unreasonable adverse effects on the environment, including injury to the
25 applicator or other persons, the pesticide shall be used only by or under the direct supervision
26 of a certified applicator~~], or a private applicator with a permit].~~ Such pesticides may be subject
27 to other restrictions as determined by the director, to include the time and conditions of
28 possession and use.

29 3. No regulation, or any amendment or repeal thereof, provided for in sections 281.010
30 to 281.115 shall be adopted, except after public hearing giving an opportunity to the public to
31 be heard, to be held after no less than thirty days' prior notice of the date, time, and place of
32 hearing, to be given by regular mail to any person who has registered with the director for
33 purposes of notice of such public hearings, in accordance with procedures prescribed by the
34 director.

35 4. At any hearing, opportunity to be heard shall be afforded to any interested person
36 upon written request received not later than twenty-four hours prior to the hearing, and may also
37 be afforded to other persons. In addition, any interested person, whether or not heard, may
38 submit within seven days subsequent to the hearing a written statement of views. The director
39 may solicit the views in writing of persons who may be affected by, or interested in any proposed
40 regulation. Any person heard or represented at the hearing, or making written request for notice,
41 shall be given written notice of the action of the director with respect to the subject thereof.

42 5. No rule or portion of a rule promulgated under the authority of this chapter shall
43 become effective unless it has been promulgated pursuant to the provisions of section 536.024.

281.030. 1. The director may, by regulation, classify ~~[certified applicator, operator or~~
2 ~~technician]~~ licenses to be issued under sections 281.010 to 281.115. Such classifications may

3 include but not be limited to commercial applicators, noncommercial applicators, private
4 applicators, **provisional private applicators**, public operators [~~or~~], pesticide technicians, **or**
5 **noncertified RUP applicators**. Separate classifications may be specified as to ground, aerial,
6 or manual methods used by any licensee to apply pesticides or to the use of pesticides for the
7 control of pests.

8 2. The director may, by regulation, establish certification categories to be provided
9 under each license classification. Each certification category shall be subject to separate testing
10 procedures and requirements; provided, that no individual shall be required to pay an additional
11 fee if [~~he~~] **the individual** is certified in one or all of the certification categories provided under
12 the license for which [~~he~~] **the individual** has applied. The director may, by regulation, establish
13 certification categories limited to the use of certain pesticides and issue a license therefor. Each
14 certification category shall be subject to separate testing procedures covering only those
15 pesticides for which the applicant seeks to be licensed.

16 3. The director may by regulation establish fees for identification documents.

281.035. 1. No individual shall engage in the business of determining the need for the
2 use of, supervising the use of, **supervising the determination of the need for the use of**, or
3 using any pesticide, in categories as specified by regulation, on the lands of another at any time
4 without a certified commercial applicator's license issued by the director. A certified commercial
5 applicator shall not determine the need for the use of, supervise the use of, **supervise the**
6 **determination of the need for the use of**, or use any pesticide for any particular purpose unless
7 [~~he or she~~] **the certified commercial applicator** has demonstrated [~~his or her~~] **such certified**
8 **commercial applicator's** competence to use pesticides for that purpose by being certified by the
9 director in the proper certification category. The director shall require an annual fee of sixty-five
10 dollars for each certified commercial applicator's license issued. No certified commercial
11 applicator shall knowingly authorize, direct, or instruct any individual to engage in determining
12 the need for the use of or using any **general use pesticide or minimum risk pesticide** on the
13 land of another at any time unless such individual is a pesticide technician or pesticide technician
14 trainee in such categories as specified by regulation or is working under the direct supervision
15 of a certified commercial applicator so authorizing, directing or instructing, in which case the
16 certified commercial applicator shall be liable for any use of a **general use pesticide or**
17 **minimum risk pesticide** by an individual operating under [~~his or her~~] **the certified commercial**
18 **applicator's** direct supervision. The certified commercial applicator or the employer shall assure
19 that the director is informed in writing within ten [~~working~~] days of the employment of any
20 person as a pesticide technician or pesticide technician trainee.

21 2. **No certified commercial applicator shall knowingly authorize, direct, or instruct**
22 **any individual to engage in determining the need for the use of or using any restricted use**

23 **pesticide on the land of another at any time unless such individual is licensed as a**
24 **noncertified RUP applicator while working under the direct supervision of a certified**
25 **commercial applicator so authorizing, directing, or instructing, in which case the certified**
26 **commercial applicator shall be liable for any use of a restricted use pesticide by an**
27 **individual operating under the certified commercial applicator's direct supervision.**

28 3. Application for a certified commercial applicator's license shall be ~~made in writing~~
29 **submitted** to the director on a designated form obtained from the ~~director's office~~ **department**.
30 Each application shall include such information as prescribed by the director by regulation.

31 ~~3-~~ 4. The director shall not issue a certified commercial applicator's license until the
32 applicant is certified by passing an examination provided by the director to demonstrate to the
33 director ~~his or her~~ **the applicant's** competence and knowledge of the proper use of pesticides
34 under the classifications ~~he or she~~ **the applicant** had applied for, and ~~his or her~~ **the**
35 **applicant's** knowledge of the standards prescribed by regulations for the certification of
36 commercial applicators.

37 ~~4-~~ 5. The director may renew any certified commercial applicator's license under the
38 classification for which such applicant is licensed, ~~subject to~~ **upon successful completion of**
39 **approved recertification training or** reexamination for additional knowledge that may be
40 required to use pesticides safely and properly either manually or with equipment the applicant
41 has been licensed to operate.

42 ~~5-~~ 6. If the director finds the applicant qualified to use pesticides in the classification
43 for which application has been made, and if the applicant files evidence that the requirement for
44 bonds or insurance has been met as required under section 281.065, the director shall issue a
45 certified commercial applicator's license limited to the classifications for which ~~he or she~~ **the**
46 **applicant** is qualified, which shall expire one year from date of issuance unless ~~it~~ **the license**
47 has been revoked or suspended prior thereto by the director for cause; provided, such financial
48 responsibility required under section 281.065 does not expire at an earlier date, in which case
49 ~~said~~ **the** license shall expire upon the expiration date of the financial responsibility. The
50 director may limit the license of the applicant to the use of certain ~~restricted use~~ pesticides, or
51 to certain areas, or to certain types of equipment if the applicant is only so qualified. If a license
52 is not issued as applied for, the director shall inform the applicant in writing of the reasons
53 therefor.

54 ~~6-~~ 7. The director shall require each certified commercial applicator or ~~his or her~~ **the**
55 **certified commercial applicator's** employer to maintain records with respect to applications of
56 any pesticide, **including pesticides used under direct supervision by licensed pesticide**
57 **technicians, pesticide technician trainees, and licensed noncertified RUP applicators**. Such
58 relevant information as the director may deem necessary may be specified by regulation. Such

59 records shall be kept for a period of three years from the date of the application of the pesticide
60 to which such records refer, and the director shall, upon request in writing, be furnished with a
61 copy of such records by any certified commercial applicator or ~~[his or her]~~ **the certified**
62 **commercial applicator's** employer.

63 ~~[7-]~~ **8.** A person or individual engaged in the business of using pesticides on the lands
64 of another, who is deprived of ~~[his or her]~~ **such person's or individual's** sole certified
65 commercial applicator by reason of death, illness, incapacity or any absence which the director
66 determines is unavoidable, is authorized to continue business operations without the services of
67 a certified commercial applicator for a period of time deemed appropriate by the director, but not
68 to exceed sixty days; except that, no restricted-use pesticide shall be used, or caused to be used,
69 by such person or individual. Any such person or individual shall immediately notify the director
70 as to the absence of ~~[his or her]~~ **such person's or individual's** sole certified commercial
71 applicator.

72 ~~[8-]~~ **9.** Every certified commercial applicator shall display ~~[his or her]~~ **the certified**
73 **commercial applicator's** license in a prominent place at the site, location or office from which
74 ~~[he or she]~~ **the certified commercial applicator** will operate as a certified commercial
75 applicator; that place, location or office being at the address printed on the license.

76 ~~[9-]~~ **10.** Every certified commercial applicator who changes the address from which ~~[he~~
77 ~~or she]~~ **the certified commercial applicator** will operate as a certified commercial applicator
78 shall immediately notify the director. The director shall immediately issue a revised license upon
79 which shall be printed the changed address. The director shall not collect a fee for the issuance
80 of a revised license. The expiration date of the revised license shall be the same as the expiration
81 date for the original license.

281.037. 1. Any individual who is not certified pursuant to section 281.035, 281.040
2 or 281.045, ~~[or has not been issued a private applicator permit pursuant to subsection 5 of section~~
3 ~~281.040]~~ shall not use, or supervise the use of, any ~~[restricted-use]~~ **restricted use** pesticide
4 without a certified noncommercial applicator license. A certified noncommercial applicator shall
5 not use, or supervise the use of, any restricted use pesticide for any purpose unless ~~[he or she]~~
6 **the certified noncommercial applicator** has demonstrated ~~[his or her]~~ **the certified**
7 **noncommercial applicator's** competence to use pesticides for that purpose by being certified
8 by the director in the proper certification category.

9 **2.** **No certified noncommercial applicator shall knowingly authorize, direct, or**
10 **instruct any individual to engage in using any restricted use pesticide on lands or**
11 **structures owned, leased, or rented by the certified noncommercial applicator or the**
12 **certified noncommercial applicator's employer unless such individual is licensed as a**
13 **noncertified RUP applicator while working under the direct supervision of a certified**

14 **noncommercial applicator so authorizing, directing, or instructing, in which case the**
15 **certified noncommercial applicator shall be liable for any use of a restricted use pesticide**
16 **by an individual operating under the certified noncommercial applicator's direct**
17 **supervision.**

18 **3.** Application for a certified noncommercial applicator license shall be ~~made in writing~~
19 **submitted** to the director on a designated form obtained from the ~~director's office~~ **department.**
20 Each application shall include such information as prescribed by the director by regulation.

21 ~~[3-]~~ **4.** The director shall not issue a certified noncommercial applicator license until the
22 applicant is certified by passing an examination provided by the director to demonstrate to the
23 director ~~his or her~~ **the applicant's** competence and knowledge of the proper use of pesticides
24 under the classifications for which ~~he or she~~ **the applicant** has applied, and ~~his or her~~ **the**
25 **applicant's** knowledge of the standards prescribed by regulations for the certification of
26 noncommercial applicators.

27 ~~[4-]~~ **5.** If the director finds the applicant qualified to use restricted use pesticides in the
28 classification for which ~~he or she~~ **the applicant** has applied, the director shall issue a certified
29 noncommercial applicator license limited to the applicator categories in which ~~he or she~~ **the**
30 **applicant** is certified. The license shall expire one year from the date of issuance unless ~~it~~ **the**
31 **license** has been revoked or suspended prior thereto by the director for cause. The director may
32 limit the license of the applicant to the use of certain restricted use pesticides, or to certain areas,
33 or to certain types of equipment if the applicant is only so qualified. If a license is not issued as
34 applied for, the director shall inform the applicant in writing of the reasons therefor.

35 ~~[5-]~~ **6.** The director may renew any certified noncommercial applicator license under the
36 classification for which the license is issued ~~subject to~~ **upon successful completion of**
37 **approved recertification training or** reexamination for additional knowledge ~~which~~ **that** may
38 be required to apply pesticides safely and properly.

39 ~~[6-]~~ **7.** The director shall collect a fee of thirty-five dollars for each certified
40 noncommercial applicator license issued.

41 ~~[7-]~~ **8.** Any certified noncommercial applicator may use, or supervise the use of,
42 restricted use pesticides only to or on lands or structures owned, leased or rented by ~~himself or~~
43 ~~herself or his or her~~ **the certified noncommercial applicator or the certified noncommercial**
44 **applicator's** employer.

45 ~~[8-]~~ **9.** The director shall require the certified noncommercial applicator or ~~his or her~~
46 **the certified noncommercial applicator's** employer to maintain records with respect to
47 applications of restricted use pesticides. Any relevant information ~~which~~ **that** the director may
48 deem necessary may be required by regulation. Such records shall be kept for a period of three
49 years from the date of the application of the pesticide to which such records refer, and the

50 director shall, upon request in writing, be furnished with a copy of such records by any certified
51 noncommercial applicator or ~~[his or her]~~ **the certified noncommercial applicator's** employer.

52 ~~[9.]~~ **10.** Every certified noncommercial applicator shall display ~~[his or her]~~ **the certified**
53 **noncommercial applicator's** license in a prominent place at the site, location or office from
54 which ~~[he or she]~~ **the certified noncommercial applicator** will operate as a certified
55 noncommercial applicator; that place, location or office being at the address printed on the
56 license.

57 ~~[10.]~~ **11.** Every certified noncommercial applicator who changes the address from which
58 ~~[he or she]~~ **the certified noncommercial applicator** will operate as a certified noncommercial
59 applicator shall immediately notify the director. The director shall immediately issue a revised
60 license upon which shall be printed the changed address. The director shall not collect a fee for
61 the issuance of a revised license. The expiration date of the revised license shall be the same as
62 the expiration date for the original license.

281.038. 1. ~~[After July 1, 1990,]~~ No individual working under the direct supervision of
2 a certified commercial applicator shall determine the need for the use of **or use any general use**
3 pesticide ~~[nor use any]~~ **or minimum risk** pesticide in categories as specified by regulation,
4 unless and until the individual has met the requirements of ~~[this chapter]~~ **sections 281.010 to**
5 **281.115.**

6 2. Application for a pesticide technician's license shall be ~~[made in writing]~~ **submitted**
7 to the director on a designated form obtained from the ~~[director's office]~~ **department.** Each
8 application shall include such information as prescribed by the director by regulation and shall
9 be received by the director within forty-five days of employment of the pesticide technician or
10 pesticide technician trainee.

11 3. The director shall not issue a pesticide technician's license until the individual has
12 demonstrated ~~[his or her]~~ **the applicant's** competence by completion of an approved training
13 program to the satisfaction of the director.

14 4. The director may renew any pesticide technician's license under the classification for
15 which that applicant is licensed subject to completion of an additional approved training program
16 to the satisfaction of the director as prescribed by regulation.

17 5. The director shall collect a fee of thirty-five dollars for each pesticide technician
18 license issued.

19 6. If the director finds the applicant qualified to use pesticides in the classification for
20 which application has been made, the director shall issue a pesticide technician's license limited
21 to the classifications for which ~~[he or she]~~ **the applicant** is qualified, which shall expire one year
22 from date of issuance unless ~~[it]~~ **the license** has been revoked or suspended prior thereto by the
23 director for cause. The director may limit the license of the applicant to the use of certain

24 pesticides, or to certain areas, or to certain types of equipment if the applicant is only so
25 qualified. If a license is not issued as applied for, the director shall inform the applicant in
26 writing of the reasons for such denial of license.

27 **7. In order for pesticide technicians to use or determine the need for the use of any**
28 **general use pesticide:**

29 **(1) A certified commercial applicator must be licensed to work from the same**
30 **physical location as the pesticide technician; and**

31 **(2) The licensed certified commercial applicator must be certified in the same use**
32 **categories as the pesticide technician as specified by regulation.**

33 **8. A pesticide technician may complete retraining requirements and renew the**
34 **technician's license without a certified commercial applicator working from the same**
35 **physical location.**

281.040. 1. No private applicator shall use any restricted-use pesticide unless ~~[he]~~ **the**
2 **private applicator** first complies with the requirements determined pursuant to subsection ~~[2~~
3 ~~or 5]~~ **3** of this section, as necessary to prevent unreasonable adverse effects on the environment,
4 including injury to the applicator or other persons, for that specific pesticide use.

5 **2. No certified private applicator shall knowingly authorize, direct, or instruct any**
6 **individual to engage in using any restricted use pesticide on lands or structures owned,**
7 **leased, or rented by the certified private applicator or the certified applicator's employer**
8 **unless such individual is licensed as a certified private applicator or a certified provisional**
9 **private applicator.**

10 **3. The private applicator shall qualify for a certified private applicator's license or**
11 **certified provisional private applicator's license** by ~~[either]~~ attending ~~[a course or completing~~
12 ~~an online course of instruction]~~ **an approved certification training program provided by**
13 **University of Missouri extension, completing an online certification training program**
14 **provided by University of Missouri extension, or by passing the required private applicator**
15 **certification examination** provided by the director on the use, handling, storage and application
16 of ~~[restricted-use]~~ **restricted use pesticides in the proper certification categories as specified**
17 **by regulation.** The content of the instruction shall be determined and revised as necessary by
18 the director. Upon completion of the ~~[course]~~ **certification training program, completion of**
19 **the online certification training program, or passage of the required private applicator**
20 **certification examination,** the director shall issue a certified private applicator's license **or**
21 **certified provisional private applicator's license** to the applicant. The director shall not collect
22 a fee for the issuance of such license~~[-but the].~~ University of Missouri extension ~~[service may]~~
23 **shall collect [a fee for the actual cost of the materials necessary to complete the course of**
24 **instruction] reasonable fees for study materials and for enrollment in certification or**

25 **recertification programs administered in-person or online.** [~~However, no fee~~] Such fees
26 shall be assessed [~~or collected from an individual completing an online course of instruction~~]
27 **based on the majority decision of a review committee convened every five years or as**
28 **needed by the director. Such fees shall not exceed seventy-five dollars per program per**
29 **applicant unless the members of the review committee representing statewide agricultural**
30 **organizations vote unanimously in favor of setting the fee in an amount in excess of**
31 **seventy-five dollars.** [~~Both the director of the department and of the University of Missouri~~
32 ~~extension service shall review such costs annually.~~] Such committee shall be provided
33 revenue and expense information for the training program from University of Missouri
34 extension and information on the content of the instruction and method of delivery from
35 the director. The review committee shall also determine a maximum in-seat training time
36 for the training programs. The committee shall report its minutes, fee decisions, time
37 limitation decisions, and its evaluation of the training provided to the chairs of the house
38 of representatives and senate agriculture or equivalent committees. The committee shall
39 be composed of five members including:

- 40 (1) The director;
- 41 (2) The director of University of Missouri extension or his or her designee;
- 42 (3) The president of a statewide corn producers organization who actively grows
43 corn or his or her designee;
- 44 (4) The president of a statewide soybean producers organization who actively grows
45 soybeans or his or her designee; and
- 46 (5) The president of the state's largest general farm membership organization or
47 his or her designee.

