

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1700

94TH GENERAL ASSEMBLY

Reported from the Special Committee on Professional Registration and Licensing April 14, 2008 with recommendation that House Committee Substitute for House Bill No. 1700 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules April 15, 2008 with recommendation that House Committee Substitute for House Bill No. 1700 Do Pass with no time limit for debate.

Taken up for Perfection April 22, 2008. House Committee Substitute for House Bill No. 1700 ordered Perfected and printed, as amended.

D. ADAM CRUMBLISS, Chief Clerk

4262L.04P

AN ACT

To repeal sections 144.011, 326.256, 326.283, 326.289, 326.292, 334.500, 334.506, 334.530, 334.540, 334.550, 334.560, 334.570, 334.610, 334.650, 334.655, 334.660, 334.665, 334.670, 334.675, 335.076, 338.132, 339.010, 339.150, 700.010, 700.045, 700.056, 700.065, 700.070, 700.090, 700.100, 700.115, 700.450, 700.455, 700.460, 700.465, 700.470, 700.525, and 700.650, RSMo, and to enact in lieu thereof fifty-one new sections relating to professional registration, with penalty provisions.

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

Section A. Sections 144.011, 326.256, 326.283, 326.289, 326.292, 334.500, 334.506,
2 334.530, 334.540, 334.550, 334.560, 334.570, 334.610, 334.650, 334.655, 334.660, 334.665,
3 334.670, 334.675, 335.076, 338.132, 339.010, 339.150, 700.010, 700.045, 700.056, 700.065,
4 700.070, 700.090, 700.100, 700.115, 700.450, 700.455, 700.460, 700.465, 700.470, 700.525, and
5 700.650, RSMo, are repealed and fifty-one new sections enacted in lieu thereof, to be known as
6 sections 144.011, 326.256, 326.283, 326.289, 326.292, 334.500, 334.506, 334.525, 334.530,
7 334.540, 334.550, 334.560, 334.570, 334.601, 334.602, 334.610, 334.611, 334.612, 334.613,
8 334.614, 334.615, 334.616, 334.617, 334.618, 334.650, 334.655, 334.660, 334.665, 334.670,

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.

9 334.675, 334.686, 334.687, 335.076, 338.132, 339.010, 339.150, 700.010, 700.041, 700.045,
10 700.056, 700.065, 700.090, 700.095, 700.096, 700.097, 700.098, 700.100, 700.115, 700.525,
11 700.650, and 1, to read as follows:

144.011. 1. For purposes of sections 144.010 to 144.525 and 144.600 to 144.748, and
2 the taxes imposed thereby, the definition of "retail sale" or "sale at retail" shall not be construed
3 to include any of the following:

4 (1) The transfer by one corporation of substantially all of its tangible personal property
5 to another corporation pursuant to a merger or consolidation effected under the laws of the state
6 of Missouri or any other jurisdiction;

7 (2) The transfer of tangible personal property incident to the liquidation or cessation of
8 a taxpayer's trade or business, conducted in proprietorship, partnership or corporate form, except
9 to the extent any transfer is made in the ordinary course of the taxpayer's trade or business;

10 (3) The transfer of tangible personal property to a corporation solely in exchange for its
11 stock or securities;

12 (4) The transfer of tangible personal property to a corporation by a shareholder as a
13 contribution to the capital of the transferee corporation;

14 (5) The transfer of tangible personal property to a partnership solely in exchange for a
15 partnership interest therein;

16 (6) The transfer of tangible personal property by a partner as a contribution to the capital
17 of the transferee partnership;

18 (7) The transfer of tangible personal property by a corporation to one or more of its
19 shareholders as a dividend, return of capital, distribution in the partial or complete liquidation
20 of the corporation or distribution in redemption of the shareholder's interest therein;

21 (8) The transfer of tangible personal property by a partnership to one or more of its
22 partners as a current distribution, return of capital or distribution in the partial or complete
23 liquidation of the partnership or of the partner's interest therein;

24 (9) The transfer of reusable containers used in connection with the sale of tangible
25 personal property contained therein for which a deposit is required and refunded on return;

26 (10) The purchase by persons operating eating or food service establishments, of items
27 of a nonreusable nature which are furnished to the customers of such establishments with or in
28 conjunction with the retail sales of their food or beverage. Such items shall include, but not be
29 limited to, wrapping or packaging materials and nonreusable paper, wood, plastic and aluminum
30 articles such as containers, trays, napkins, dishes, silverware, cups, bags, boxes, straws, sticks
31 and toothpicks;

32 (11) The purchase by persons operating hotels, motels or other transient accommodation
33 establishments, of items of a nonreusable nature which are furnished to the guests in the guests'