48 ~~[3-] 4.~~ A certified private applicator's license shall expire five years from date of issuance
49 and may then be renewed without charge or additional fee. Any certified private applicator
50 holding a valid license may renew that license for the next five years [~~without additional training~~
51 ~~unless the director determines that additional knowledge related to the use of agricultural~~
52 ~~pesticides makes additional training necessary]~~ **upon successful completion of approved**
53 **recertification training or by passing the required private applicator certification**
54 **examination.**

55 **5.** On the date of the certified provisional private applicator's eighteenth birthday,
56 his or her license will automatically be converted to a certified private applicator license
57 reflecting the original expiration date from issuance. A certified provisional private
58 applicator's license shall expire five years from date of issuance and may then be renewed
59 as a certified private applicator's license without charge or additional fee.

60 [4.] 6. If the director does not qualify the private applicator under this section [~~he~~] **the**
61 **director** shall inform the applicant in writing of the reasons therefor.

62 [~~5. The private applicator may apply to the director, or his designated agent, for a private~~
63 ~~applicator permit for the one-time emergency purchase and use of restricted use pesticides.~~
64 ~~When the private applicator has demonstrated his competence in the use of the pesticides to be~~
65 ~~purchased and used on a one-time emergency basis, he shall be issued a permit for the one-time~~
66 ~~emergency purchase and use of restricted use pesticides. The director or his designated agent~~
67 ~~shall not collect a fee for the issuance of such permit.]~~

281.045. 1. All agencies of the state of Missouri and the political subdivisions thereof,
2 and any other governmental agency shall be subject to the provisions of sections 281.010 to
3 281.115 and rules adopted thereunder concerning the use of restricted use pesticides.

4 2. Public operators for agencies listed in subsection 1 of this section shall not use, or
5 supervise the use of, any restricted use pesticides on any land or structure without a certified
6 public operator license issued by the director. The certified public operator shall not use or
7 supervise the use of any restricted use pesticide for any purpose unless [~~he~~] **the certified public**
8 **operator** has demonstrated [~~his~~] **the certified public operator's** competence to use pesticides
9 for that purpose by being certified by the director in the proper certification category. [~~Any~~
10 ~~employee of any agency listed in subsection 1 of this section who is not licensed as a certified~~
11 ~~public operator may use restricted use pesticides only under the direct supervision of a certified~~
12 ~~public operator.]~~

13 3. **No certified public operator shall knowingly authorize, direct, or instruct any**
14 **individual to engage in using any restricted use pesticide on lands or structures unless such**
15 **individual is licensed as a noncertified RUP applicator while working under the direct**
16 **supervision of a certified public operator so authorizing, directing, or instructing, in which**
17 **case the certified public operator shall be liable for any use of a restricted use pesticide by**
18 **an individual operating under the certified public operator's direct supervision.**

19 4. Application for a certified public operator license shall be [~~made in writing~~]
20 **submitted** to the director on a designated form obtained from the [~~director's office~~] **department**.
21 Each application shall include all information prescribed by the director by regulation.

22 [4.] 5. The director shall not issue a certified public operator license until the applicant
23 is certified by passing an examination provided by the director to demonstrate to the director
24 [~~his~~] **the applicant's** competence and knowledge of the proper use of pesticides under the
25 classifications for which [~~he~~] **the applicant** has applied, and [~~his~~] **the applicant's** knowledge
26 of the standards prescribed by regulations for the certification of public operators.

27 [~~5.~~] 6. If the director finds the applicant qualified to use pesticides in the classification
28 for which [~~he~~] **the applicant** has applied, the director shall issue a license, without a fee, to the

29 certified public operator who has so qualified. The certified public operator license shall be valid
30 only when the operator is acting as an operator using, or supervising the use of, restricted use
31 pesticides in the course of ~~[his]~~ **the operator's** employment. A certified public operator license
32 shall expire three years from the date of issuance unless ~~[it]~~ **the license** has been revoked or
33 suspended prior thereto by the director for cause. The director may limit the license of the
34 applicant to the use of certain restricted use pesticides, or to certain areas, or to certain types of
35 equipment if the applicant is only so qualified. If a license is not issued as applied for, the
36 director shall inform the applicant in writing of the reasons therefor.

37 ~~[6-]~~ 7. The director may renew any certified public operator license under the
38 classification for which that applicant is licensed, ~~[subject to]~~ **upon successful completion of**
39 **approved recertification training or** reexamination for additional knowledge which may be
40 required to use pesticides safely and properly either manually or with equipment the applicant
41 has been licensed to operate.

42 ~~[7-]~~ 8. The director shall require the certified public operator, or ~~[his]~~ **the certified**
43 **public operator's** employer, to maintain records with respect to applications of restricted use
44 pesticides. Any relevant information which the director may deem necessary may be required
45 by regulation. Such records shall be kept for a period of three years from the date of the
46 application of the pesticide to which such records refer, and the director shall, upon request in
47 writing, be furnished with a copy of such records by any certified public operator or ~~[his]~~ **the**
48 **certified public operator's** employer.

49 ~~[8-]~~ 9. Agencies listed in subsection 1 of this section shall be subject to a legal action by
50 any person damaged by any use of any pesticide, which may be brought in the county where the
51 damage or any part thereof occurred.

52 ~~[9-]~~ 10. Every certified public operator shall display ~~[his]~~ **the certified public operator's**
53 license in a prominent place at the site, location or office from which ~~[he]~~ **the certified public**
54 **operator** will operate as a certified public operator, that place, location or office being at the
55 address printed on the license.

56 ~~[10-]~~ 11. Every certified public operator who changes the address from which ~~[he]~~ **the**
57 **certified public operator** will operate as a certified public operator shall immediately notify the
58 director. The director shall immediately issue a revised license upon which shall be printed the
59 changed address. The director shall not collect a fee for the issuance of a revised license. The
60 expiration date of the revised license shall be the same as the expiration date for the original
61 license.

62 **12. Any person who volunteers to work for a public agency may use general use**
63 **pesticides without a license under the supervision of the public agency on lands owned or**
64 **managed by the state agency, political subdivision, or governmental agency.**

281.048. 1. No individual shall use or determine the need for the use of any restricted use pesticide while working under the direct supervision of a certified commercial applicator until the individual has met the requirements of this section.

2. No individual shall use restricted use pesticides while working under the direct supervision of a certified noncommercial applicator or certified public operator until the individual has met the requirements of this section.

3. Application for a noncertified RUP applicator's license shall be submitted to the director on a designated form obtained from the department. Each application shall include such information as prescribed by the director by regulation.

4. The director shall issue or renew a noncertified RUP applicator license once an individual has met the requirements set forth in 40 CFR section 171.201(c)(1) or (3). The director shall collect an annual fee of thirty-five dollars for each noncertified RUP applicator license issued. The license shall be valid for one year unless revoked or suspended by the department prior to its expiration. Any individual whose application is denied shall receive a written explanation as to the determination of the denial.

5. Individuals holding a valid noncertified RUP applicator license may use and determine the need for the use of restricted use pesticides, general use pesticides, and minimum risk pesticides under the direct supervision of a certified commercial applicator and only for the categories in which the commercial applicator is certified. The director may limit the license of the applicant to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified.

6. Every certified commercial applicator, certified noncommercial applicator, or certified public operator providing direct supervision to a licensed noncertified RUP applicator shall immediately notify the director when the licensed noncertified RUP applicator has changed address from which the applicator or operator will operate as a licensed noncertified RUP applicator or when the noncertified RUP applicator's employment has been terminated. The director shall immediately issue a revised license upon which shall be printed the change of address. The director shall not collect a fee for the issuance of a revised license. The expiration date of the revised license shall be the same as the expiration date for the original license.

7. A noncertified RUP applicator may complete retraining requirements and renew the applicator's license without a certified commercial applicator, certified noncommercial applicator, or certified public operator working from the same physical location.

8. Every licensed noncertified RUP applicator shall display the applicator's license in a prominent place at the site, location, or office from which the applicator will operate

36 **as a noncertified RUP applicator that place, location, or office being at the address printed**
37 **on the license.**

281.050. 1. No individual shall act in the capacity of a pesticide dealer or shall engage
2 in the business of, advertise as, or assume to act as a pesticide dealer unless ~~[he or she]~~ **the**
3 **individual** has obtained a license from the director ~~[which]~~ **that** shall expire one year from date
4 of issuance. ~~[An individual shall be required to obtain a license for]~~ Each **pesticide dealership**
5 location or outlet from which ~~[such]~~ **restricted use** pesticides are distributed, sold, held for sale,
6 or offered for sale at retail or wholesale direct to the end user~~]. Pesticide dealers may be~~
7 ~~designated by the director as agents of the state for the purpose of issuing permits for restricted~~
8 ~~use pesticides to private applicators]~~ **shall have at least one individual licensed as a pesticide**
9 **dealer. Any individual possessing restricted use pesticides and selling or holding and**
10 **offering for sale restricted use pesticides at retail or wholesale from a motor vehicle shall**
11 **be licensed as a pesticide dealer. For the purposes of this subsection, "selling or holding**
12 **and offering for sale" shall not include solely transporting product in commerce. No**
13 **individual shall be issued more than one pesticide dealer license.**

2. Application for a pesticide dealer's license shall be made on a designated form
15 obtained from the ~~[director's office]~~ **department**. The director shall collect a fee of thirty-five
16 dollars for the issuance of each license. The provisions of this section shall not apply to a
17 pesticide applicator who sells pesticides only as an integral part of ~~[his or her]~~ **the applicator's**
18 pesticide application service when such pesticides are dispensed only through apparatuses used
19 for such pesticide applications. The provisions of this section shall not apply to any federal,
20 state, or county agency ~~[which]~~ **that** provides pesticides for its own programs.

3. Each applicant shall satisfy the director as to ~~[his or her]~~ **the applicant's** knowledge
22 of the laws and regulations governing the use and sale of pesticides and ~~[his or her]~~ **the**
23 **applicant's** responsibility in carrying on the business of a pesticide dealer **by passing a**
24 **pesticide dealer examination provided by the director**. Each licensed pesticide dealer shall
25 be responsible for ~~[insuring]~~ **ensuring** that all of ~~[his or her]~~ **the dealer's** employees and agents
26 who sell or recommend restricted use pesticides have adequate knowledge of the laws and
27 regulations governing the use and sale of such restricted use pesticides.

4. Each pesticide dealer shall be responsible for the acts of each person employed by
29 ~~[him or her]~~ **the dealer** in the solicitation and sale of pesticides and all claims and
30 recommendations for use of pesticides. The dealer's license shall be subject to denial,
31 suspension, or revocation after a hearing for any violation of sections 281.010 to 281.115
32 whether committed by the dealer, or by the dealer's officer, agent or employee.

5. No pesticide dealer shall sell, give away or otherwise make available any restricted
34 use pesticides to anyone but certified **commercial applicators, certified noncommercial**

35 applicators ~~[or]~~, **certified public** operators, or to **certified** private applicators ~~[who have met the~~
36 ~~requirements of subsection 5 of section 281.040,]~~ **holding valid certifications in proper**
37 **certification categories** or to other **licensed** pesticide dealers, except that pesticide dealers may
38 allow the designated representative of such certified applicators ~~[, operators or private~~
39 ~~applicators]~~ to take possession of restricted use pesticides when those restricted use pesticides
40 are purchased by and for use by or under the direct supervision of such certified applicator ~~;~~
41 ~~operator or private applicator].~~

42 6. The director shall require the pesticide dealer, or ~~[his or her]~~ **the dealer's** employer,
43 to maintain books and records with respect to sales of restricted use pesticides **at each**
44 **dealership location or outlet**. Such relevant information as the director may deem necessary
45 may be specified by regulation. Such records shall be kept for a period of three years from the
46 date of sale of the restricted use pesticide to which such records refer, and the director shall upon
47 request in writing be furnished with a copy of such records by any licensed pesticide dealer or
48 ~~[his or her]~~ **the dealer's** employer.

49 7. Every licensed pesticide dealer who changes ~~[his or her]~~ **the dealer's** address or place
50 of business shall immediately notify the director.

281.055. 1. If the ~~[application for]~~ renewal of any license ~~;~~ **or** certification ~~[or permit]~~
2 provided for in ~~[this chapter]~~ **sections 281.010 to 281.115** is not filed prior to **the** expiration date
3 in any year, a penalty of twenty-five percent shall be assessed and added to the original fee and
4 shall be paid by the applicant before the license ~~;~~ **or** certification ~~[or permit]~~ shall be renewed ~~;~~
5 ~~provided, that such penalty shall not apply if the applicant furnishes an affidavit certifying that~~
6 ~~he has not engaged in the business subsequent to the expiration of his license, certification or~~
7 ~~permit].~~ Any person holding a current valid license ~~;~~ **or** certification ~~[or permit]~~ may renew the
8 license ~~;~~ **or** certification ~~[or permit]~~ for the next year without taking another examination unless
9 the director determines that additional knowledge related to classifications for which the
10 applicant has applied makes a new examination necessary. However, if the license is not
11 renewed within sixty days following the date of expiration ~~[then]~~, **the license shall be cancelled**
12 **and** the licensee shall be required to satisfy all the requirements of licensure as if such person
13 was never licensed.

14 2. The director may promulgate reasonable regulations requiring additional training and
15 instruction on the part of any applicant for a license issued under sections 281.010 to 281.115.

16 3. The director shall have prepared for prospective licensee's use ~~;~~ a book of guidelines
17 of factual necessary information related to the requirements of sections 281.010 to 281.115. A
18 reasonable fee may be collected for ~~[said]~~ **the** publication.

281.060. 1. The director, after inquiry, and after opportunity for a hearing, may deny,
2 suspend, revoke, or modify the provisions of any license ~~;~~ ~~permit,~~ or certification issued under

3 sections 281.010 to 281.115, if ~~he~~ **the director** finds that the applicant or the holder of a
4 license~~[-permit,]~~ or certification has violated any provision of sections 281.010 to 281.115, or
5 any regulation issued thereunder, or has been convicted or subject to a final order imposing a
6 civil or criminal penalty pursuant to the Federal Insecticide, Fungicide and Rodenticide Act
7 (FIFRA), as amended, or has been convicted, or is the subject of prosecution, in ~~another~~ **this**
8 **state or in any** state or protectorate of the United States, or has had a pesticide applicator
9 license~~[-]~~ or certificate ~~or permit~~ denied, suspended, revoked or modified by ~~another~~ **any** state
10 or protectorate of the United States, or the person has been finally adjudicated and found guilty,
11 or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any
12 state or of the United States, for any offense reasonably related to the qualifications, functions
13 or duties of any profession licensed or regulated under ~~this chapter~~ **sections 281.010 to**
14 **281.115**, for any offense an essential element of which is fraud, dishonesty or an act of violence,
15 or for any offense involving moral turpitude, whether or not sentence is imposed. **Licensed**
16 **certified applicators, licensed noncertified RUP applicators, licensed pesticide technicians,**
17 **and licensed pesticide dealers shall notify the department within ten days of any conviction**
18 **of or plea to any offense listed in this section.**

19 2. If the director determines, after inquiry and opportunity for a hearing, that any
20 ~~individual~~ **person** is in violation of any provision of sections 281.010 to 281.115, or any
21 regulations issued thereunder, the director shall have the authority to assess a civil penalty of not
22 more than one thousand dollars for each violation, and in addition, may order that restitution be
23 made to any person.

24 3. In the event that a person penalized or ordered to pay restitution under this section
25 fails to pay the penalty or restitution, the director may apply to the circuit court of Cole County
26 for, and the court is authorized to enter, an order enforcing the assessed penalty or restitution.

281.063. The director may subpoena witnesses and compel the production of books,
2 documents and records anywhere in the state in any hearing affecting the authority or privilege
3 granted by a license~~[-]~~ or certificate ~~or permit~~ issued under the provisions of sections 281.010
4 to 281.115.

281.065. 1. The director shall not issue a certified commercial applicator's license until
2 the applicant or the employer of the applicant has furnished evidence of financial responsibility
3 with the director consisting either of a surety bond or a liability insurance policy or certification
4 thereof, protecting persons who may suffer legal damages as a result of ~~the operations of~~
5 **pesticide use by** the applicant; except that, such surety bond or liability insurance policy need
6 not apply to damages or injury to crops, plants or land being worked upon by the applicant.
7 Following the receipt of the initial license, the certified commercial applicator shall not be
8 required to furnish evidence of financial responsibility to the department for the purpose of

9 license renewal unless upon request. Annual renewals for surety bonds or liability insurance
10 shall be maintained at the business location from which the certified commercial applicator is
11 licensed. Valid surety bonds or liability insurance certificates shall be available for inspection
12 by the director [~~or his or her designee~~] at a reasonable time during regular business hours or,
13 upon a request in writing, the director shall be furnished a copy of the surety bond or liability
14 insurance certificate within ten [~~working~~] days of receipt of the request.