34 rooms of such establishments and such items are included in the charge made for such
35 accommodations. Such items shall include, but not be limited to, soap, shampoo, tissue and
36 other toiletries and food or confectionery items offered to the guests without charge;

37 (12) The transfer of a manufactured home other than:

38 (a) A transfer which involves the delivery of the document known as the "Manufacturer's
39 Statement of Origin" to a person other than a manufactured home dealer, as defined in section
40 [700.450] **700.010**, RSMo, for purposes of allowing such person to obtain a title to the
41 manufactured home from the department of revenue of this state or the appropriate agency or
42 officer of any other state;

43 (b) A transfer which involves the delivery of a "Repossessed Title" to a resident of this
44 state if the tax imposed by sections 144.010 to 144.525 was not paid on the transfer of the
45 manufactured home described in paragraph (a) of this subdivision;

46 (c) The first transfer which occurs after December 31, 1985, if the tax imposed by
47 sections 144.010 to 144.525 was not paid on any transfer of the same manufactured home which
48 occurred before December 31, 1985; or

49 (13) Charges for initiation fees or dues to:

50 (a) Fraternal beneficiaries societies, or domestic fraternal societies, orders or associations
51 operating under the lodge system a substantial part of the activities of which are devoted to
52 religious, charitable, scientific, literary, educational or fraternal purposes; or

53 (b) Posts or organizations of past or present members of the armed forces of the United
54 States or an auxiliary unit or society of, or a trust or foundation for, any such post or organization
55 substantially all of the members of which are past or present members of the armed forces of the
56 United States or who are cadets, spouses, widows, or widowers of past or present members of
57 the armed forces of the United States, no part of the net earnings of which inures to the benefit
58 of any private shareholder or individual.

59 2. The assumption of liabilities of the transferor by the transferee incident to any of the
60 transactions enumerated in the above subdivisions (1) to (8) of subsection 1 of this section shall
61 not disqualify the transfer from the exclusion described in this section, where such liability
62 assumption is related to the property transferred and where the assumption does not have as its
63 principal purpose the avoidance of Missouri sales or use tax.

326.256. 1. As used in this chapter, the following terms mean:

2 (1) "AICPA", the American Institute of Certified Public Accountants;

3 (2) "Attest" or "**attest services**", providing the following financial statement services:

4 (a) Any audit or other engagement to be performed in accordance with the Statements
5 on Auditing Standards (SAS);

- 6 (b) Any examination of prospective financial information to be performed in accordance
7 with the Statements on Standards for Attestation Engagements (SSAE); or
- 8 (c) **Any engagement to be performed in accordance with the auditing standards and**
9 **rules of the Public Company Accounting Oversight Board (PCAOB);**
- 10 (3) "Board", the Missouri state board of accountancy established pursuant to section
11 326.259 or its predecessor pursuant to prior law;
- 12 (4) "Certificate", a certificate issued pursuant to section 326.060 prior to August 28,
13 2001;
- 14 (5) "Certified public accountant" or "CPA", the holder of a certificate or license as
15 defined in this section;
- 16 (6) "Certified public accountant firm", "CPA firm" or "firm", a sole proprietorship, a
17 corporation, a partnership or any other form of organization issued a permit pursuant to section
18 326.289;
- 19 (7) "Client", a person or entity that agrees with a licensee or licensee's employer to
20 receive any professional service;
- 21 (8) "Compilation", providing a service to be performed in accordance with Statements
22 on Standards for Accounting and Review Services (SSARS) that is presented in the form of
23 financial statements information that is the representation of management (owners) without
24 undertaking to express any assurance on the statements;
- 25 (9) **"Home office", the location specified by the client as the address to which a**
26 **service described in subdivision (4) of subsection 1 of section 326.283 is directed;**
- 27 (10) "License", a license issued pursuant to section 326.280, or [a provisional license
28 issued] **privilege to practice granted** pursuant to section 326.283; or, in each case, an individual
29 license or permit issued pursuant to corresponding provisions of prior law;
- 30 [(10)] (11) "Licensee", the holder of a license as defined in this section;
- 31 [(11)] (12) "Manager", a manager of a limited liability company;
- 32 [(12)] (13) "Member", a member of a limited liability company;
- 33 [(13)] (14) "NASBA", the National Association of State Boards of Accountancy;
- 34 [(14)] (15) "Peer review", a study, appraisal or review of one or more aspects of the
35 professional work of a licensee or certified public accountant firm that performs attest, review
36 or compilation services, by licensees who are not affiliated either personally or through their
37 certified public accountant firm being reviewed pursuant to the Standards for Performing and
38 Reporting on Peer Reviews promulgated by the AICPA or such other standard adopted by
39 regulation of the board which meets or exceeds the AICPA standards;

40 [(15)] (16) "Permit", a permit to practice as a certified public accountant firm issued
41 pursuant to section 326.289 or corresponding provisions of prior law or pursuant to
42 corresponding provisions of the laws of other states;

43 [(16)] (17) "Professional", arising out of or related to the specialized knowledge or skills
44 associated with certified public accountants;

45 [(17)] (18) "Public accounting":

46 (a) Performing or offering to perform for an enterprise, client or potential client one or
47 more services involving the use of accounting or auditing skills, or one or more management
48 advisory or consulting services, or the preparation of tax returns or the furnishing of advice on
49 tax matters by a person, firm, limited liability company or professional corporation using the title
50 "C.P.A." or "P.A." in signs, advertising, directory listing, business cards, letterheads or other
51 public representations;

52 (b) Signing or affixing a name, with any wording indicating the person or entity has
53 expert knowledge in accounting or auditing to any opinion or certificate attesting to the reliability
54 of any representation or estimate in regard to any person or organization embracing financial
55 information or facts respecting compliance with conditions established by law or contract,
56 including but not limited to statutes, ordinances, rules, grants, loans and appropriations; or

57 (c) Offering to the public or to prospective clients to perform, or actually performing on
58 behalf of clients, professional services that involve or require an audit or examination of financial
59 records leading to the expression of a written attestation or opinion concerning these records;

60 [(18)] (19) "Report", when used with reference to financial statements, means an
61 opinion, report or other form of language that states or implies assurance as to the reliability of
62 any financial statements, and that also includes or is accompanied by any statement or
63 implication that the person or firm issuing it has special knowledge or competence in accounting
64 or auditing. Such a statement or implication of special knowledge or competence may arise from
65 use by the issuer of the report of names or titles indicating that the person or firm is an
66 accountant or auditor, or from the language of the report itself. The term report includes any
67 form of language which disclaims an opinion when such form of language is conventionally
68 understood to imply any positive assurance as to the reliability of the financial statements
69 referred to or special competence on the part of the person or firm issuing such language, or both,
70 and includes any other form of language that is conventionally understood to imply such
71 assurance or such special knowledge or competence, or both;

72 [(19)] (20) "Review", providing a service to be performed in accordance with Statements
73 on Standards for Accounting and Review Services (SSARS) that is performing inquiry and
74 analytical procedures that provide the accountant with a reasonable basis for expressing limited
75 assurance that there are no material modifications that should be made to the statements for them

76 to be in conformity with generally accepted accounting principles or, if applicable, with another
77 comprehensive basis of accounting;

78 [(20)] (21) "State", any state of the United States, the District of Columbia, Puerto Rico,
79 the U.S. Virgin Islands and Guam; except that "this state" means the state of Missouri;

80 [(21)] (22) "Substantial equivalency" or "**substantially equivalent**", a determination
81 by the board of accountancy or its designee that the education, examination and experience
82 requirements contained in the statutes and administrative rules of another jurisdiction are
83 comparable to or exceed the education, examination and experience requirements contained in
84 this chapter or that an individual certified public accountant's education, examination and
85 experience qualifications are comparable to or exceed the education, examination and experience
86 requirements contained in this chapter;

87 [(22)] (23) "Transmittal", any transmission of information in any form, including but not
88 limited to any and all documents, records, minutes, computer files, disks or information.

89 2. The statements on standards specified in this section shall be adopted by reference by
90 the board pursuant to rulemaking and shall be those developed for general application by the
91 AICPA or other recognized national accountancy organization as prescribed by board rule.

326.283. 1. (1) An individual whose principal place of business, **domicile, or residency**
2 is not in this state and [has] **who holds** a valid [designation] **and unrestricted license** to practice
3 public accounting from any state which the board **of accountancy or its designee** has
4 determined by rule to be in substantial equivalence with the licensure requirements of [sections
5 326.250 to 326.331] **this chapter**, or if the individual's qualifications are substantially equivalent
6 to the licensure requirements of [sections 326.250 to 326.331] **this chapter**, shall be presumed
7 to have qualifications substantially equivalent to this state's requirements and shall have all the
8 privileges of licensees of this state[, provided the individual shall notify the board of his or her
9 intent to engage in the practice of accounting with a client within this state whether in person,
10 by electronic or technological means, or any other manner. The board by rule may require
11 individuals to obtain a license] **without the need to obtain a license or to otherwise notify or**
12 **register with the board or pay any fee; provided however, the board may by rule require**
13 **individuals with a valid but restricted license to obtain a license.**