15 2. The amount of the surety bond or liability insurance required by this section shall be
16 not less than fifty thousand dollars for each occurrence. Such surety bond or liability insurance
17 shall be maintained at not less than that sum at all times during the licensed period. The director
18 shall be notified by the surety or insurer within twenty days prior to any cancellation or reduction
19 of the surety bond or liability insurance. If the surety bond or liability insurance policy which
20 provides the financial responsibility for the certified commercial applicator is provided by the
21 employer of the certified commercial applicator, the employer of the certified commercial
22 applicator shall immediately notify the director upon the termination of the employment of the
23 certified commercial applicator or when a condition exists under which the certified commercial
24 applicator is no longer provided bond or insurance coverage by the employer. The certified
25 commercial applicator shall then immediately execute **and submit to the director** a surety bond
26 or an insurance policy to cover the financial responsibility requirements of this section and the
27 certified commercial applicator or the applicator's employer shall maintain the surety bond or
28 liability insurance certificate at the business location from which the certified commercial
29 applicator is licensed. The director may accept a liability insurance policy or surety bond in the
30 proper sum which has a deductible clause in an amount not exceeding one thousand dollars;
31 except that, if the bond- or policyholder has not satisfied the requirement of the deductible
32 amount in any prior legal claim, such deductible clause shall not be accepted by the director
33 unless the bond- or policyholder executes and maintains a surety bond or liability insurance
34 which shall satisfy the amount of the deductible as to all claims that may arise in [~~his or her~~] **the**
35 **bond- or policyholder's** application of pesticides.

36 3. If the surety becomes unsatisfactory, **the commercial applicator license shall expire**
37 **and become invalid and** the bond- or policyholder shall immediately execute **and submit to**
38 **the director** a new bond or insurance policy and maintain the surety bond or liability insurance
39 certificate at the business location from which the certified commercial applicator is licensed,
40 and if [~~he or she~~] **the bond- or policyholder** fails to do so, the director shall cancel [~~his or her~~]
41 **the bond- or policyholder's** license, or deny the license of an applicant, and give [~~him or her~~]
42 **the bond- or policyholder** notice of cancellation or denial, and it shall be unlawful thereafter
43 for the applicant to engage in the business of using pesticides until the bond or insurance is
44 brought into compliance with the requirements of subsection 1 of this section. If the bond- or

45 policyholder does not execute a new bond or insurance policy within sixty days of expiration of
46 such bond or policy, the licensee shall be required to satisfy all the requirements for licensure
47 as if never before licensed.

48 4. Nothing in sections 281.010 to 281.115 shall be construed to relieve any person from
49 liability for any damage to the person or lands of another caused by the use of pesticides even
50 though such use conforms to the rules and regulations of the director.

281.070. 1. The director may investigate the use of any pesticide or claims of damages
2 ~~[which]~~ **that** result from the use of any pesticide.

3 2. Any person who claims to have been damaged as a result of a pesticide use and who
4 requests an investigation of that damage by the director shall file with the director, on a form
5 provided by the director, a written statement claiming that ~~[he]~~ **the person** has been damaged.
6 Damage statements shall be filed within thirty days after the date the damage is alleged to have
7 occurred, unless a growing crop is alleged to have been damaged. If a growing crop is alleged
8 to have been damaged, the damage statement shall be filed at least two weeks prior to the time
9 that twenty-five percent of that crop has been harvested. The director shall, upon receipt of the
10 statement, notify the person alleged to have caused the damage and the owner or lessee of the
11 land, or other person who may be charged with the responsibility of the damages claimed, and
12 furnish copies of any statements which may be requested. The director shall inspect damages
13 whenever possible and ~~[he]~~ **the director** shall make ~~[his]~~ **the director's** inspection reports
14 available to the person claiming damage and to the person who is alleged to have caused the
15 damage. Where damage is alleged to have occurred, the claimant shall permit the director, the
16 licensee and ~~[his]~~ **the licensee's** representatives, such as the bondsman or insurer, to observe,
17 within reasonable hours, the lands or nontarget organism alleged to have been damaged.

18 3. The filing of or the failure to file need not be alleged in any complaint which might
19 be filed in a court of law, and the failure to file a damage claim shall not be considered any bar
20 to the maintenance of any criminal or civil action. The failure to file such a report shall not be
21 a violation of sections 281.010 to 281.115. However, if the person failing to file such report is
22 the only one injured from such use or application of a pesticide by others, the director may, when
23 in the public interest, refuse to hold a hearing for the denial, suspension or revocation of a license
24 ~~[or permit]~~ issued under sections 281.010 to 281.115 until such report is filed.

25 4. The director may in the conduct of any investigation or hearing authorized or held by
26 ~~[him]~~ **the director**:

27 (1) Examine, or cause to be examined, under oath, any person;

28 (2) Examine, or cause to be examined, books and records of the sale or use of any
29 pesticide directly related to the investigation;

30 (3) Hear such testimony and take such evidence as will assist ~~[him]~~ **the director** in the
 31 discharge of ~~[his]~~ **the director's** duties under ~~[this chapter]~~ **sections 281.010 to 281.115;**

32 (4) Administer or cause to be administered ~~[oath]~~ **oaths**; and

33 (5) Issue subpoenas to require the attendance of witnesses and the production of books
 34 and records directly related to the investigation.

281.075. ~~[1.]~~ The director may issue a ~~[license or]~~ **pesticide applicator** certification on
 2 a reciprocal basis with other states without examination to a nonresident who is licensed ~~[or]~~ **as**
 3 **a certified** ~~[in another state substantially]~~ **applicator in accordance with the reciprocating**
 4 **state's requirements and is a resident of the reciprocating state. A pesticide applicator**
 5 **certification shall be issued** in accordance with the provisions of sections 281.010 to 281.115;
 6 except that, financial responsibility ~~[must]~~ **shall** be filed pursuant to section 281.065. Fees
 7 collected shall be the same as for resident licenses or certification.

~~[2. Any nonresident applying for any license under section 281.035, 281.037, 281.038
 9 or 281.050 to operate in the state of Missouri shall designate in writing the secretary of state as
 10 the agent of such nonresident upon whom process may be served as provided by law, except that;
 11 any such nonresident who has designated a resident agent upon whom process may be served as
 12 provided by law shall not be required to designate the secretary of state as such agent. The
 13 secretary of state shall be allowed such fees therefor as provided by law for designating resident
 14 agents. The director shall be furnished with a copy of such designation of the secretary of state
 15 or of a resident agent, such copy to be certified by the secretary of state.]~~

281.085. No person shall discard, transport, or store any pesticide or pesticide containers
 2 in such a manner **that is inconsistent with label directions or** as to cause injury to humans,
 3 vegetation, crops, livestock, wildlife, beneficial insects or to pollute any waterway. The director
 4 may promulgate rules and regulations governing the discarding and storing of such pesticide or
 5 pesticide containers. In determining these rules and regulations the director shall take into
 6 consideration any regulations issued by the Federal Environmental Protection Agency.

281.101. 1. It shall be unlawful for any ~~[individual]~~ **person** to violate any provision of
 2 sections 281.010 to 281.115, or any regulation issued thereunder.

3 2. The following are determined to be unlawful acts:

4 (1) It shall be unlawful to recommend for use, ~~[to]~~ **cause to use**, use, or ~~[to]~~ supervise
 5 the use of any pesticide in a manner inconsistent with its labeling required by labeling
 6 requirements of FIFRA, **the** Missouri pesticide use act, or **the** Missouri pesticide registration act;

7 (2) It shall be unlawful for any ~~[individual]~~ **person** to misuse any pesticide;

8 (3) **It shall be unlawful for any person to use or supervise the use of pesticides that**
 9 **are cancelled or suspended;**

10 **(4) It shall be unlawful for any person not holding a valid certified applicator**
11 **license in proper certification categories or a valid pesticide dealer license to purchase or**
12 **acquire restricted use pesticides;**

13 **(5) It shall be unlawful to make any false or misleading statements during the course of**
14 **an investigation into the sale, distribution, use or misuse of any pesticide;**

15 ~~[(4)]~~ **(6) It shall be unlawful to make any false or misleading statement on any**
16 **application, form or document submitted to the director concerning licensing pursuant to sections**
17 **281.010 to 281.115 or any regulations issued thereunder;**

18 ~~[(5)]~~ **(7) It shall be unlawful to make any false, misleading or fraudulent statement or**
19 **claim, through any media, ~~[which]~~ that misrepresents the effects of any pesticide, the methods**
20 **to be utilized in the application of any pesticide, or the qualifications of the person determining**
21 **the need for the use of any pesticide or using any pesticide;**

22 ~~[(6)]~~ **(8) It shall be unlawful to make any false or misleading statement specifying~~g,~~ or**
23 **inferring that a person or ~~[his]~~ the person's methods are recommended by any branch of**
24 **government or that any pesticide work done will be inspected by any branch of government;**

25 ~~[(7)]~~ **(9) It shall be unlawful to aid or abet any licensed or unlicensed individual in**
26 **evading the provisions of sections 281.010 to 281.115 or any regulation issued thereunder, or to**
27 **conspire with any licensed or unlicensed individual in evading the provisions of sections 281.010**
28 **to 281.115 or any regulation issued thereunder;**

29 **(10) It shall be unlawful for any person to steal or attempt to steal pesticide**
30 **certification examinations or examination materials, cheat on pesticide certification**
31 **examinations, evade completion of recertification or retraining requirements, or aid and**
32 **abet any person to steal or attempt to steal examinations or examination materials, cheat**
33 **on examinations, or evade recertification or retraining requirements.**

34 **3. Other acts ~~[which]~~ that are not specified, but ~~[which]~~ that violate sections 281.010**
35 **to 281.115 or regulations issued thereunder, shall nevertheless be unlawful.**

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

2 (1) "License", a license, certificate, registration, permit, ~~[or]~~ accreditation, **or military**
3 **occupational speciality** that enables a person to legally practice an occupation or profession in
4 a particular jurisdiction;

5 (2) "**Military**", **the Armed Forces of the United States including the Air Force,**
6 **Army, Coast Guard, Marine Corps, Navy, Space Force, National Guard and any other**
7 **military branch that is designated by Congress as part of the Armed Forces of the United**
8 **States, and all reserve components and auxiliaries. Such term also includes the military**
9 **reserves and militia of any United States territory or state;**

10 (3) "Nonresident military spouse", a nonresident spouse of an active duty member of the
11 Armed Forces of the United States who has been transferred or is scheduled to be transferred to
12 the state of Missouri, or who has been transferred or is scheduled to be transferred to an adjacent
13 state and is or will be domiciled in the state of Missouri, or has moved to the state of Missouri
14 on a permanent change-of-station basis;

15 ~~[(3)]~~ (4) "Oversight body", any board, department, agency, or office of a jurisdiction that
16 issues licenses;

17 ~~[(4)]~~ (5) "Resident military spouse", a spouse of an active duty member of the Armed
18 Forces of the United States who has been transferred or is scheduled to be transferred to the state
19 of Missouri or an adjacent state and who is a permanent resident of the state of Missouri, who
20 is domiciled in the state of Missouri, or who has Missouri as his or her home of record.

21 2. Any person who holds a valid current license issued by another state, **a branch or**
22 **unit of the military**, a territory of the United States, or the District of Columbia, and who has
23 been licensed for at least one year in such other jurisdiction, may submit an application for a
24 license in Missouri in the same occupation or profession, and at the same practice level, for
25 which he or she holds the current license, along with proof of current licensure and proof of
26 licensure for at least one year in the other jurisdiction, to the relevant oversight body in this state.

27 3. The oversight body in this state shall:

28 (1) Within six months of receiving an application described in subsection 2 of this
29 section, waive any examination, educational, or experience requirements for licensure in this
30 state for the applicant if it determines that there were minimum education requirements and, if
31 applicable, work experience and clinical supervision requirements in effect and the other state
32 verifies that the person met those requirements in order to be licensed or certified in that state.
33 An oversight body that administers an examination on laws of this state as part of its licensing
34 application requirement may require an applicant to take and pass an examination specific to the
35 laws of this state; or

36 (2) Within thirty days of receiving an application described in subsection 2 of this
37 section from a nonresident military spouse or a resident military spouse, waive any examination,
38 educational, or experience requirements for licensure in this state for the applicant and issue such
39 applicant a license under this section if such applicant otherwise meets the requirements of this
40 section.

41 4. (1) The oversight body shall not waive any examination, educational, or experience
42 requirements for any applicant who has had his or her license revoked by an oversight body
43 outside the state; who is currently under investigation, who has a complaint pending, or who is
44 currently under disciplinary action, except as provided in subdivision (2) of this subsection, with
45 an oversight body outside the state; who does not hold a license in good standing with an

46 oversight body outside the state; who has a criminal record that would disqualify him or her for
47 licensure in Missouri; or who does not hold a valid current license in the other jurisdiction on
48 the date the oversight body receives his or her application under this section.

49 (2) If another jurisdiction has taken disciplinary action against an applicant, the oversight
50 body shall determine if the cause for the action was corrected and the matter resolved. If the
51 matter has not been resolved by that jurisdiction, the oversight body may deny a license until the
52 matter is resolved.

53 5. Nothing in this section shall prohibit the oversight body from denying a license to an
54 applicant under this section for any reason described in any section associated with the
55 occupation or profession for which the applicant seeks a license.

56 6. Any person who is licensed under the provisions of this section shall be subject to the
57 applicable oversight body's jurisdiction and all rules and regulations pertaining to the practice
58 of the licensed occupation or profession in this state.

59 7. This section shall not be construed to waive any requirement for an applicant to pay
60 any fees, post any bonds or surety bonds, or submit proof of insurance associated with the license
61 the applicant seeks.

62 8. This section shall not apply to business, professional, or occupational licenses issued
63 or required by political subdivisions.

64 9. The provisions of this section shall not impede an oversight body's authority to require
65 an applicant to submit fingerprints as part of the application process.

66 10. The provisions of this section shall not apply to an oversight body that has entered
67 into a licensing compact with another state for the regulation of practice under the oversight
68 body's jurisdiction. The provisions of this section shall not be construed to alter the authority
69 granted by, or any requirements promulgated pursuant to, any interjurisdictional or interstate
70 compacts adopted by Missouri statute or any reciprocity agreements with other states in effect
71 on August 28, 2018, and whenever possible this section shall be interpreted so as to imply no
72 conflict between it and any compact, or any reciprocity agreements with other states in effect on
73 August 28, 2018.

74 11. Notwithstanding any other provision of law, a license issued under this section shall
75 be valid only in this state and shall not make a licensee eligible to be part of an interstate
76 compact. An applicant who is licensed in another state pursuant to an interstate compact shall
77 not be eligible for licensure by an oversight body under the provisions of this section.

78 12. The provisions of this section shall not apply to any occupation set forth in
79 subsection 6 of section 290.257, or any electrical contractor licensed under sections 324.900 to
80 324.945.

324.012. 1. This section shall be known and may be cited as the "Fresh Start Act of
2 2020".

3 2. As used in this section, the following terms mean:

4 (1) "Criminal conviction", any conviction, finding of guilt, plea of guilty, or plea of nolo
5 contendere;

6 (2) "Licensing", any required training, education, or fee to work in a specific occupation,
7 profession, or activity in the state;

8 (3) "Licensing authority", an agency, examining board, credentialing board, or other
9 office of the state with the authority to impose occupational fees or licensing requirements on
10 any profession. **For purposes of the provisions of this section other than subsection 7 of this**
11 **section**, the term "licensing authority" shall not include the state board of education's licensure
12 of teachers pursuant to chapter 168, the Missouri state board of accountant's licensure of
13 accountants pursuant to chapter 326, the board of podiatric medicine's licensure of podiatrists
14 pursuant to chapter 330, the Missouri dental board's licensure of dentists pursuant to chapter 332,
15 the state board of registration for the healing art's licensure of physicians and surgeons pursuant
16 to chapter 334, the Missouri state board of nursing's licensure of nurses pursuant to chapter 335,
17 the board of pharmacy's licensure of pharmacists pursuant to chapter 338, the Missouri real estate
18 commission's licensure of real estate brokers, real estate salespersons, or real estate broker-
19 salespersons pursuant to sections 339.010 to 339.205, the Missouri veterinary medical board's
20 licensure of veterinarian's pursuant to chapter 340, the Missouri director of finance appointed
21 pursuant to chapter 361, or the peace officer standards and training commission's licensure of
22 peace officers or other law enforcement personnel pursuant to chapter 590;

23 (4) "Political subdivision", a city, town, village, municipality, or county.

24 3. Notwithstanding any other provision of law, beginning January 1, 2021, no person
25 shall be disqualified by a state licensing authority from pursuing, practicing, or engaging in any
26 occupation for which a license is required solely or in part because of a prior conviction of a
27 crime in this state or another state, unless the criminal conviction directly relates to the duties
28 and responsibilities for the licensed occupation as set forth in this section or is violent or sexual
29 in nature.