14 (2) **An individual who qualifies for the privilege to practice under this section may**
15 **offer or render professional services in this state, whether in person, by mail, telephone,**
16 **or electronic means, and no notice or other submission shall be required of any such**
17 **individual. Such individual shall be subject to the requirements of subdivision (3) of this**
18 **subsection.**

19 [(2) Any] **(3) An individual licensee** of another state exercising the privilege afforded
20 [pursuant to] **under** this section [consents] **and the firm which employs such licensee hereby**
21 **simultaneously consents** as a condition of the grant of this privilege [to]:

22 (a) **To** the personal and subject matter jurisdiction and disciplinary authority of the
23 board;

24 (b) **To** comply with this chapter and the board's rules; [and]

25 (c) **That in the event the license from any state is no longer valid or unrestricted,**
26 **the individual will cease offering or rendering professional services in this state**
27 **individually and on behalf of a firm; and**

28 (d) **To** the appointment of the state board [which] **that** issued the individual's license as
29 his or her agent upon whom process may be served in any action or proceeding by this board
30 against the individual.

31 **(4) An individual who has been granted the privilege to practice under this section**
32 **who performs any of the following financial statement services for an entity with a home**
33 **office in this state shall only do so through a firm which has obtained a permit issued under**
34 **section 326.289:**

35 (a) **Any audit or other engagement to be performed in accordance with Statements**
36 **on Auditing Standards (SAS);**

37 (b) **Any examination of prospective financial information to be performed in**
38 **accordance with Statements on Standards for Attestation Engagements (SSAE); or**

39 (c) **Any engagement to be performed in accordance with the auditing standards and**
40 **rules of the Public Company Accounting Oversight Board (PCAOB).**

41 [(3)] **(5) Nothing in this [section] chapter** shall prohibit temporary practice in this state
42 for professional business incidental to a CPA's regular practice outside this state. "Temporary
43 practice" means that practice [which is a continuation or extension] **related to the direct**
44 **purpose** of an engagement for a client located outside this state, which engagement began
45 outside this state and extends into this state through common ownership, existence of a
46 subsidiary, assets or other operations located within this state.

47 2. A licensee of this state offering or rendering services or using his or her certified
48 public accountant title in another state shall be subject to disciplinary action in this state for an
49 act committed in another state for which the licensee would be subject to discipline for an act
50 committed in the other state. Notwithstanding the provisions of section 326.274 to the contrary,
51 the board may investigate any complaint made by the board of accountancy of another state.

326.289. 1. The board may grant or renew permits to practice as a certified public
2 accounting firm to [entities] **applicants** that [make application and] demonstrate their
3 qualifications in accordance with this [section or to certified public accounting firms originally

4 licensed in another state that establish an office in this state. A firm shall hold a permit issued
5 pursuant to this section to provide attest, review or compilation services or to use the title
6 certified public accountant or certified public accounting firm] **chapter.**

7 **2. A permit issued under this chapter is required of the following:**

8 **(1) Any firm with an office in this state, as defined by the board by rule, performing**
9 **attest services, as defined in section 326.256;**

10 **(2) Any firm with an office in this state that uses the title "CPA" or "CPA firm";**
11 **or**

12 **(3) Any firm that does not have an office in this state but performs attest services,**
13 **as defined in section 326.256, for a client having its home office in the state.**

14 **3. A firm without an office in this state may perform compilation and review**
15 **services, as defined in section 326.256, for a client having its home office in this state and**
16 **may use the title "CPA" or "CPA firm" without a permit issued under this section only**
17 **if the firm:**

18 **(1) Has the qualifications described in subsections 7 and 12 of this section; and**

19 **(2) Performs such services through an individual with the privilege to practice**
20 **under subsection 1 of section 326.283.**

21 **4. A firm not subject to the requirements of subsections 2 and 3 of this section may**
22 **perform other professional services while using the title "CPA" or "CPA firm" in this state**
23 **without a permit issued under this section only if the firm:**

24 **(1) Has the qualifications described in subsection 7 of this section;**

25 **(2) Performs such services through an individual with the privilege to practice**
26 **under section 326.283; and**

27 **(3) It can lawfully do so in the state where said individual with privilege to practice**
28 **has his or her principal place of business.**

29 [2.] **5. Permits shall be initially issued and renewed for periods of not more than three**
30 **years or for a specific period as prescribed by board rule following issuance or renewal.**

31 [3.] **6. The board shall determine by rule the form for application and renewal of permits**
32 **and shall annually determine the fees for permits and their renewals.**

33 [4.] **7. An applicant for initial issuance or renewal of a permit to practice pursuant to this**
34 **section shall be required to show that:**

35 **(1) [Notwithstanding any other provision of law to the contrary,] A simple majority of**
36 **the ownership of the firm, in terms of financial interests and voting rights of all partners, officers,**
37 **principals, shareholders, members or managers, belongs to licensees who are licensed in some**
38 **state, and the partners, officers, principals, shareholders, members or managers, whose principal**
39 **place of business is in this state and who perform professional services in this state are licensees**

40 pursuant to section 326.280 or the corresponding provision of prior law. Although firms may
41 include nonlicensee owners, the firm and its ownership shall comply with rules promulgated by
42 the board;

43 (2) Any certified public accounting firm may include owners who are not licensees,
44 provided that:

45 (a) The firm designates a licensee of this state; **or in the case of a firm required to**
46 **have a permit under this section, such firm designates a licensee of another state who meets**
47 **the requirements of section 326.283;** who is responsible for the proper registration of the firm
48 and identifies that individual to the board;

49 (b) All nonlicensee owners are active individual participants in the certified public
50 accounting firm or affiliated entities;

51 (c) **All owners are of good moral character;**

52 (d) The firm complies with other requirements as the board may impose by rule;

53 (3) Any licensee, initially licensed on or after August 28, 2001, who is responsible for
54 supervising attest services, or signs or authorizes someone to sign the licensee's report on the
55 financial statements on behalf of the firm, shall meet competency requirements as determined
56 by the board by rule which shall include one year of experience in addition to the experience
57 required pursuant to subdivision (6) of subsection 1 of section 326.280 and shall be verified by
58 a licensee. The additional experience required by this subsection shall include experience in
59 attest work supervised by a licensee;

60 (4) Any licensee who is responsible for supervising review services or signs or
61 authorizes someone to sign review reports shall meet the competency requirements as determined
62 by board by rule which shall include experience in review services.

63 [5.] **8.** An applicant for initial issuance or renewal of a permit to practice shall register
64 each office of the firm within this state with the board and show that all attest, review and
65 compilation services rendered in this state are under the charge of a licensee.

66 [6.] **9.** No licensee or firm holding a permit pursuant to this chapter shall use a
67 professional or firm name or designation that is misleading as to:

68 (1) The legal form of the firm;

69 (2) The persons who are partners, officers, members, managers or shareholders of the
70 firm; or

71 (3) Any other matter.

72

73 The names of one or more former partners, members or shareholders may be included in the
74 name of a firm or its successor unless the firm becomes a sole proprietorship because of the
75 death or withdrawal of all other partners, officers, members or shareholders. A firm may use a

76 fictitious name if the fictitious name is registered with the board and is not otherwise misleading.
77 The name of a firm shall not include the name or initials of an individual who is not a present
78 or a past partner, member or shareholder of the firm or its predecessor. The name of the firm
79 shall not include the name of an individual who is not a licensee.

80 [7.] **10.** Applicants for initial issuance or renewal of permits shall list in their application
81 all states in which they have applied for or hold permits as certified public accounting firms and
82 list any past denial, revocation, suspension or any discipline of a permit by any other state. Each
83 holder of or applicant for a permit pursuant to this section shall notify the board in writing within
84 thirty days after its occurrence of any change in the identities of partners, principals, officers,
85 shareholders, members or managers whose principal place of business is in this state; any change
86 in the number or location of offices within this state; any change in the identity of the persons
87 in charge of such offices; and any issuance, denial, revocation, suspension or any discipline of
88 a permit by any other state.

89 [8.] **11.** Firms which fall out of compliance with the provisions of this section due to
90 changes in firm ownership or personnel after receiving or renewing a permit shall take corrective
91 action to bring the firm back into compliance as quickly as possible. The board may grant a
92 reasonable period of time for a firm to take such corrective action. Failure to bring the firm back
93 into compliance within a reasonable period as defined by the board may result in the suspension
94 or revocation of the firm permit.