30 4. Beginning August 28, 2020, applicants for examination of licensure who have pleaded
31 guilty to, entered a plea of nolo contendere to, or been found guilty of any of the following
32 offenses or offenses of a similar nature established under the laws of this state, any other state,
33 United States, or any other country, notwithstanding whether sentence is imposed, shall be
34 considered by state licensing authorities to have committed a criminal offense that directly relates
35 to the duties and responsibilities of a licensed profession:

36 (1) Any murder in the first degree, or dangerous felony as defined under section 556.061
37 excluding an intoxication-related traffic offense or intoxication-related boating offense if the
38 person is found to be a habitual offender or habitual boating offender as such terms are defined
39 in section 577.001;

40 (2) Any of the following sexual offenses: rape in the first degree, forcible rape, rape,
41 statutory rape in the first degree, statutory rape in the second degree, rape in the second degree,
42 sexual assault, sodomy in the first degree, forcible sodomy, statutory sodomy in the first degree,
43 statutory sodomy in the second degree, child molestation in the first degree, child molestation
44 in the second degree, sodomy in the second degree, deviate sexual assault, sexual misconduct
45 involving a child, sexual misconduct in the first degree under section 566.090 as it existed prior
46 to August 28, 2013, sexual abuse under section 566.100 as it existed prior to August 28, 2013,
47 sexual abuse in the first or second degree, enticement of a child, or attempting to entice a child;

48 (3) Any of the following offenses against the family and related offenses: incest,
49 abandonment of a child in the first degree, abandonment of a child in the second degree,
50 endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual
51 performance, promoting sexual performance by a child, or trafficking in children; and

52 (4) Any of the following offenses involving child pornography and related offenses:
53 promoting obscenity in the first degree, promoting obscenity in the second degree when the
54 penalty is enhanced to a class E felony, promoting child pornography in the first degree,
55 promoting child pornography in the second degree, possession of child pornography in the first
56 degree, possession of child pornography in the second degree, furnishing child pornography to
57 a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene
58 material;

59 (5) The offense of delivery of a controlled substance, as provided in section 579.020,
60 may be a disqualifying criminal offense for the following occupations: real estate appraisers and
61 appraisal management companies, licensed pursuant to sections 339.500 to 339.549; and nursing
62 home administrators, licensed pursuant to chapter 344; and

63 (6) Any offense an essential element of which is fraud may be a disqualifying criminal
64 offense for the following occupations: private investigators, licensed pursuant to sections
65 324.1100 to 324.1148; accountants, licensed pursuant to chapter 326; architects, licensed
66 pursuant to sections 327.091 to 327.172; engineers, licensed pursuant to sections 327.181 to
67 327.271; land surveyors, licensed pursuant to sections 327.272 to 327.371; landscape architects,
68 licensed pursuant to sections 327.600 to 327.635; chiropractors, licensed pursuant to chapter
69 331; embalmers and funeral directors, licensed pursuant to chapter 333; real estate appraisers and
70 appraisal management companies, licensed pursuant to sections 339.500 to 339.549; and nursing
71 home administrators, licensed pursuant to chapter 344.

72 5. If an individual is charged with any of the crimes set forth in subsection 4 of this
73 section, and is convicted, pleads guilty to, or is found guilty of a lesser-included offense and is
74 sentenced to a period of incarceration, such conviction shall only be considered by state licensing
75 authorities as a criminal offense that directly relates to the duties and responsibilities of a
76 licensed profession for four years, beginning on the date such individual is released from
77 incarceration.

78 6. (1) ~~[Licensing authorities shall only list criminal convictions that are directly related~~
79 ~~to the duties and responsibilities for the licensed occupation.~~

80 ~~————(2)]~~ The licensing authority shall determine whether an applicant with a criminal
81 conviction ~~[listed under subdivision (1) of this subsection]~~ will be denied a license based on the
82 following factors:

83 (a) The nature and seriousness of the crime for which the individual was convicted;

84 (b) The passage of time since the commission of the crime, including consideration of
85 the factors listed under subdivision ~~[(3)]~~ (2) of this subsection;

86 (c) The relationship of the crime to the ability, capacity, and fitness required to perform
87 the duties and discharge the responsibilities of the occupation; and

88 (d) Any evidence of rehabilitation or treatment undertaken by the individual that might
89 mitigate against a direct relation.

90 ~~[(3)]~~ (2) If an individual has a valid criminal conviction for a criminal offense that could
91 disqualify the individual from receiving a license, the disqualification shall not apply to an
92 individual who has been exonerated for a crime for which he or she has previously been
93 convicted of or incarcerated.

94 7. An individual with a criminal record may petition a licensing authority at any time for
95 a determination of whether the individual's criminal record will disqualify the individual from
96 obtaining a license. This petition shall include details on the individual's criminal record. The
97 licensing authority shall inform the individual of his or her standing within thirty days after the
98 licensing authority has met, but in no event more than four months after receiving the petition
99 from the applicant. The decision shall be binding, unless the individual has subsequent criminal
100 convictions or failed to disclose information in his or her petition. **If the decision is that the**
101 **individual is disqualified, the individual shall be notified in writing of the grounds and**
102 **reasons for disqualification.** The licensing authority may charge a fee by rule to recoup its
103 costs as set by rulemaking authority not to exceed twenty-five dollars for each petition.

104 8. (1) If a licensing authority denies an individual a license solely or in part because of
105 the individual's prior conviction of a crime, the licensing authority shall notify the individual in
106 writing of the following:

107 (a) The grounds and reasons for the denial or disqualification;

108 (b) That the individual has the right to a hearing as provided by chapter 621 to challenge
109 the licensing authority's decision;

110 (c) The earliest date the person may reapply for a license; and

111 (d) That evidence of rehabilitation may be considered upon reapplication.

112 (2) Any written determination by the licensing authority that an applicant's criminal
113 conviction is a specifically listed disqualifying conviction and is directly related to the duties and
114 responsibilities for the licensed occupation shall be documented with written findings for each
115 of the grounds or reasons under paragraph (a) of subdivision (1) of this subsection by clear and
116 convincing evidence sufficient for a reviewing court.

117 (3) In any administrative hearing or civil litigation authorized under this subsection, the
118 licensing authority shall carry the burden of proof on the question of whether the applicant's
119 criminal conviction directly relates to the occupation for which the license is sought.

120 9. The provisions of this section shall apply to any profession for which an occupational
121 license is issued in this state, including any new occupational license created by a state licensing
122 authority after August 28, 2020. Notwithstanding any other provision of law, political
123 subdivisions shall be prohibited from creating any new occupational licenses after August 28,
124 2020. The provisions of this section shall not apply to business licenses, where the terms
125 "occupational licenses" and "business licenses" are used interchangeably in a city or county
126 charter definition.

324.087. SECTION 1. PURPOSE

2 **The purpose of this Compact is to facilitate interstate practice of Occupational**
3 **Therapy with the goal of improving public access to Occupational Therapy services. The**
4 **Practice of Occupational Therapy occurs in the State where the patient/client is located**
5 **at the time of the patient/client encounter. The Compact preserves the regulatory**
6 **authority of States to protect public health and safety through the current system of State**
7 **licensure. This Compact is designed to achieve the following objectives:**

8 **A. Increase public access to Occupational Therapy services by providing for the**
9 **mutual recognition of other Member State licenses;**

10 **B. Enhance the States' ability to protect the public's health and safety;**

11 **C. Encourage the cooperation of Member States in regulating multi-State**
12 **Occupational Therapy Practice;**

13 **D. Support spouses of relocating military members;**

14 **E. Enhance the exchange of licensure, investigative, and disciplinary information**
15 **between Member States;**

16 **F. Allow a Remote State to hold a provider of services with a Compact Privilege in**
17 **that State accountable to that State's practice standards; and**

18 **G. Facilitate the use of Telehealth technology in order to increase access to**
19 **Occupational Therapy services.**

20 **SECTION 2. DEFINITIONS**

21 **As used in this Compact, and except as otherwise provided, the following definitions**
22 **shall apply:**

23 **A. "Active Duty Military" means full-time duty status in the active uniformed**
24 **service of the United States, including members of the National Guard and Reserve on**
25 **active duty orders pursuant to 10 U.S.C. Chapter 1209 and Section 1211.**

26 **B. "Adverse Action" means any administrative, civil, equitable, or criminal action**
27 **permitted by a State's laws which is imposed by a Licensing Board or other authority**
28 **against an Occupational Therapist or Occupational Therapy Assistant, including actions**
29 **against an individual's license or Compact Privilege such as censure, revocation,**
30 **suspension, probation, monitoring of the Licensee, or restriction on the Licensee's practice.**

31 **C. "Alternative Program" means a non-disciplinary monitoring process approved**
32 **by an Occupational Therapy Licensing Board.**

33 **D. "Compact Privilege" means the authorization, which is equivalent to a license,**
34 **granted by a Remote State to allow a Licensee from another Member State to practice as**
35 **an Occupational Therapist or practice as an Occupational Therapy Assistant in the**
36 **Remote State under its laws and rules. The Practice of Occupational Therapy occurs in**
37 **the Member State where the patient/client is located at the time of the patient/client**
38 **encounter.**

39 **E. "Continuing Competence/Education" means a requirement, as a condition of**
40 **license renewal, to provide evidence of participation in, and/or completion of, educational**
41 **and professional activities relevant to practice or area of work.**

42 **F. "Current Significant Investigative Information" means Investigative**
43 **Information that a Licensing Board, after an inquiry or investigation that includes**
44 **notification and an opportunity for the Occupational Therapist or Occupational Therapy**
45 **Assistant to respond, if required by State law, has reason to believe is not groundless and,**
46 **if proved true, would indicate more than a minor infraction.**

47 **G. "Data System" means a repository of information about Licensees, including**
48 **but not limited to license status, Investigative Information, Compact Privileges, and**
49 **Adverse Actions.**

50 **H. "Encumbered License" means a license in which an Adverse Action restricts the**
51 **Practice of Occupational Therapy by the Licensee or said Adverse Action has been**
52 **reported to the National Practitioners Data Bank (NPDB).**

53 I. "Executive Committee" means a group of directors elected or appointed to act
54 on behalf of, and within the powers granted to them by, the Commission.

55 J. "Home State" means the Member State that is the Licensee's Primary State of
56 Residence.

57 K. "Impaired Practitioner" means individuals whose professional practice is
58 adversely affected by substance abuse, addiction, or other health-related conditions.

59 L. "Investigative Information" means information, records, and/or documents
60 received or generated by an Occupational Therapy Licensing Board pursuant to an
61 investigation.

62 M. "Jurisprudence Requirement" means the assessment of an individual's
63 knowledge of the laws and rules governing the Practice of Occupational Therapy in a State.

64 N. "Licensee" means an individual who currently holds an authorization from the
65 State to practice as an Occupational Therapist or as an Occupational Therapy Assistant.

66 O. "Member State" means a State that has enacted the Compact.

67 P. "Occupational Therapist" means an individual who is licensed by a State to
68 practice 63 Occupational Therapy.

69 Q. "Occupational Therapy Assistant" means an individual who is licensed by a
70 State to assist in the Practice of Occupational Therapy.

71 R. "Occupational Therapy," "Occupational Therapy Practice," and the "Practice
72 of Occupational Therapy" mean the care and services provided by an Occupational
73 Therapist or an Occupational Therapy Assistant as set forth in the Member State's statutes
74 and regulations.

75 S. "Occupational Therapy Compact Commission" or "Commission" means the
76 national administrative body whose membership consists of all States that have enacted the
77 Compact.

78 T. "Occupational Therapy Licensing Board" or "Licensing Board" means the
79 agency of a State that is authorized to license and regulate Occupational Therapists and
80 Occupational Therapy Assistants.

81 U. "Primary State of Residence" means the state (also known as the Home State)
82 in which an Occupational Therapist or Occupational Therapy Assistant who is not Active
83 Duty Military declares a primary residence for legal purposes as verified by: driver's
84 license, federal income tax return, lease, deed, mortgage or voter registration or other
85 verifying documentation as further defined by Commission Rules.

86 V. "Remote State" means a Member State other than the Home State, where a
87 Licensee is exercising or seeking to exercise the Compact Privilege.

88 **W. "Rule" means a regulation promulgated by the Commission that has the force**
89 **of law.**

90 **X. "State" means any state, commonwealth, district, or territory of the United**
91 **States of America that regulates the Practice of Occupational Therapy.**

92 **Y. "Single-State License" means an Occupational Therapist or Occupational**
93 **Therapy Assistant license issued by a Member State that authorizes practice only within**
94 **the issuing State and does not include a Compact Privilege in any other Member State.**

95 **Z. "Telehealth" means the application of telecommunication technology to deliver**
96 **Occupational Therapy services for assessment, intervention and/or consultation.**

97 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

98 **A. To participate in the Compact, a Member State shall:**

99 **1. License Occupational Therapists and Occupational Therapy Assistants;**

100 **2. Participate fully in the Commission's Data System, including but not limited to**
101 **using the Commission's unique identifier as defined in Rules of the Commission;**

102 **3. Have a mechanism in place for receiving and investigating complaints about**
103 **Licensees;**

104 **4. Notify the Commission, in compliance with the terms of the Compact and Rules,**
105 **of any Adverse Action or the availability of Investigative Information regarding a**
106 **Licensee;**

107 **5. Implement or utilize procedures for considering the criminal history records of**
108 **applicants for an initial Compact Privilege. These procedures shall include the submission**
109 **of fingerprints or other biometric-based information by applicants for the purpose of**
110 **obtaining an applicant's criminal history record information from the Federal Bureau of**
111 **Investigation and the agency responsible for retaining that State's criminal records;**

112 **a. A Member State shall, within a time frame established by the Commission,**
113 **require a criminal background check for a Licensee seeking/applying for a Compact**
114 **Privilege whose Primary State of Residence is that Member State, by receiving the results**
115 **of the Federal Bureau of Investigation criminal record search, and shall use the results in**
116 **making licensure decisions.**

117 **b. Communication between a Member State, the Commission and among Member**
118 **States regarding the verification of eligibility for licensure through the Compact shall not**
119 **include any information received from the Federal Bureau of Investigation relating to a**
120 **federal criminal records check performed by a Member State under Public Law 92-544.**

121 **6. Comply with the Rules of the Commission;**

122 **7. Utilize only a recognized national examination as a requirement for licensure**
123 **pursuant to the Rules of the Commission; and**

124 **8. Have Continuing Competence/Education requirements as a condition for license**
125 **renewal.**

126 **B. A Member State shall grant the Compact Privilege to a Licensee holding a valid**
127 **unencumbered license in another Member State in accordance with the terms of the**
128 **Compact and Rules.**

129 **C. Member States may charge a fee for granting a Compact Privilege.**

130 **D. A Member State shall provide for the State's delegate to attend all Occupational**
131 **Therapy Compact Commission meetings.**

132 **E. Individuals not residing in a Member State shall continue to be able to apply for**
133 **a Member State's Single-State License as provided under the laws of each Member State.**
134 **However, the Single-State License granted to these individuals shall not be recognized as**
135 **granting the Compact Privilege in any other Member State.**

136 **F. Nothing in this Compact shall affect the requirements established by a Member**
137 **State for the issuance of a Single-State License.**

138 **SECTION 4. COMPACT PRIVILEGE**

139 **A. To exercise the Compact Privilege under the terms and provisions of the**
140 **Compact, the Licensee shall:**

141 **1. Hold a license in the Home State;**

142 **2. Have a valid United States Social Security Number or National Practitioner**
143 **Identification number;**

144 **3. Have no encumbrance on any State license;**

145 **4. Be eligible for a Compact Privilege in any Member State in accordance with**
146 **Section 4D, F, G, and H;**

147 **5. Have paid all fines and completed all requirements resulting from any Adverse**
148 **Action against any license or Compact Privilege, and two years have elapsed from the date**
149 **of such completion;**

150 **6. Notify the Commission that the Licensee is seeking the Compact Privilege within**
151 **a Remote State(s);**

152 **7. Pay any applicable fees, including any State fee, for the Compact Privilege;**

153 **8. Complete a criminal background check in accordance with Section 3A(5);**

154 **a. The Licensee shall be responsible for the payment of any fee associated with the**
155 **completion of a criminal background check.**

156 **9. Meet any Jurisprudence Requirements established by the Remote State(s) in**
157 **which the Licensee is seeking a Compact Privilege; and**

158 **10. Report to the Commission Adverse Action taken by any non-Member State**
159 **within 30 days from the date the Adverse Action is taken.**

160 **B. The Compact Privilege is valid until the expiration date of the Home State**
161 **license. The Licensee must comply with the requirements of Section 4A to maintain the**
162 **Compact Privilege in the Remote State.**

163 **C. A Licensee providing Occupational Therapy in a Remote State under the**
164 **Compact Privilege shall function within the laws and regulations of the Remote State.**

165 **D. Occupational Therapy Assistants practicing in a Remote State shall be**
166 **supervised by an Occupational Therapist licensed or holding a Compact Privilege in that**
167 **Remote State.**

168 **E. A Licensee providing Occupational Therapy in a Remote State is subject to that**
169 **State's regulatory authority. A Remote State may, in accordance with due process and that**
170 **State's laws, remove a Licensee's Compact Privilege in the Remote State for a specific**
171 **period of time, impose fines, and/or take any other necessary actions to protect the health**
172 **and safety of its citizens. The Licensee may be ineligible for a Compact Privilege in any**
173 **State until the specific time for removal has passed and all fines are paid.**

174 **F. If a Home State license is encumbered, the Licensee shall lose the Compact**
175 **Privilege in any Remote State until the following occur:**

- 176 **1. The Home State license is no longer encumbered; and**
- 177 **2. Two years have elapsed from the date on which the Home State license is no**
178 **longer encumbered in accordance with Section 4(F)(1).**

179 **G. Once an Encumbered License in the Home State is restored to good standing,**
180 **the Licensee must meet the requirements of Section 4A to obtain a Compact Privilege in**
181 **any Remote State.**

182 **H. If a Licensee's Compact Privilege in any Remote State is removed, the individual**
183 **may lose the Compact Privilege in any other Remote State until the following occur:**

- 184 **1. The specific period of time for which the Compact Privilege was removed has**
185 **ended;**
- 186 **2. All fines have been paid and all conditions have been met;**
- 187 **3. Two years have elapsed from the date of completing requirements for 4(H)(1)**
188 **and (2); and**
- 189 **4. The Compact Privileges are reinstated by the Commission, and the compact Data**
190 **System is updated to reflect reinstatement.**