95 [9.] **12.** The board shall require by rule, as a condition to the renewal of permits, that
96 firms undergo, no more frequently than once every three years, peer reviews conducted in a
97 manner as the board shall specify. The review shall include a verification that individuals in the
98 firm who are responsible for supervising attest, review and compilation services or sign or
99 authorize someone to sign the accountant's report on the financial statements on behalf of the
100 firm meet the competency requirements set out in the professional standards for such services,
101 provided that any such rule:

102 (1) Shall include reasonable provision for compliance by a firm showing that it has
103 within the preceding three years undergone a peer review that is a satisfactory equivalent to peer
104 review generally required pursuant to this subsection;

105 (2) May require, with respect to peer reviews, that peer reviews be subject to oversight
106 by an oversight body established or sanctioned by board rule, which shall periodically report to
107 the board on the effectiveness of the review program under its charge and provide to the board
108 a listing of firms that have participated in a peer review program that is satisfactory to the board;
109 and

110 (3) Shall require, with respect to peer reviews, that the peer review processes be operated
111 and documents maintained in a manner designed to preserve confidentiality, and that the board

112 or any third party other than the oversight body shall not have access to documents furnished or
113 generated in the course of the peer review of the firm except as provided in subdivision (2) of
114 this subsection.

115 [10.] **13.** Prior to January 1, 2008, licensees who perform fewer than three attest services
116 during each calendar year shall be exempt from the requirements of subsection [9] **12** of this
117 section.

118 [11.] **14.** The board may, by rule, charge a fee for oversight of peer reviews, provided
119 that the fee charged shall be substantially equivalent to the cost of oversight.

120 [12.] **15.** In connection with proceedings before the board or upon receipt of a complaint
121 involving the licensee performing peer reviews, the board shall not have access to any documents
122 furnished or generated in the course of the performance of the peer reviews except for peer
123 review reports, letters of comment and summary review memoranda. The documents shall be
124 furnished to the board only in a redacted manner that does not specifically identify any firm or
125 licensee being peer reviewed or any of their clients.

126 [13.] **16.** The peer review processes shall be operated and the documents generated
127 thereby be maintained in a manner designed to preserve their confidentiality. No third party,
128 other than the oversight body, the board, subject to the provisions of subsection [12] **15** of this
129 section, or the organization performing peer review shall have access to documents furnished or
130 generated in the course of the review. All documents shall be privileged and closed records for
131 all purposes and all meetings at which the documents are discussed shall be considered closed
132 meetings pursuant to subdivision (1) of section 610.021, RSMo. The proceedings, records and
133 workpapers of the board and any peer review subjected to the board process shall be privileged
134 and shall not be subject to discovery, subpoena or other means of legal process or introduction
135 into evidence at any civil action, arbitration, administrative proceeding or board proceeding. No
136 member of the board or person who is involved in the peer review process shall be permitted or
137 required to testify in any civil action, arbitration, administrative proceeding or board proceeding
138 as to any matters produced, presented, disclosed or discussed during or in connection with the
139 peer review process or as to any findings, recommendations, evaluations, opinions or other
140 actions of such committees or any of its members; provided, however, that information,
141 documents or records that are publicly available shall not be subject to discovery or use in any
142 civil action, arbitration, administrative proceeding or board proceeding merely because they were
143 presented or considered in connection with the peer review process.

326.292. 1. Only licensees may issue a report on financial statements of any person,
2 firm, organization or governmental unit or offer to render or render any attest service. Such
3 restriction shall not prohibit any act of a public official or public employee in the performance
4 of the person's duties as such; nor prohibit the performance by any nonlicensee of other services

5 involving the use of accounting skills, including the preparation of tax returns, management
6 advisory services and the preparation of nonattest financial statements. Nonlicensees may
7 prepare financial statements and issue nonattest transmittals or information thereon which do not
8 purport to be in compliance with the Statements on Standards for Accounting and Review
9 Services (SSARS).

10 2. Only certified public accountants shall use or assume the title certified public
11 accountant, or the abbreviation CPA or any other title, designation, words, letters, abbreviation,
12 sign, card or device tending to indicate that such person is a certified public accountant. Nothing
13 in this section shall prohibit:

14 (1) A certified public accountant whose certificate was in full force and effect, issued
15 pursuant to the laws of this state prior to August 28, 2001, and who does not engage in the
16 practice of public accounting, auditing, bookkeeping or any similar occupation, from using the
17 title certified public accountant or abbreviation CPA;

18 (2) A person who holds a certificate, then in force and effect, issued pursuant to the laws
19 of this state prior to August 28, 2001, and who is regularly employed by or is a director or officer
20 of a corporation, partnership, association or business trust, in his or her capacity as such, from
21 signing, delivering or issuing any financial, accounting or related statement, or report thereon
22 relating to such corporation, partnership, association or business trust provided the capacity is
23 so designated, and provided in the signature line the title CPA or certified public accountant is
24 not designated.

25 3. No firm shall provide attest services or assume or use the title certified public
26 accountants or the abbreviation CPAs, or any other title, designation, words, letters, abbreviation,
27 sign, card or device tending to indicate that such firm is a certified public accounting firm unless:

28 (1) The firm holds a valid permit issued pursuant to section 326.289 **or is a firm exempt**
29 **from the permit requirement under subsections 3 and 4 of section 326.289 and complies**
30 **with all other applicable provisions of that section;** and

31 (2) Ownership of the firm is in accord with section 326.289 and rules promulgated by
32 the board.

33 4. Only persons holding a valid license or permit issued pursuant to section 326.280 or
34 326.289, **or persons qualifying for the privilege to practice under section 326.283, and firms**
35 **exempt from the permit requirement under section 326.289** shall assume or use the title
36 certified accountant, chartered accountant, enrolled accountant, licensed accountant, registered
37 accountant, accredited accountant or any other title or designation likely to be confused with the
38 titles certified public accountant or public accountant, or use any of the abbreviations CA, LA,
39 RA, AA or similar abbreviation likely to be confused with the abbreviation CPA or PA. The title
40 enrolled agent or EA shall only be used by individuals so designated by the Internal Revenue

41 Service. Nothing in this section shall prohibit the use or issuance of a title for nonattest services
42 provided that the organization and the title issued by the organization existed prior to August 28,
43 2001.

44 5. (1) Nonlicensees shall not use language in any statement relating to the financial
45 affairs of a person or entity that is conventionally used by certified public accountants in reports
46 on financial statements. Nonlicensees may use the following safe harbor language:

47 (a) For compilations:

48

49 "I (We) have prepared the accompanying (financial statements) of (name of entity) as of (time
50 period) for the (period) then ended. This presentation is limited to preparing in the form of a
51 financial statement information that is the representation of management (owners). I (We) have
52 not audited or reviewed the accompanying financial statements and accordingly do not express
53 an opinion or any other form of assurance on them.";

54 (b) For reviews:

55

56 "I (We) reviewed the accompanying (financial statements) of (name of entity) as of (time period)
57 for the (period) then ended. These financial statements (information) are (is) the responsibility
58 of the company's management. I (We) have not audited the accompanying financial statements
59 and accordingly do not express an opinion or any other form of assurance on them.".

60 (2) Only persons or firms holding a valid license or permit issued pursuant to section
61 326.280 or 326.289 shall assume or use any title or designation that includes the words
62 accountant or accounting in connection with any other language, including the language of a
63 report, that implies that the person or firm holds a license or permit or has special competence
64 as an accountant or auditor; provided, however, that this subsection shall not prohibit any officer,
65 partner, principal, member, manager or employee of any firm or organization from affixing such
66 person's own signature to any statement in reference to the financial affairs of the firm or
67 organization with any wording designating the position, title or office that the person holds
68 therein nor prohibit any act of a public official or employee in the performance of the person's
69 duties as such. Nothing in this subsection shall prohibit the singular use of "accountant" or
70 "accounting" for nonattest purposes.

71 6. Licensees signing or authorizing someone to sign reports on financial statements when
72 performing attest, review or compilation services shall provide those services in accordance with
73 professional standards as determined by the board by rule.

74 7. No licensee [or holder of a provisional license] or firm holding a permit pursuant to
75 sections 326.280 to 326.289 shall use a professional or firm name or designation that is

76 misleading about the legal form of the firm, or about the persons who are partners, principals,
77 officers, members, managers or shareholders of the firm, or about any other matter.

78 8. None of the foregoing provisions of this section shall apply to a person or firm holding
79 a certification, designation, degree or license granted in a foreign country entitling the holder to
80 engage in the practice of public accounting or its equivalent in the country whose activities in
81 this state are limited to the provision of professional services to persons or firms who are
82 residents of, governments of, or business entities of the country in which the person holds the
83 entitlement, who performs no attest, review or compilation services and who issues no reports
84 with respect to the financial statements of any other persons, firms or governmental units in this
85 state, and who does not use in this state any title or designation other than the one under which
86 the person practices in such country, followed by a translation of such title or designation into
87 the English language, if it is in a different language, and by the name of such country.

88 9. No licensee whose license is issued pursuant to section 326.280 or issued pursuant to
89 prior law shall perform attest services through any certified public accounting firm that does not
90 hold a valid permit issued pursuant to section 326.289.

91 10. Nothing herein shall prohibit a practicing attorney or firm of attorneys from
92 preparing or presenting records or documents customarily prepared by an attorney or firm of
93 attorneys in connection with the attorney's professional work in the practice of law.

94 11. Nothing herein shall prohibit any trustee, executor, administrator, referee or
95 commissioner from signing and certifying financial reports incident to his or her duties in that
96 capacity.