191 **I. If a Licensee's Compact Privilege in any Remote State is removed due to an**
192 **erroneous charge, privileges shall be restored through the compact Data System.**

193 **J. Once the requirements of Section 4H have been met, the license must meet the**
194 **requirements in Section 4A to obtain a Compact Privilege in a Remote State.**

195 **SECTION 5. OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF**
196 **COMPACT PRIVILEGE**

197 **A. An Occupational Therapist or Occupational Therapy Assistant may hold a**
198 **Home State license, which allows for Compact Privileges in Member States, in only one**
199 **Member State at a time.**

200 **B. If an Occupational Therapist or Occupational Therapy Assistant changes**
201 **Primary State of Residence by moving between two Member States:**

202 **1. The Occupational Therapist or Occupational Therapy Assistant shall file an**
203 **application for obtaining a new Home State license by virtue of a Compact Privilege, pay**
204 **all applicable fees, and notify the current and new Home State in accordance with**
205 **applicable Rules adopted by the Commission.**

206 **2. Upon receipt of an application for obtaining a new Home State license by virtue**
207 **of compact privilege, the new Home State shall verify that the Occupational Therapist or**
208 **Occupational Therapy Assistant meets the pertinent criteria outlined in Section 4 via the**
209 **Data System, without need for primary source verification except for:**

210 **a. an FBI fingerprint based criminal background check if not previously performed**
211 **or updated pursuant to applicable Rules adopted by the Commission in accordance with**
212 **Public Law 92-544;**

213 **b. other criminal background check as required by the new Home State; and**

214 **c. submission of any requisite Jurisprudence Requirements of the new Home State.**

215 **3. The former Home State shall convert the former Home State license into a**
216 **Compact Privilege once the new Home State has activated the new Home State license in**
217 **accordance with applicable Rules adopted by the Commission.**

218 **4. Notwithstanding any other provision of this Compact, if the Occupational**
219 **Therapist or Occupational Therapy Assistant cannot meet the criteria in Section 4, the new**
220 **Home State shall apply its requirements for issuing a new Single-State License.**

221 **5. The Occupational Therapist or the Occupational Therapy Assistant shall pay all**
222 **applicable fees to the new Home State in order to be issued a new Home State license.**

223 **C. If an Occupational Therapist or Occupational Therapy Assistant changes**
224 **Primary State of Residence by moving from a Member State to a non-Member State, or**
225 **from a non-Member State to a Member State, the State criteria shall apply for issuance of**
226 **a Single-State License in the new State.**

227 **D. Nothing in this compact shall interfere with a Licensee's ability to hold a Single-**
228 **State License in multiple States; however, for the purposes of this compact, a Licensee shall**
229 **have only one Home State license.**

230 E. Nothing in this Compact shall affect the requirements established by a Member
231 State for the issuance of a Single-State License.

232 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

233 A. Active Duty Military personnel, or their spouses, shall designate a Home State
234 where the individual has a current license in good standing. The individual may retain the
235 Home State designation during the period the service member is on active duty.
236 Subsequent to designating a Home State, the individual shall only change their Home State
237 through application for licensure in the new State or through the process described in
238 Section 5.

239 SECTION 7. ADVERSE ACTIONS

240 A. A Home State shall have exclusive power to impose Adverse Action against an
241 Occupational Therapist's or Occupational Therapy Assistant's license issued by the Home
242 State.

243 B. In addition to the other powers conferred by State law, a Remote State shall
244 have the authority, in accordance with existing State due process law, to:

245 1. Take Adverse Action against an Occupational Therapist's or Occupational
246 Therapy Assistant's Compact Privilege within that Member State.

247 2. Issue subpoenas for both hearings and investigations that require the attendance
248 and testimony of witnesses as well as the production of evidence. Subpoenas issued by a
249 Licensing Board in a Member State for the attendance and testimony of witnesses or the
250 production of evidence from another Member State shall be enforced in the latter State by
251 any court of competent jurisdiction, according to the practice and procedure of that court
252 applicable to subpoenas issued in proceedings pending before it. The issuing authority
253 shall pay any witness fees, travel expenses, mileage and other fees required by the service
254 statutes of the State in which the witnesses or evidence are located.

255 C. For purposes of taking Adverse Action, the Home State shall give the same
256 priority and effect to reported conduct received from a Member State as it would if the
257 conduct had occurred within the Home State. In so doing, the Home State shall apply its
258 own State laws to determine appropriate action.

259 D. The Home State shall complete any pending investigations of an Occupational
260 Therapist or Occupational Therapy Assistant who changes Primary State of Residence
261 during the course of the investigations. The Home State, where the investigations were
262 initiated, shall also have the authority to take appropriate action(s) and shall promptly
263 report the conclusions of the investigations to the OT Compact Commission Data System.
264 The Occupational Therapy Compact Commission Data System administrator shall
265 promptly notify the new Home State of any Adverse Actions.

266 **E. A Member State, if otherwise permitted by State law, may recover from the**
267 **affected Occupational Therapist or Occupational Therapy Assistant the costs of**
268 **investigations and disposition of cases resulting from any Adverse Action taken against**
269 **that Occupational Therapist or Occupational Therapy Assistant.**

270 **F. A Member State may take Adverse Action based on the factual findings of the**
271 **Remote State, provided that the Member State follows its own procedures for taking the**
272 **Adverse Action.**

273 **G. Joint Investigations**

274 **1. In addition to the authority granted to a Member State by its respective State**
275 **Occupational Therapy laws and regulations or other applicable State law, any Member**
276 **State may participate with other Member States in joint investigations of Licensees.**

277 **2. Member States shall share any investigative, litigation, or compliance materials**
278 **in furtherance of any joint or individual investigation initiated under the Compact.**

279 **H. If an Adverse Action is taken by the Home State against an Occupational**
280 **Therapist's or Occupational Therapy Assistant's license, the Occupational Therapist's or**
281 **Occupational Therapy Assistant's Compact Privilege in all other Member States shall be**
282 **deactivated until all encumbrances have been removed from the State license. All Home**
283 **State disciplinary orders that impose Adverse Action against an Occupational Therapist's**
284 **or Occupational Therapy Assistant's license shall include a Statement that the**
285 **Occupational Therapist's or Occupational Therapy Assistant's Compact Privilege is**
286 **deactivated in all Member States during the pendency of the order.**

287 **I. If a Member State takes Adverse Action, it shall promptly notify the**
288 **administrator of the Data System. The administrator of the Data System shall promptly**
289 **notify the Home State of any Adverse Actions by Remote States.**

290 **J. Nothing in this Compact shall override a Member State's decision that**
291 **participation in an Alternative Program may be used in lieu of Adverse Action.**

292 **SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY**
293 **COMPACT COMMISSION.**

294 **A. The Compact Member States hereby create and establish a joint public agency**
295 **known as the Occupational Therapy Compact Commission:**

296 **1. The Commission is an instrumentality of the Compact States.**

297 **2. Venue is proper and judicial proceedings by or against the Commission shall be**
298 **brought solely and exclusively in a court of competent jurisdiction where the principal**
299 **office of the Commission is located. The Commission may waive venue and jurisdictional**
300 **defenses to the extent it adopts or consents to participate in alternative dispute resolution**
301 **proceedings.**

- 302 **3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.**
303 **B. Membership, Voting, and Meetings**
304 **1. Each Member State shall have and be limited to one (1) delegate selected by that**
305 **Member State's Licensing Board.**
306 **2. The delegate shall be either:**
307 **a. A current member of the Licensing Board, who is an Occupational Therapist,**
308 **Occupational Therapy Assistant, or public member; or**
309 **b. An administrator of the Licensing Board.**
310 **3. Any delegate may be removed or suspended from office as provided by the law**
311 **of the State from which the delegate is appointed.**
312 **4. The Member State board shall fill any vacancy occurring in the Commission**
313 **within 90 days.**
314 **5. Each delegate shall be entitled to one (1) vote with regard to the promulgation**
315 **of Rules and creation of bylaws and shall otherwise have an opportunity to participate in**
316 **the business and affairs of the Commission. A delegate shall vote in person or by such**
317 **other means as provided in the bylaws. The bylaws may provide for delegates'**
318 **participation in meetings by telephone or other means of communication.**
319 **6. The Commission shall meet at least once during each calendar year. Additional**
320 **meetings shall be held as set forth in the bylaws.**
321 **7. The Commission shall establish by Rule a term of office for delegates.**
322 **C. The Commission shall have the following powers and duties:**
323 **1. Establish a Code of Ethics for the Commission;**
324 **2. Establish the fiscal year of the Commission;**
325 **3. Establish bylaws;**
326 **4. Maintain its financial records in accordance with the bylaws;**
327 **5. Meet and take such actions as are consistent with the provisions of this Compact**
328 **and the bylaws;**
329 **6. Promulgate uniform Rules to facilitate and coordinate implementation and**
330 **administration of this Compact. The Rules shall have the force and effect of law and shall**
331 **be binding in all Member States;**
332 **7. Bring and prosecute legal proceedings or actions in the name of the Commission,**
333 **provided that the standing of any State Occupational Therapy Licensing Board to sue or**
334 **be sued under applicable law shall not be affected;**
335 **8. Purchase and maintain insurance and bonds;**
336 **9. Borrow, accept, or contract for services of personnel, including, but not limited**
337 **to, employees of a Member State;**

338 **10. Hire employees, elect or appoint officers, fix compensation, define duties, grant**
339 **such individuals appropriate authority to carry out the purposes of the Compact, and**
340 **establish the Commission's personnel policies and programs relating to conflicts of interest,**
341 **qualifications of personnel, and other related personnel matters;**

342 **11. Accept any and all appropriate donations and grants of money, equipment,**
343 **supplies, materials and services, and receive, utilize and dispose of the same; provided that**
344 **at all times the Commission shall avoid any appearance of impropriety and/or conflict of**
345 **interest;**

346 **12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own,**
347 **hold, improve or use, any property, real, personal or mixed; provided that at all times the**
348 **Commission shall avoid any appearance of impropriety;**

349 **13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose**
350 **of any property real, personal, or mixed;**

351 **14. Establish a budget and make expenditures;**

352 **15. Borrow money;**

353 **16. Appoint committees, including standing committees composed of members,**
354 **State regulators, State legislators or their representatives, and consumer representatives,**
355 **and such other interested persons as may be designated in this Compact and the bylaws;**

356 **17. Provide and receive information from, and cooperate with, law enforcement**
357 **agencies;**

358 **18. Establish and elect an Executive Committee; and**

359 **19. Perform such other functions as may be necessary or appropriate to achieve the**
360 **purposes of this Compact consistent with the State regulation of Occupational Therapy**
361 **licensure and practice.**

362 **D. The Executive Committee**

363 **The Executive Committee shall have the power to act on behalf of the Commission**
364 **according to the terms of this Compact.**

365 **1. The Executive Committee shall be composed of nine members:**

366 **a. Seven voting members who are elected by the Commission from the current**
367 **membership of the Commission;**

368 **b. One ex-officio, nonvoting member from a recognized national Occupational**
369 **Therapy professional association; and**

370 **c. One ex-officio, nonvoting member from a recognized national Occupational**
371 **Therapy certification organization.**

372 **2. The ex-officio members will be selected by their respective organizations.**

- 373 **3. The Commission may remove any member of the Executive Committee as**
374 **provided in bylaws.**
- 375 **4. The Executive Committee shall meet at least annually.**
- 376 **5. The Executive Committee shall have the following Duties and responsibilities:**
- 377 **a. Recommend to the entire Commission changes to the Rules or bylaws, changes**
378 **to this Compact legislation, fees paid by Compact Member States such as annual dues, and**
379 **any Commission Compact fee charged to Licensees for the Compact Privilege;**
- 380 **b. Ensure Compact administration services are appropriately provided, contractual**
381 **or otherwise;**
- 382 **c. Prepare and recommend the budget;**
- 383 **d. Maintain financial records on behalf of the Commission;**
- 384 **e. Monitor Compact compliance of Member States and provide compliance reports**
385 **to the Commission;**
- 386 **f. Establish additional committees as necessary; and**
- 387 **g. Perform other duties as provided in Rules or bylaws.**
- 388 **E. Meetings of the Commission**
- 389 **1. All meetings shall be open to the public, and public notice of meetings shall be**
390 **given in the same manner as required under the Rulemaking provisions in Section 10.**
- 391 **2. The Commission or the Executive Committee or other committees of the**
392 **Commission may convene in a closed, non-public meeting if the Commission or Executive**
393 **Committee or other committees of the Commission must discuss:**
- 394 **a. Non-compliance of a Member State with its obligations under the Compact;**
- 395 **b. The employment, compensation, discipline or other matters, practices or**
396 **procedures related to specific employees or other matters related to the Commission's**
397 **internal personnel practices and procedures;**
- 398 **c. Current, threatened, or reasonably anticipated litigation;**
- 399 **d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real**
400 **estate;**
- 401 **e. Accusing any person of a crime or formally censuring any person;**
- 402 **f. Disclosure of trade secrets or commercial or financial information that is**
403 **privileged or confidential;**
- 404 **g. Disclosure of information of a personal nature where disclosure would constitute**
405 **a clearly unwarranted invasion of personal privacy;**
- 406 **h. Disclosure of investigative records compiled for law enforcement purposes;**

407 i. Disclosure of information related to any investigative reports prepared by or on
408 behalf of or for use of the Commission or other committee charged with responsibility of
409 investigation or determination of compliance issues pursuant to the Compact; or

410 j. Matters specifically exempted from disclosure by federal or Member State
411 statute.

412 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the
413 Commission's legal counsel or designee shall certify that the meeting may be closed and
414 shall reference each relevant exempting provision.

415 4. The Commission shall keep minutes that fully and clearly describe all matters
416 discussed in a meeting and shall provide a full and accurate summary of actions taken, and
417 the reasons therefore, including a description of the views expressed. All documents
418 considered in connection with an action shall be identified in such minutes. All minutes
419 and documents of a closed meeting shall remain under seal, subject to release by a majority
420 vote of the Commission or order of a court of competent jurisdiction.

421 F. Financing of the Commission

422 1. The Commission shall pay, or provide for the payment of, the reasonable
423 expenses of its establishment, organization, and ongoing activities.

424 2. The Commission may accept any and all appropriate revenue sources, donations,
425 and grants of money, equipment, supplies, materials, and services.

426 3. The Commission may levy on and collect an annual assessment from each
427 Member State or impose fees on other parties to cover the cost of the operations and
428 activities of the Commission and its staff, which must be in a total amount sufficient to
429 cover its annual budget as approved by the Commission each year for which revenue is not
430 provided by other sources. The aggregate annual assessment amount shall be allocated
431 based upon a formula to be determined by the Commission, which shall promulgate a Rule
432 binding upon all Member States.

433 4. The Commission shall not incur obligations of any kind prior to securing the
434 funds adequate to meet the same; nor shall the Commission pledge the credit of any of the
435 Member States, except by and with the authority of the Member State.

436 5. The Commission shall keep accurate accounts of all receipts and disbursements.
437 The receipts and disbursements of the Commission shall be subject to the audit and
438 accounting procedures established under its bylaws. However, all receipts and
439 disbursements of funds handled by the Commission shall be audited yearly by a certified
440 or licensed public accountant, and the report of the audit shall be included in and become
441 part of the annual report of the Commission.

442 G. Qualified Immunity, Defense, and Indemnification

443 **1. The members, officers, executive director, employees and representatives of the**
444 **Commission shall be immune from suit and liability, either personally or in their official**
445 **capacity, for any claim for damage to or loss of property or personal injury or other civil**
446 **liability caused by or arising out of any actual or alleged act, error, or omission that**
447 **occurred, or that the person against whom the claim is made had a reasonable basis for**
448 **believing occurred within the scope of Commission employment, duties or responsibilities;**
449 **provided that nothing in this paragraph shall be construed to protect any such person from**
450 **suit and/or liability for any damage, loss, injury, or liability caused by the intentional or**
451 **willful or wanton misconduct of that person.**

452 **2. The Commission shall defend any member, officer, executive director, employee,**
453 **or representative of the Commission in any civil action seeking to impose liability arising**
454 **out of any actual or alleged act, error, or omission that occurred within the scope of**
455 **Commission employment, duties, or responsibilities, or that the person against whom the**
456 **claim is made had a reasonable basis for believing occurred within the scope of**
457 **Commission employment, duties, or responsibilities; provided that nothing herein shall be**
458 **construed to prohibit that person from retaining his or her own counsel; and provided**
459 **further, that the actual or alleged act, error, or omission did not result from that person's**
460 **intentional or willful or wanton misconduct.**

461 **3. The Commission shall indemnify and hold harmless any member, officer,**
462 **executive director, employee, or representative of the Commission for the amount of any**
463 **settlement or judgment obtained against that person arising out of any actual or alleged**
464 **act, error, or omission that occurred within the scope of Commission employment, duties,**
465 **or responsibilities, or that such person had a reasonable basis for believing occurred within**
466 **the scope of Commission employment, duties, or responsibilities, provided that the actual**
467 **or alleged act, error, or omission did not result from the intentional or willful or wanton**
468 **misconduct of that person.**

469 **SECTION 9. DATA SYSTEM**

470 **A. The Commission shall provide for the development, maintenance, and utilization**
471 **of a coordinated database and reporting system containing licensure, Adverse Action, and**
472 **Investigative Information on all licensed individuals in Member States.**

473 **B. A Member State shall submit a uniform data set to the Data System on all**
474 **individuals to whom this Compact is applicable (utilizing a unique identifier) as required**
475 **by the Rules of the Commission, including:**

- 476 **1. Identifying information;**
- 477 **2. Licensure data;**
- 478 **3. Adverse Actions against a license or Compact Privilege;**

- 479 **4. Non-confidential information related to Alternative Program participation;**
480 **5. Any denial of application for licensure, and the reason(s) for such denial;**
481 **6. Other information that may facilitate the administration of this Compact, as**
482 **determined by the Rules of the Commission; and**
483 **7. Current Significant Investigative Information.**

484 **C. Current Significant Investigative Information and other Investigative**
485 **Information pertaining to a Licensee in any Member State will only be available to other**
486 **Member States.**

487 **D. The Commission shall promptly notify all Member States of any Adverse Action**
488 **taken against a Licensee or an individual applying for a license. Adverse Action**
489 **information pertaining to a Licensee in any Member State will be available to any other**
490 **Member State.**

491 **E. Member States contributing information to the Data System may designate**
492 **information that may not be shared with the public without the express permission of the**
493 **contributing State.**

494 **F. Any information submitted to the Data System that is subsequently required to**
495 **be expunged by the laws of the Member State contributing the information shall be**
496 **removed from the Data System.**

497 **SECTION 10. RULEMAKING**

498 **A. The Commission shall exercise its Rulemaking powers pursuant to the criteria**
499 **set forth in this Section and the Rules adopted thereunder. Rules and amendments shall**
500 **become binding as of the date specified in each Rule or amendment.**

501 **B. The Commission shall promulgate reasonable rules in order to effectively and**
502 **efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the**
503 **event the Commission exercises its rule making authority in a manner that is beyond the**
504 **scope of the purposes of the Compact, or the powers granted hereunder, then such an**
505 **action by the Commission shall be invalid and have no force and effect.**

506 **C. If a majority of the legislatures of the Member States rejects a Rule, by**
507 **enactment of a statute or resolution in the same manner used to adopt the Compact within**
508 **4 years of the date of adoption of the Rule, then such Rule shall have no further force and**
509 **effect in any Member State.**

510 **D. Rules or amendments to the Rules shall be adopted at a regular or special**
511 **meeting of the Commission.**

512 **E. Prior to promulgation and adoption of a final Rule or Rules by the Commission,**
513 **and at least thirty (30) days in advance of the meeting at which the Rule will be considered**
514 **and voted upon, the Commission shall file a Notice of Proposed Rulemaking:**

- 515 1. On the website of the Commission or other publicly accessible platform; and
516 2. On the website of each Member State Occupational Therapy Licensing Board
517 or other publicly accessible platform or the publication in which each State would
518 otherwise publish proposed Rules.
- 519 **F. The Notice of Proposed Rulemaking shall include:**
- 520 1. The proposed time, date, and location of the meeting in which the Rule will be
521 considered and voted upon;
- 522 2. The text of the proposed Rule or amendment and the reason for the proposed
523 Rule;
- 524 3. A request for comments on the proposed Rule from any interested person; and
525 4. The manner in which interested persons may submit notice to the Commission
526 of their intention to attend the public hearing and any written comments.
- 527 **G. Prior to adoption of a proposed Rule, the Commission shall allow persons to**
528 **submit written data, facts, opinions, and arguments, which shall be made available to the**
529 **public.**
- 530 **H. The Commission shall grant an opportunity for a public hearing before it adopts**
531 **a Rule or amendment if a hearing is requested by:**
- 532 1. At least twenty five (25) persons;
- 533 2. A State or federal governmental subdivision or agency; or
- 534 3. An association or organization having at least twenty five (25) members.
- 535 **I. If a hearing is held on the proposed Rule or amendment, the Commission shall**
536 **publish the place, time, and date of the scheduled public hearing. If the hearing is held via**
537 **electronic means, the Commission shall publish the mechanism for access to the electronic**
538 **hearing.**
- 539 1. All persons wishing to be heard at the hearing shall notify the executive director
540 of the Commission or other designated member in writing of their desire to appear and
541 testify at the hearing not less than five (5) business days before the scheduled date of the
542 hearing.
- 543 2. Hearings shall be conducted in a manner providing each person who wishes to
544 comment a fair and reasonable opportunity to comment orally or in writing.
- 545 3. All hearings will be recorded. A copy of the recording will be made available on
546 request.
- 547 4. Nothing in this section shall be construed as requiring a separate hearing on each
548 Rule. Rules may be grouped for the convenience of the Commission at hearings required
549 by this section.

550 J. Following the scheduled hearing date, or by the close of business on the
551 scheduled hearing date if the hearing was not held, the Commission shall consider all
552 written and oral comments received.

553 K. If no written notice of intent to attend the public hearing by interested parties
554 is received, the Commission may proceed with promulgation of the proposed Rule without
555 a public hearing.

556 L. The Commission shall, by majority vote of all members, take final action on the
557 proposed Rule and shall determine the effective date of the Rule, if any, based on the
558 Rulemaking record and the full text of the Rule.

559 M. Upon determination that an emergency exists, the Commission may consider
560 and adopt an emergency Rule without prior notice, opportunity for comment, or hearing,
561 provided that the usual Rulemaking procedures provided in the Compact and in this
562 section shall be retroactively applied to the Rule as soon as reasonably possible, in no event
563 later than ninety (90) days after the effective date of the Rule. For the purposes of this
564 provision, an emergency Rule is one that must be adopted immediately in order to:

- 565 1. Meet an imminent threat to public health, safety, or welfare;
- 566 2. Prevent a loss of Commission or Member State funds;
- 567 3. Meet a deadline for the promulgation of an administrative Rule that is
568 established by federal law or Rule; or
- 569 4. Protect public health and safety.

570 N. The Commission or an authorized committee of the Commission may direct
571 revisions to a previously adopted Rule or amendment for purposes of correcting
572 typographical errors, errors in format, errors in consistency, or grammatical errors.
573 Public notice of any revisions shall be posted on the website of the Commission. The
574 revision shall be subject to challenge by any person for a period of thirty (30) days after
575 posting. The revision may be challenged only on grounds that the revision results in a
576 material change to a Rule. A challenge shall be made in writing and delivered to the chair
577 of the Commission prior to the end of the notice period. If no challenge is made, the
578 revision will take effect without further action. If the revision is challenged, the revision
579 may not take effect without the approval of the Commission.

580 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

581 A. Oversight

582 1. The executive, legislative, and judicial branches of State government in each
583 Member State shall enforce this Compact and take all actions necessary and appropriate
584 to effectuate the Compact's purposes and intent. The provisions of this Compact and the
585 Rules promulgated hereunder shall have standing as statutory law.

586 **2. All courts shall take judicial notice of the Compact and the Rules in any judicial**
587 **or administrative proceeding in a Member State pertaining to the subject matter of this**
588 **Compact which may affect the powers, responsibilities, or actions of the Commission.**

589 **3. The Commission shall be entitled to receive service of process in any such**
590 **proceeding, and shall have standing to intervene in such a proceeding for all purposes.**
591 **Failure to provide service of process to the Commission shall render a judgment or order**
592 **void as to the Commission, this Compact, or promulgated Rules.**

593 **B. Default, Technical Assistance, and Termination**

594 **1. If the Commission determines that a Member State has defaulted in the**
595 **performance of its obligations or responsibilities under this Compact or the promulgated**
596 **Rules, the Commission shall:**

597 **a. Provide written notice to the defaulting State and other Member States of the**
598 **nature of the default, the proposed means of curing the default and/or any other action to**
599 **be taken by the Commission; and**

600 **b. Provide remedial training and specific technical assistance regarding the default.**

601 **2. If a State in default fails to cure the default, the defaulting State may be**
602 **terminated from the Compact upon an affirmative vote of a majority of the Member States,**
603 **and all rights, privileges and benefits conferred by this Compact may be terminated on the**
604 **effective date of termination. A cure of the default does not relieve the offending State of**
605 **obligations or liabilities incurred during the period of default.**

606 **3. Termination of membership in the Compact shall be imposed only after all other**
607 **means of securing compliance have been exhausted. Notice of intent to suspend or**
608 **terminate shall be given by the Commission to the governor, the majority and minority**
609 **leaders of the defaulting State's legislature, and each of the Member States.**

610 **4. A State that has been terminated is responsible for all assessments, obligations,**
611 **and liabilities incurred through the effective date of termination, including obligations that**
612 **extend beyond the effective date of termination.**

613 **5. The Commission shall not bear any costs related to a State that is found to be in**
614 **default or that has been terminated from the Compact, unless agreed upon in writing**
615 **between the Commission and the defaulting State.**

616 **6. The defaulting State may appeal the action of the Commission by petitioning the**
617 **U.S. District Court for the District of Columbia or the federal district where the**
618 **Commission has its principal offices. The prevailing member shall be awarded all costs of**
619 **such litigation, including reasonable attorney's fees.**

620 **C. Dispute Resolution**

621 1. Upon request by a Member State, the Commission shall attempt to resolve
622 disputes related to the Compact that arise among Member States and between member and
623 non-Member States.

624 2. The Commission shall promulgate a Rule providing for both mediation and
625 binding dispute resolution for disputes as appropriate.

626 **D. Enforcement**

627 1. The Commission, in the reasonable exercise of its discretion, shall enforce the
628 provisions and Rules of this Compact.

629 2. By majority vote, the Commission may initiate legal action in the United States
630 District Court for the District of Columbia or the federal district where the Commission
631 has its principal offices against a Member State in default to enforce compliance with the
632 provisions of the Compact and its promulgated Rules and bylaws. The relief sought may
633 include both injunctive relief and damages. In the event judicial enforcement is necessary,
634 the prevailing member shall be awarded all costs of such litigation, including reasonable
635 attorney's fees.

636 3. The remedies herein shall not be the exclusive remedies of the Commission. The
637 Commission may pursue any other remedies available under federal or State law.

638 **SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE**
639 **COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED**
640 **RULES, WITHDRAWAL, AND AMENDMENT**

641 **A.** The Compact shall come into effect on the date on which the Compact statute
642 is enacted into law in the tenth Member State. The provisions, which become effective at
643 that time, shall be limited to the powers granted to the Commission relating to assembly
644 and the promulgation of Rules. Thereafter, the Commission shall meet and exercise
645 Rulemaking powers necessary to the implementation and administration of the Compact.

646 **B.** Any State that joins the Compact subsequent to the Commission's initial
647 adoption of the Rules shall be subject to the Rules as they exist on the date on which the
648 Compact becomes law in that State. Any Rule that has been previously adopted by the
649 Commission shall have the full force and effect of law on the day the Compact becomes law
650 in that State.

651 **C.** Any Member State may withdraw from this Compact by enacting a statute
652 repealing the same.

653 1. A Member State's withdrawal shall not take effect until six (6) months after
654 enactment of the repealing statute.

655 **2. Withdrawal shall not affect the continuing requirement of the withdrawing**
656 **State's Occupational Therapy Licensing Board to comply with the investigative and**
657 **Adverse Action reporting requirements of this act prior to the effective date of withdrawal.**

658 **D. Nothing contained in this Compact shall be construed to invalidate or prevent**
659 **any Occupational Therapy licensure agreement or other cooperative arrangement between**
660 **a Member State and a non-Member State that does not conflict with the provisions of this**
661 **Compact.**

662 **E. This Compact may be amended by the Member States. No amendment to this**
663 **Compact shall become effective and binding upon any Member State until it is enacted into**
664 **the laws of all Member States.**

665 **SECTION 13. CONSTRUCTION AND SEVERABILITY**

666 **This Compact shall be liberally construed so as to effectuate the purposes thereof.**
667 **The provisions of this Compact shall be severable and if any phrase, clause, sentence or**
668 **provision of this Compact is declared to be contrary to the constitution of any Member**
669 **State or of the United States or the applicability thereof to any government, agency, person,**
670 **or circumstance is held invalid, the validity of the remainder of this Compact and the**
671 **applicability thereof to any government, agency, person, or circumstance shall not be**
672 **affected thereby. If this Compact shall be held contrary to the constitution of any Member**
673 **State, the Compact shall remain in full force and effect as to the remaining Member States**
674 **and in full force and effect as to the Member State affected as to all severable matters.**

675 **SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS**

676 **A. A Licensee providing Occupational Therapy in a Remote State under the**
677 **Compact Privilege shall function within the laws and regulations of the Remote State.**

678 **B. Nothing herein prevents the enforcement of any other law of a Member State**
679 **that is not inconsistent with the Compact.**

680 **C. Any laws in a Member State in conflict with the Compact are superseded to the**
681 **extent of the conflict.**

682 **D. Any lawful actions of the Commission, including all Rules and bylaws**
683 **promulgated by the Commission, are binding upon the Member States.**

684 **E. All agreements between the Commission and the Member States are binding in**
685 **accordance with their terms.**

686 **F. In the event any provision of the Compact exceeds the constitutional limits**
687 **imposed on the legislature of any Member State, the provision shall be ineffective to the**
688 **extent of the conflict with the constitutional provision in question in that Member State.**

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

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

4 (1) "Accreditation Council for Education in Nutrition and Dietetics" or "ACEND", the
5 Academy of Nutrition and Dietetics accrediting agency for education programs preparing
6 students for professions as registered dietitians;

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

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

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

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

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

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

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

21 (f) Engaged in medical nutritional therapy as defined in subdivision (8) of this section;

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

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

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

26 (7) "Licensed dietitian", a person who is licensed pursuant to the provisions of sections
27 324.200 to 324.225 to engage in the practice of dietetics or medical nutrition therapy;

28 (8) "Medical nutrition therapy", ~~[nutritional diagnostic, therapy, and counseling services~~
29 ~~which are furnished by a registered dietitian or registered dietitian nutritionist]~~ **the provision of**
30 **nutrition care services for the treatment or management of a disease or medical condition;**

31 (9) "Registered dietitian" or "registered dietitian nutritionist", a person who:

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

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

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

37 (d) Accrued seventy-five hours of approved continuing professional units every five
38 years; as determined by the Committee on Dietetic Registration.

324.206. 1. As long as the person involved does not represent or hold himself or herself out as a dietitian as defined by subdivision (4) of subsection 2 of section 324.200, nothing in sections 324.200 to 324.225 is intended to limit, preclude, or otherwise interfere with:

(1) Self-care by a person or gratuitous care by a friend or family member;

(2) Persons in the military services or working in federal facilities from performing any activities described in sections 324.200 to 324.225 during the course of their assigned duties in the military service or a federal facility;

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

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

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

(6) Any person furnishing general nutrition information as to the use of food, food materials, or dietary supplements, nor prevent in any way the free dissemination of literature;

(7) A person credentialed in the field of nutrition from providing advice, counseling, or evaluations in matters of food, diet, or nutrition to the extent such acts are within the scope of practice listed by the credentialing body and do not constitute medical nutrition therapy;

provided, however, no such individual may call himself or herself a dietitian unless he or she is licensed under this chapter.

2. A credentialed person not representing or holding himself or herself out as a dietitian, who performs any of the acts or services listed in subsection 1 of this section, shall provide, prior to performing such act or service for another, the following:

(1) The person's name and title;

(2) The person's business address and telephone number;

(3) A statement that the person is not a dietitian licensed by the state of Missouri;

(4) A statement that the information provided or advice given may be considered alternative care by licensed practitioners in the state of Missouri; and

(5) The person's qualifications for providing such information or advice, including educational background, training, and experience.

327.011. As used in this chapter, the following words and terms shall have the meanings indicated:

(1) "Accredited degree program from a school of architecture", a degree from any school or other institution which teaches architecture and whose curricula for the degree in question have been, at the time in question, certified as accredited by the National Architectural Accrediting Board;

(2) "Accredited school of engineering", any school or other institution which teaches engineering and whose curricula on the subjects in question are or have been, at the time in question certified as accredited by the engineering accreditation commission of the accreditation board for engineering and technology or its successor organization;

(3) "Accredited school of landscape architecture", any school or other institution which teaches landscape architecture and whose curricula on the subjects in question are or have been at the times in question certified as accredited by the Landscape Architecture Accreditation Board of the American Society of Landscape Architects;

(4) "Architect", any person authorized pursuant to the provisions of this chapter to practice architecture in Missouri, as the practice of architecture is defined in section 327.091;

(5) "Board", the Missouri board for architects, professional engineers, professional land surveyors and professional landscape architects;

(6) "Corporation", any general business corporation, professional corporation or limited liability company;

(7) "Design coordination", the review and coordination of technical submissions prepared by others including, as appropriate and without limitation, architects, professional engineers, professional land surveyors, professional landscape architects, and other consultants;

(8) "Design survey", a survey which includes all activities required to gather information to support the sound conception, planning, design, construction, maintenance, and operation of design projects, but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system;

(9) "Incidental practice", the performance of other professional services licensed under chapter 327 that are related to a licensee's professional service, but are secondary and substantially less in scope and magnitude when compared to the professional services usually and normally performed by the licensee practicing in their licensed profession. This incidental professional service shall be safely and competently performed by the licensee without jeopardizing the health, safety, and welfare of the public. The licensee shall be qualified by education, training, and experience as determined by the board and in sections 327.091, 327.181, 327.272, and 327.600 and applicable board rules to perform such incidental professional service;

37 (10) "Licensee", a person licensed to practice any profession regulated under this chapter
38 or a corporation authorized to practice any such profession;

39 (11) "Partnership", any partnership or limited liability partnership;

40 (12) "Person", any ~~person~~ **individual**, corporation, firm, partnership, association or
41 other entity **authorized to do business**;

42 (13) "Professional engineer", any person authorized pursuant to the provisions of this
43 chapter to practice as a professional engineer in Missouri, as the practice of engineering is
44 defined in section 327.181;

45 (14) "Professional land surveyor", any person authorized pursuant to the provisions of
46 this chapter to practice as a professional land surveyor in Missouri as the practice of land
47 surveying is defined in section 327.272;

48 (15) "Professional landscape architect", any person authorized pursuant to the provisions
49 of this chapter to practice as a professional landscape architect in Missouri as the practice of
50 landscape architecture is defined in section 327.600;

51 (16) "Responsible charge", the independent direct control of a licensee's work and
52 personal supervision of such work pertaining to the practice of architecture, engineering, land
53 surveying, or landscape architecture.

327.091. 1. ~~[Any person practices as an architect in Missouri who renders or offers to
2 render or represents himself or herself as willing or able to render service or creative work which
3 requires architectural education, training and experience, including services and work such as
4 consultation, evaluation, planning, aesthetic and structural design, the preparation of drawings,
5 specifications and related documents, and the coordination of services furnished by structural,
6 civil, mechanical and electrical engineers and other consultants as they relate to architectural
7 work in connection with the construction or erection of any private or public building, building
8 structure, building project or integral part or parts of buildings or of any additions or alterations
9 thereto; or who uses the title "architect" or the terms "architect" or "architecture" or
10 "architectural" alone or together with any words other than "landscape" that indicate or imply that
11 such person is or holds himself or herself out to be an architect] **The practice of architecture
12 is the rendering of or offering to render services in connection with the design and
13 construction of public and private buildings, structures and shelters, site improvements,
14 in whole or part and including any additions or alterations thereto, as well as to the spaces
15 within and the site surrounding such buildings and structures, which have as their
16 principal purpose human occupancy or habitation. The services referred to include
17 consultation, design surveys, feasibility studies, evaluation, planning, aesthetic and
18 structural design, preliminary design, drawings, specifications, technical submissions, and
19 other instruments of service, the administration of construction contracts, construction**~~

20 **observation and inspection, and the coordination of any elements of technical submissions**
21 **prepared by others, including professional engineers, landscape architects, and other**
22 **consultants that pertain to the practice of architecture. A person shall be considered to be**
23 **practicing architecture when such person uses the title "architect" or the terms "architect"**
24 **or "architecture" or "architectural" alone or together with any words other than**
25 **"landscape" to indicate or imply that such person is or holds himself or herself out to be**
26 **an architect. Only a person with the required architectural education, practical training,**
27 **relevant work experience, and licensure may practice as an architect in Missouri.**

28 2. Architects shall be in responsible charge of all architectural design of buildings and
29 structures that can affect the health, safety, and welfare of the public within their scope of
30 practice.

327.101. 1. No person shall practice architecture in Missouri as defined in section
2 327.091 unless and until there is issued to the person a license or a certificate of authority
3 certifying that the person has been duly licensed as an architect or authorized to practice
4 architecture, in Missouri, and unless such license has been renewed as hereinafter specified[;
5 ~~provided, however, that nothing in this chapter shall apply to the following persons].~~

6 **2. Notwithstanding the provisions of subsection 1 of this section, the following**
7 **persons may engage in actions defined as the practice of architecture in section 327.091,**
8 **provided that such persons shall not use the title "architect" or the terms "architect" or**
9 **"architecture" or "architectural" alone or together with any words other than**
10 **"landscape" that indicate or imply that such person is or holds himself or herself out to be**
11 **an architect:**

12 (1) Any person who is an employee of a person holding a currently valid license as an
13 architect or who is an employee of any person holding a currently valid certificate of authority
14 pursuant to this chapter, and who performs architectural work under the direction and continuing
15 supervision of and is checked by one holding a currently valid license as an architect pursuant
16 to this chapter;

17 (2) Any person who is a regular full-time employee who performs architectural work for
18 the person's employer if and only if all such work and service so performed is in connection with
19 a facility owned or wholly operated by the employer and which is occupied by the employer of
20 the employee performing such work or service, and if and only if such work and service so
21 performed do not endanger the public health or safety;

22 (3) Any holder of a currently valid license or certificate of authority as a professional
23 engineer who performs only such architecture as incidental practice and necessary to the
24 completion of professional services lawfully being performed by such licensed professional
25 engineer;

26 (4) Any person who is a professional landscape architect, city planner or regional planner
27 who performs work consisting only of consultations concerning and preparation of master plans
28 for parks, land areas or communities, or the preparation of plans for and the supervision of the
29 planting and grading or the construction of walks and paving for parks or land areas and such
30 other minor structural features as fences, steps, walls, small decorative pools and other
31 construction not involving structural design or stability and which is usually and customarily
32 included within the area of work of a professional landscape architect or planner;

33 (5) Any person who renders architectural services in connection with the construction,
34 remodeling or repairing of any privately owned building described in paragraphs (a), (b), **or** (c);
35 ~~(d), and (e)]~~ which follow, and who indicates on any drawings, specifications, estimates, reports
36 or other documents furnished in connection with such services that the person is not a licensed
37 architect:

38 (a) A dwelling house; or

39 (b) A multiple family dwelling house, flat or apartment containing not more than two
40 families; or

41 ~~(c) [A commercial or industrial building or structure which provides for the employment,~~
42 ~~assembly, housing, sleeping or eating of not more than nine persons; or~~

43 ~~—— (d) Any one structure containing less than two thousand square feet, except as provided~~
44 ~~in (b) and (c) above, and which is not a part or a portion of a project which contains more than~~
45 ~~one structure; or~~

46 ~~—— (e) A building or structure used exclusively for farm purposes]~~ **Any one building or**
47 **structure, except for those buildings or structures referenced in subdivision (8) of this**
48 **subsection, which provides for the employment, assembly, housing, sleeping, or eating of**
49 **not more than nine persons, contains less than two thousand square feet, and is not part**
50 **of another building or structure;**

51 (6) Any person who renders architectural services in connection with the remodeling or
52 repairing of any privately owned multiple family dwelling house, flat or apartment containing
53 three or four families, provided that the alteration, renovation, or remodeling does not affect
54 architectural or engineering safety features of the building and who indicates on any drawings,
55 specifications, estimates, reports or other documents furnished in connection with such services
56 that the person is not a licensed architect;

57 (7) Any person or corporation who is offering, but not performing or rendering,
58 architectural services if the person or corporation is licensed to practice architecture in the state
59 or country of residence or principal place of business; **or**

60 **(8) Any person who renders architectural services in connection with the**
61 **construction, remodeling, or repairing of any building or structure used exclusively for**
62 **agriculture purposes.**

327.131. Any person may apply to the board for licensure as an architect who is over the
2 age of twenty-one, has acquired an accredited degree from an accredited degree program from
3 a school of architecture, holds a certified Intern Development Program (IDP) **or Architectural**
4 **Experience Program (AXP)** record with the National Council of Architectural Registration
5 Boards, and has taken and passed all divisions of the Architect Registration Examination.

327.191. **1.** No person shall practice as a professional engineer in Missouri, as defined
2 in section 327.181 unless and until there is issued to such person a professional license or a
3 certificate of authority certifying that such person has been duly licensed as a professional
4 engineer or authorized to practice engineering in Missouri, and unless such license or certificate
5 has been renewed as provided in section 327.261 [~~provided that section 327.181 shall not be~~
6 ~~construed to prevent the practice of engineering by the following persons~~].

7 **2. Notwithstanding the provisions of subsection 1 of this section, the following**
8 **persons may engage in actions defined as the practice of professional engineering in section**
9 **327.181, provided that such persons shall not use the title "professional engineer" or**
10 **"consulting engineer" or the word "engineer" alone or preceded by any word indicating**
11 **or implying that such person is or holds himself or herself out to be a professional engineer,**
12 **or use any word or words, letters, figures, degrees, titles, or other description indicating**
13 **or implying that such person is a professional engineer or is willing or able to practice**
14 **engineering:**

15 (1) Any person who is an employee of a person holding a currently valid license as a
16 professional engineer or who is an employee of a person holding a currently valid certificate of
17 authority pursuant to this chapter, and who performs professional engineering work under the
18 direction and continuing supervision of and is checked by one holding a currently valid license
19 as a professional engineer pursuant to this chapter;

20 (2) Any person who is a regular full-time employee of a person or any former employee
21 under contract to a person, who performs professional engineering work for such employer if and
22 only if all such work and service so performed is done solely in connection with a facility owned
23 or wholly operated by the employer and occupied or maintained by the employer of the employee
24 performing such work or service, and does not affect the health, safety, and welfare of the public;

25 (3) Any person engaged in engineering who is a full-time, regular employee of a person
26 engaged in manufacturing operations and which engineering so performed by such person relates
27 to the manufacture, sale or installation of the products of such person, and does not affect the
28 health, safety, and welfare of the public;

29 (4) Any holder of a currently valid license or certificate of authority as an architect,
30 professional land surveyor, or professional landscape architect who performs only such
31 engineering as incidental practice and necessary to the completion of professional services
32 lawfully being performed by such architect, professional land surveyor, or professional landscape
33 architect;

34 (5) Any person who renders engineering services in connection with the
35 construction, remodeling, or repairing of any privately owned building described as
36 follows, and who indicates on any drawings, specifications, estimates, reports, or other
37 documents furnished in connection with such services that the person is not a licensed
38 professional engineer:

39 (a) A dwelling house;

40 (b) A multiple family dwelling house, flat, or apartment containing no more than
41 two families; or

42 (c) Any one building or structure, except for those buildings or structures
43 referenced in subdivision (8) of this subsection, which provides for the employment,
44 assembly, housing, sleeping, or eating of not more than nine persons, contains less than two
45 thousand square feet, and is not part of another building or structure;

46 (6) Any person who renders engineering services in connection with the remodeling
47 or repairing of any privately owned, multiple family dwelling house, flat, or apartment
48 containing three or four families, provided that the alteration, renovation, or remodeling
49 does not affect architectural or engineering safety features of the building, and who
50 indicates on any drawings, specifications, estimates, reports, or other documents furnished
51 in connection with such services that the person is not a licensed professional engineer;

52 (7) Any person or corporation who is offering, but not performing or rendering,
53 professional engineering services if the person or corporation is licensed to practice professional
54 engineering in the state or country of residence or principal place of business;

55 (8) Any person who renders engineering services in connection with the
56 construction, remodeling, or repairing of any building or structure used exclusively for
57 agricultural purposes.

327.241. 1. After it has been determined that an applicant possesses the qualifications
2 entitling the applicant to be examined, each applicant for examination and licensure as a
3 professional engineer in Missouri shall appear before the board or its representatives for
4 examination at the time and place specified.

5 2. The examination or examinations shall be of such form, content and duration as shall
6 be determined by the board to thoroughly test the qualifications of each applicant to practice as
7 a professional engineer in Missouri.

8 3. Any applicant to be eligible for a license must make a grade on each examination of
9 at least seventy percent.

10 4. The engineering examination shall consist of two parts; the first part may be taken by
11 any person after such person has satisfied the educational requirements of section 327.221, or
12 who is in his or her final year of study in an accredited school of engineering; and upon passing
13 part one of the examination and providing proof that such person has satisfied the educational
14 requirements of section 327.221 and upon payment of the required fee, such person shall be an
15 engineer-intern, subject to the other provisions of this chapter.

16 5. Any engineer-intern, as defined in subsection 4 of this section~~], who has acquired at~~
17 ~~least four years of satisfactory engineering experience,~~ may take part two of the engineering
18 examination and upon passing it **and having acquired at least four years of satisfactory**
19 **engineering experience** shall be entitled to receive a license, subject, however, to the other
20 provisions of this chapter.

21 6. Notwithstanding the provisions of subsections 4 and 5 of this section, the board may,
22 in its discretion, provide by rule that any person who has graduated from and holds an
23 engineering degree from an accredited school of engineering may thereupon be eligible to take
24 both parts of the engineering examination and that upon passing said examination and acquiring
25 four years of satisfactory engineering experience, after graduating and receiving a degree as
26 aforesaid, shall be entitled to receive a license to practice as a professional engineer, subject,
27 however, to the other provisions of this chapter.

28 7. Any person who has graduated from and has received a degree in engineering from
29 an accredited school of engineering may ~~[then acquire four years of satisfactory engineering~~
30 ~~experience and thereafter]~~ take both parts of the examination and upon passing **and having**
31 **acquired four years of satisfactory engineering experience** shall be entitled to receive a
32 license to practice as a professional engineer, subject, however, to the other provisions of this
33 chapter.

34 ~~[8. Any person entitled to be licensed as a professional engineer as provided in~~
35 ~~subsection 5, 6, or 7 of this section must be so licensed within four years after the date on which~~
36 ~~he or she was so entitled, and if one is not licensed within the time he or she is so entitled, the~~
37 ~~engineering division of the board may require him to take and satisfactorily pass such further~~
38 ~~examination as provided by rule before issuing to him a license.]~~

2 327.612. Any person who ~~[has attained the age of twenty-one years, and]~~ has a degree
3 in landscape architecture from an accredited school of landscape architecture ~~[and], or possesses~~
4 **an education which in the opinion of the board equals or exceeds the education received**
5 **by a graduate of an accredited school**, has acquired at least three years satisfactory landscape
architectural experience after acquiring such a degree, **and who has taken and passed all**

6 **sections of the landscape architectural registration examination administered by the**
7 **Council of Landscape Architectural Registration Boards** may apply to the board for licensure
8 as a professional landscape architect.

337.068. 1. If the [board] **committee** finds merit to a complaint by an individual
2 incarcerated or under the care and control of the department of corrections or who has been
3 ordered to be taken into custody, detained, or held under sections 632.480 to 632.513, **or who**
4 **has been ordered to be evaluated under chapter 552**, and takes further investigative action,
5 no documentation may appear on file or disciplinary action may be taken in regards to the
6 licensee's license unless the provisions of subsection 2 of section 337.035 have been violated.
7 Any case file documentation that does not result in the [board] **committee** filing an action
8 pursuant to subsection 2 of section 337.035 shall be destroyed within three months after the final
9 case disposition by the [board] **committee**. No notification to any other licensing board in
10 another state or any national registry regarding any investigative action shall be made unless the
11 provisions of subsection 2 of section 337.035 have been violated.

12 2. Upon written request of the psychologist subject to a complaint, prior to August 28,
13 1999, by an individual incarcerated or under the care and control of the department of corrections
14 or prior to August 28, 2008, by an individual who has been ordered to be taken into custody,
15 detained, or held under sections 632.480 to 632.513, **or prior to August 28, 2021, by an**
16 **individual who has been ordered to be evaluated under chapter 552**, that did not result in
17 the [board] **committee** filing an action pursuant to subsection 2 of section 337.035, the [board]
18 **committee** and the division of professional registration, shall in a timely fashion:

19 (1) Destroy all documentation regarding the complaint;

20 (2) Notify any other licensing board in another state or any national registry regarding
21 the [board's] **committee's** actions if they have been previously notified of the complaint; and

22 (3) Send a letter to the licensee that clearly states that the [board] **committee** found the
23 complaint to be unsubstantiated, that the [board] **committee** has taken the requested action, and
24 notify the licensee of the provisions of subsection 3 of this section.

25 3. Any person who has been the subject of an unsubstantiated complaint as provided in
26 subsection 1 or 2 of this section shall not be required to disclose the existence of such complaint
27 in subsequent applications or representations relating to their psychology professions.

338.010. 1. The "practice of pharmacy" means the interpretation, implementation, and
2 evaluation of medical prescription orders, including any legend drugs under 21 U.S.C. Section
3 353; receipt, transmission, or handling of such orders or facilitating the dispensing of such
4 orders; the designing, initiating, implementing, and monitoring of a medication therapeutic plan
5 as defined by the prescription order so long as the prescription order is specific to each patient
6 for care by a pharmacist; the compounding, dispensing, labeling, and administration of drugs and

7 devices pursuant to medical prescription orders and administration of viral influenza, pneumonia,
8 shingles, hepatitis A, hepatitis B, diphtheria, tetanus, pertussis, and meningitis vaccines by
9 written protocol authorized by a physician for persons at least seven years of age or the age
10 recommended by the Centers for Disease Control and Prevention, whichever is higher, or the
11 administration of pneumonia, shingles, hepatitis A, hepatitis B, diphtheria, tetanus, pertussis,
12 meningitis, and viral influenza vaccines by written protocol authorized by a physician for a
13 specific patient as authorized by rule; the participation in drug selection according to state law
14 and participation in drug utilization reviews; the proper and safe storage of drugs and devices and
15 the maintenance of proper records thereof; consultation with patients and other health care
16 practitioners, and veterinarians and their clients about legend drugs, about the safe and effective
17 use of drugs and devices; the prescribing and dispensing of any nicotine replacement therapy
18 product under section 338.665; **the dispensing of HIV postexposure prophylaxis pursuant**
19 **to section 338.730**; and the offering or performing of those acts, services, operations, or
20 transactions necessary in the conduct, operation, management and control of a pharmacy. No
21 person shall engage in the practice of pharmacy unless he or she is licensed under the provisions
22 of this chapter. This chapter shall not be construed to prohibit the use of auxiliary personnel
23 under the direct supervision of a pharmacist from assisting the pharmacist in any of his or her
24 duties. This assistance in no way is intended to relieve the pharmacist from his or her
25 responsibilities for compliance with this chapter and he or she will be responsible for the actions
26 of the auxiliary personnel acting in his or her assistance. This chapter shall also not be construed
27 to prohibit or interfere with any legally registered practitioner of medicine, dentistry, or podiatry,
28 or veterinary medicine only for use in animals, or the practice of optometry in accordance with
29 and as provided in sections 195.070 and 336.220 in the compounding, administering,
30 prescribing, or dispensing of his or her own prescriptions.

31 2. Any pharmacist who accepts a prescription order for a medication therapeutic plan
32 shall have a written protocol from the physician who refers the patient for medication therapy
33 services. The written protocol and the prescription order for a medication therapeutic plan shall
34 come from the physician only, and shall not come from a nurse engaged in a collaborative
35 practice arrangement under section 334.104, or from a physician assistant engaged in a
36 collaborative practice arrangement under section 334.735.

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

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

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

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

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

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

69 9. Any pharmacist who has received a certificate of medication therapeutic plan authority
70 may engage in the designing, initiating, implementing, and monitoring of a medication
71 therapeutic plan as defined by a prescription order from a physician that is specific to each
72 patient for care by a pharmacist.

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

76 11. "Veterinarian", "doctor of veterinary medicine", "practitioner of veterinary
77 medicine", "DVM", "VMD", "BVSe", "BVMS", "BSe (Vet Science)", "VMB", "MRCVS", or
78 an equivalent title means a person who has received a doctor's degree in veterinary medicine

79 from an accredited school of veterinary medicine or holds an Educational Commission for
80 Foreign Veterinary Graduates (EDFVG) certificate issued by the American Veterinary Medical
81 Association (AVMA).

82 12. In addition to other requirements established by the joint promulgation of rules by
83 the board of pharmacy and the state board of registration for the healing arts:

84 (1) A pharmacist shall administer vaccines by protocol in accordance with treatment
85 guidelines established by the Centers for Disease Control and Prevention (CDC);

86 (2) A pharmacist who is administering a vaccine shall request a patient to remain in the
87 pharmacy a safe amount of time after administering the vaccine to observe any adverse reactions.
88 Such pharmacist shall have adopted emergency treatment protocols;

89 (3) In addition to other requirements by the board, a pharmacist shall receive additional
90 training as required by the board and evidenced by receiving a certificate from the board upon
91 completion, and shall display the certification in his or her pharmacy where vaccines are
92 delivered.

93 13. A pharmacist shall inform the patient that the administration of the vaccine will be
94 entered into the ShowMeVax system, as administered by the department of health and senior
95 services. The patient shall attest to the inclusion of such information in the system by signing
96 a form provided by the pharmacist. If the patient indicates that he or she does not want such
97 information entered into the ShowMeVax system, the pharmacist shall provide a written report
98 within fourteen days of administration of a vaccine to the patient's ~~primary~~ health care provider,
99 if provided by the patient, containing:

- 100 (1) The identity of the patient;
- 101 (2) The identity of the vaccine or vaccines administered;
- 102 (3) The route of administration;
- 103 (4) The anatomic site of the administration;
- 104 (5) The dose administered; and
- 105 (6) The date of administration.

338.710. 1. There is hereby created in the Missouri board of pharmacy the "RX Cares
2 for Missouri Program". The goal of the program shall be to promote medication safety and to
3 prevent prescription drug abuse, misuse, and diversion in Missouri.

4 2. The board, in consultation with the department, shall be authorized to expend,
5 allocate, or award funds appropriated to the board to private or public entities to develop or
6 provide programs or education to promote medication safety or to suppress or prevent
7 prescription drug abuse, misuse, and diversion in the state of Missouri. In no case shall the
8 authorization include, nor the funds be expended for, any state prescription drug monitoring
9 program including, but not limited to, such as are defined in 38 CFR 1.515. Funds disbursed to

10 a state agency under this section may enhance, but shall not supplant, funds otherwise
11 appropriated to such state agency.

12 3. The board shall be the administrative agency responsible for implementing the
13 program in consultation with the department. The board and the department may enter into
14 interagency agreements between themselves to allow the department to assist in the management
15 or operation of the program. The board may award funds directly to the department to
16 implement, manage, develop, or provide programs or education pursuant to the program.

17 4. After a full year of program operation, the board shall prepare and submit an
18 evaluation report to the governor and the general assembly describing the operation of the
19 program and the funds allocated. Unless otherwise authorized by the general assembly, the
20 program shall expire on August 28, ~~2019~~ 2026.

**338.730. 1. Notwithstanding any other law to the contrary, a pharmacist may
2 dispense HIV postexposure prophylaxis in accordance with this section. Such prophylaxis
3 shall be dispensed only if the pharmacist follows a written protocol authorized by a
4 licensed physician.**

5 **2. For purposes of this section, "postexposure prophylaxis" shall mean any drug
6 approved by the Food and Drug Administration that meets the same clinical eligibility
7 recommendations provided in CDC guidelines.**

8 **3. For purposes of this section, "CDC guidelines" shall mean the current HIV
9 guidelines published by the federal Centers for Disease Control and Prevention.**

10 **4. The state board of registration for the healing arts and the state board of
11 pharmacy shall jointly promulgate rules and regulations for the administration of this
12 section. Neither board shall separately promulgate rules governing a pharmacist's
13 authority to dispense HIV postexposure prophylaxis under this section.**

14 **5. Any rule or portion of a rule, as that term is defined in section 536.010, that is
15 created under the authority delegated in this section shall become effective only if it
16 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
17 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
18 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
19 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
20 grant of rulemaking authority and any rule proposed or adopted after August 28, 2021,
21 shall be invalid and void.**

339.100. 1. The commission may, upon its own motion, and shall upon receipt of a
2 written complaint filed by any person, investigate any real estate-related activity of a licensee
3 licensed under sections 339.010 to 339.180 and sections 339.710 to 339.860 or an individual or
4 entity acting as or representing themselves as a real estate licensee. In conducting such

5 investigation, if the questioned activity or written complaint involves an affiliated licensee, the
6 commission may forward a copy of the information received to the affiliated licensee's
7 designated broker. The commission shall have the power to hold an investigatory hearing to
8 determine whether there is a probability of a violation of sections 339.010 to 339.180 and
9 sections 339.710 to 339.860. The commission shall have the power to issue a subpoena to
10 compel the production of records and papers bearing on the complaint. The commission shall
11 have the power to issue a subpoena and to compel any person in this state to come before the
12 commission to offer testimony or any material specified in the subpoena. Subpoenas and
13 subpoenas duces tecum issued pursuant to this section shall be served in the same manner as
14 subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that
15 allowed in the circuit court in civil cases.

16 2. The commission may cause a complaint to be filed with the administrative hearing
17 commission as provided by the provisions of chapter 621 against any person or entity licensed
18 under this chapter or any licensee who has failed to renew or has surrendered his or her
19 individual or entity license for any one or any combination of the following acts:

20 (1) Failure to maintain and deposit in a special account, separate and apart from his or
21 her personal or other business accounts, all moneys belonging to others entrusted to him or her
22 while acting as a real estate broker or as the temporary custodian of the funds of others, until the
23 transaction involved is consummated or terminated, unless all parties having an interest in the
24 funds have agreed otherwise in writing;

25 (2) Making substantial misrepresentations or false promises or suppression, concealment
26 or omission of material facts in the conduct of his or her business or pursuing a flagrant and
27 continued course of misrepresentation through agents, salespersons, advertising or otherwise in
28 any transaction;

29 (3) Failing within a reasonable time to account for or to remit any moneys, valuable
30 documents or other property, coming into his or her possession, which belongs to others;

31 (4) Representing to any lender, guaranteeing agency, or any other interested party, either
32 verbally or through the preparation of false documents, an amount in excess of the true and
33 actual sale price of the real estate or terms differing from those actually agreed upon;

34 (5) Failure to timely deliver a duplicate original of any and all instruments to any party
35 or parties executing the same where the instruments have been prepared by the licensee or under
36 his or her supervision or are within his or her control, including, but not limited to, the
37 instruments relating to the employment of the licensee or to any matter pertaining to the
38 consummation of a lease, listing agreement or the purchase, sale, exchange or lease of property,
39 or any type of real estate transaction in which he or she may participate as a licensee;

40 (6) Acting for more than one party in a transaction without the knowledge of all parties
41 for whom he or she acts, or accepting a commission or valuable consideration for services from
42 more than one party in a real estate transaction without the knowledge of all parties to the
43 transaction;

44 (7) Paying a commission or valuable consideration to any person for acts or services
45 performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860;

46 (8) Guaranteeing or having authorized or permitted any licensee to guarantee future
47 profits which may result from the resale of real property;

48 (9) Having been finally adjudicated and been found guilty of the violation of any state
49 or federal statute which governs the sale or rental of real property or the conduct of the real estate
50 business as defined in subsection 1 of section 339.010;

51 (10) Obtaining a certificate or registration of authority, permit or license for himself or
52 herself or anyone else by false or fraudulent representation, fraud or deceit;

53 (11) Representing a real estate broker other than the broker with whom associated
54 without the express written consent of the broker with whom associated;

55 (12) Accepting a commission or valuable consideration for the performance of any of
56 the acts referred to in section 339.010 from any person except the broker with whom associated
57 at the time the commission or valuable consideration was earned;

58 (13) Using prizes, money, gifts or other valuable consideration as inducement to secure
59 customers or clients to purchase, lease, sell or list property when the awarding of such prizes,
60 money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale or
61 listing; or soliciting, selling or offering for sale real property by offering free lots, or conducting
62 lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective
63 purchaser of real property;

64 (14) Placing a sign on or advertising any property offering it for sale or rent without the
65 written consent of the owner or his or her duly authorized agent;

66 (15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling
67 any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to
68 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections
69 339.710 to 339.860;

70 (16) Committing any act which would otherwise be grounds for the commission to
71 refuse to issue a license under section 339.040;

72 (17) Failure to timely inform seller of all written offers unless otherwise instructed in
73 writing by the seller;

74 (18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo
75 contendere, in a criminal prosecution under the laws of this state or any other state or of the

76 United States, for any offense reasonably related to the qualifications, functions or duties of any
77 profession licensed or regulated under this chapter, or for any offense an essential element of
78 which is fraud, dishonesty or an act of violence, whether or not sentence is imposed;

79 (19) Any other conduct which constitutes untrustworthy, improper or fraudulent business
80 dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

81 (20) Disciplinary action against the holder of a license or other right to practice any
82 profession regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 granted
83 by another state, territory, federal agency, or country upon grounds for which revocation,
84 suspension, or probation is authorized in this state;

85 (21) Been found by a court of competent jurisdiction of having used any controlled
86 substance, as defined in chapter 195, to the extent that such use impairs a person's ability to
87 perform the work of any profession licensed or regulated by sections 339.010 to 339.180 and
88 sections 339.710 to 339.860;

89 (22) Been finally adjudged insane or incompetent by a court of competent jurisdiction;

90 (23) Assisting or enabling any person to practice or offer to practice any profession
91 licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 who
92 is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections
93 339.710 to 339.860;

94 (24) Use of any advertisement or solicitation which:

95 (a) Is knowingly false, misleading or deceptive to the general public or persons to whom
96 the advertisement or solicitation is primarily directed; or

97 (b) **Includes a name or team name that uses the terms "realty", "brokerage",**
98 **"company", or any other terms that can be construed to advertise a real estate company**
99 **other than the licensee or a business entity licensed under this chapter with whom the**
100 **licensee is associated. The context of the advertisement or solicitation may be considered**
101 **by the commission when determining whether a licensee has committed a violation of this**
102 **paragraph;**

103 (25) Making any material misstatement, misrepresentation, or omission with regard to
104 any application for licensure or license renewal. As used in this section, "material" means
105 important information about which the commission should be informed and which may influence
106 a licensing decision;

107 (26) Engaging in, committing, or assisting any person in engaging in or committing
108 mortgage fraud, as defined in section 443.930.

109 3. After the filing of such complaint, the proceedings will be conducted in accordance
110 with the provisions of law relating to the administrative hearing commission. A finding of the
111 administrative hearing commissioner that the licensee has performed or attempted to perform one

112 or more of the foregoing acts shall be grounds for the suspension or revocation of his license by
113 the commission, or the placing of the licensee on probation on such terms and conditions as the
114 real estate commission shall deem appropriate, or the imposition of a civil penalty by the
115 commission not to exceed two thousand five hundred dollars for each offense. Each day of a
116 continued violation shall constitute a separate offense.

117 4. The commission may prepare a digest of the decisions of the administrative hearing
118 commission which concern complaints against licensed brokers or salespersons and cause such
119 digests to be mailed to all licensees periodically. Such digests may also contain reports as to new
120 or changed rules adopted by the commission and other information of significance to licensees.

121 5. Notwithstanding other provisions of this section, a broker or salesperson's license shall
122 be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has
123 pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the
124 following offenses or offenses of a similar nature established under the laws of this, any other
125 state, the United States, or any other country, notwithstanding whether sentence is imposed:

126 (1) Any dangerous felony as defined under section 556.061 or murder in the first degree;

127 (2) Any of the following sexual offenses: rape in the first degree, forcible rape, rape,
128 statutory rape in the first degree, statutory rape in the second degree, rape in the second degree,
129 sexual assault, sodomy in the first degree, forcible sodomy, statutory sodomy in the first degree,
130 statutory sodomy in the second degree, child molestation in the first degree, child molestation
131 in the second degree, sodomy in the second degree, deviate sexual assault, sexual misconduct
132 involving a child, sexual misconduct in the first degree under section 566.090 as it existed prior
133 to August 28, 2013, sexual abuse under section 566.100 as it existed prior to August 28, 2013,
134 sexual abuse in the first or second degree, enticement of a child, or attempting to entice a child;

135 (3) Any of the following offenses against the family and related offenses: incest,
136 abandonment of a child in the first degree, abandonment of a child in the second degree,
137 endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual
138 performance, promoting sexual performance by a child, or trafficking in children;

139 (4) Any of the following offenses involving child pornography and related offenses:
140 promoting obscenity in the first degree, promoting obscenity in the second degree when the
141 penalty is enhanced to a class E felony, promoting child pornography in the first degree,
142 promoting child pornography in the second degree, possession of child pornography in the first
143 degree, possession of child pornography in the second degree, furnishing child pornography to
144 a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene
145 material; and

146 (5) Mortgage fraud as defined in section 570.310.

147 6. A person whose license was revoked under subsection 5 of this section may appeal
148 such revocation to the administrative hearing commission. Notice of such appeal must be
149 received by the administrative hearing commission within ninety days of mailing, by certified
150 mail, the notice of revocation. Failure of a person whose license was revoked to notify the
151 administrative hearing commission of his or her intent to appeal waives all rights to appeal the
152 revocation. Upon notice of such person's intent to appeal, a hearing shall be held before the
153 administrative hearing commission.

 339.150. 1. No real estate broker shall knowingly employ or engage any person to
2 perform any service to the broker for which licensure as a real estate broker or a real estate
3 salesperson is required pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860,
4 unless such a person is:

5 (1) A licensed real estate salesperson or a licensed real estate broker as required by
6 section 339.020; or

7 (2) For a transaction involving commercial real estate as defined in section 339.710, a
8 person regularly engaged in the real estate brokerage business outside the state of Missouri who
9 has, in such forms as the commission may adopt by rule:

10 (a) Executed a brokerage agreement with the Missouri real estate broker;

11 (b) Consented to the jurisdiction of Missouri and the commission;

12 (c) Consented to disciplinary procedures under section 339.100; and

13 (d) Appointed the commission as his or her agent for service of process regarding any
14 administrative or legal actions relating to the conduct in Missouri; or

15 (3) For any other transaction, a person regularly engaged in the real estate brokerage
16 business outside of the state of Missouri.

17

18 Any such action shall be unlawful as provided by section 339.100 and shall be grounds for
19 investigation, complaint, proceedings and discipline as provided by section 339.100.

20 2. No real estate licensee shall pay any part of a fee, commission or other compensation
21 received by the licensee to any person for any service rendered by such person to the licensee in
22 buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate, unless
23 such a person is a licensed real estate salesperson regularly associated with such a broker, or a
24 licensed real estate broker, or a person regularly engaged in the real estate brokerage business
25 outside of the state of Missouri.

26 3. Notwithstanding the provisions of subsections 1 and 2 of this section, any real estate
27 broker who shall refuse to pay any person for services rendered by such person to the broker,
28 with the consent, knowledge and acquiescence of the broker that such person was not licensed
29 as required by section 339.020, in buying, selling, exchanging, leasing, renting or negotiating a

30 loan upon any real estate for which services a license is required, and who is employed or
31 engaged by such broker to perform such services, shall be liable to such person for the reasonable
32 value of the same or similar services rendered to the broker, regardless of whether or not the
33 person possesses or holds any particular license, permit or certification at the time the service
34 was performed. Any such person may bring a civil action for the reasonable value of his services
35 rendered to a broker notwithstanding the provisions of section 339.160.

36 **4. Notwithstanding provisions of this chapter to the contrary, a broker may pay**
37 **compensation directly to a business entity owned by a licensee that has been formed for the**
38 **purpose of receiving compensation earned by such licensee. A business entity that receives**
39 **compensation from a broker as provided for in this subsection shall not be required to be**
40 **licensed under this chapter and shall be owned:**

41 **(1) Solely by the licensee;**

42 **(2) By the licensee together with the licensee's spouse, but only if the spouse and**
43 **licensee are both licensed and associated with the same broker, or the spouse is not also**
44 **licensed; or**

45 **(3) By the licensee and one or more other licensees, but only if all such owners are**
46 **licensees which are associated with the same broker.**

47 **5. For purposes of subsection 4 of this section, the following terms shall mean:**

48 **(1) "Business entity", any corporation, partnership, limited partnership, limited**
49 **liability company, professional corporation, or association;**

50 **(2) "Licensee", any real estate broker-salesperson or real estate salesperson, as**
51 **such terms are defined under section 339.010.**

Section B. The enactment of section 281.048 and the repeal and reenactment of sections
2 281.015, 281.020, 281.025, 281.030, 281.035, 281.038, 281.040, 281.045, 281.050, 281.055,
3 281.060, 281.063, 281.065, 281.070, 281.075, 281.085, and 281.101 of this act shall become
4 effective on January 1, 2024.

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