97 12. Nothing herein shall prohibit any director or officer of a corporation, partner or a
98 partnership, sole proprietor of a business enterprise, member of a joint venture, member of a
99 committee appointed by stockholders, creditors or courts, or an employee of any of the foregoing,
100 in his or her capacity as such, from signing, delivering or issuing any financial, accounting or
101 related statement, or report thereon, relating to the corporation, partnership, business enterprise,
102 joint venture or committee, provided the capacity is designated on the statement or report.

103 13. (1) A licensee shall not for a commission recommend or refer to a client any product
104 or service, or for a commission recommend or refer any product or service to be supplied by a
105 client, or receive a commission, when the licensee also performs for that client:

106 (a) An audit or review of a financial statement; or

107 (b) A compilation of a financial statement when the licensee expects, or reasonably may
108 expect, that a third party will use the financial statement and the licensee's compilation report
109 does not disclose a lack of independence; or

110 (c) An examination of prospective financial information.

111

112 Such prohibition applies during the period in which the licensee is engaged to perform any of the
113 services listed above and the period covered by any historical financial statements involved in
114 such listed services.

115 (2) A licensee who is not prohibited by this section from performing services for or
116 receiving a commission and who is paid or expects to be paid a commission shall disclose in
117 writing that fact to any person or entity to whom the licensee recommends or refers a product or
118 service to which the commission relates.

119 (3) Any licensee who accepts a referral fee for recommending or referring any service
120 of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose in
121 writing the acceptance or payment to the client.

122 14. (1) A licensee shall not:

123 (a) Perform for a contingent fee any professional services for, or receive a fee from, a
124 client for whom the licensee or the licensees's firm performs:

125 a. An audit or review of a financial statement; or

126 b. A compilation of a financial statement when the licensee expects, or reasonably might
127 expect, that a third party will use the financial statement and the licensee's compilation report
128 does not disclose a lack of independence; or

129 c. An examination of prospective financial information;

130 (b) Prepare an original tax return or claim for a tax refund for a contingent fee for any
131 client; or

132 (c) Prepare an amended tax return or claim for a tax refund for a contingent fee for any
133 client, unless permitted by board rule.

134 (2) The prohibition in subdivision (1) of this subsection applies during the period in
135 which the licensee is engaged to perform any of those services and the period covered by any
136 historical financial statements involved in any services.

137 (3) A contingent fee is a fee established for the performance of any service pursuant to
138 an arrangement in which no fee will be charged unless a specified finding or result is attained,
139 or in which the amount of the fee is otherwise dependent upon the finding or result of the service.
140 Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts
141 or other public authorities, or, in tax matters, if determined based on the results of judicial
142 proceedings or the findings of governmental agencies. A licensee's fees may vary depending,
143 for example, on the complexity of services rendered.

144 15. Any person who violates any provision of subsections 1 to 5 of this section shall be
145 guilty of a class A misdemeanor. Whenever the board has reason to believe that any person has
146 violated this section it may certify the facts to the attorney general of this state or bring other
147 appropriate proceedings.

334.500. As used in sections 334.500 to 334.685, the following terms mean:

- 2 (1) "Board", the state board of registration for the healing arts in the state of Missouri;
- 3 (2) "Physical therapist assistant", a person who is licensed as a physical therapist
4 assistant by the board or a person who was actively engaged in practice as a physical therapist
5 assistant on August 28, 1993;
- 6 (3) "Physical therapist", a person who is licensed to practice physical therapy;
- 7 (4) "**Practice of physical therapy**", the examination, treatment and instruction of human
8 beings to assess, prevent, correct, alleviate and limit physical disability, movement dysfunction,
9 bodily malfunction and pain from injury, disease and any other bodily condition, such term
10 includes, but is not limited to, the administration, interpretation and evaluation of physical
11 therapy tests and measurements of bodily functions and structures; the planning, administration,
12 evaluation and modification of treatment and instruction, including the use of physical measures,
13 activities and devices, for preventive and therapeutic purposes; and the provision of consultative,
14 educational, research and other advisory services for the purpose of reducing the incidence and
15 severity of physical disability, movement dysfunction, bodily malfunction and pain does not
16 include the use of surgery or obstetrics or the administration of x-radiation, radioactive
17 substance, diagnostic x-ray, diagnostic laboratory electrocautery, electrosurgery or invasive tests
18 or the prescribing of any drug or medicine or the administration or dispensing of any drug or
19 medicine other than a topical agent administered or dispensed upon the direction of a physician.
20 Physical therapists may perform electromyography and nerve conduction tests but may not
21 interpret the results of the electromyography or nerve conduction test. Physical therapists shall
22 practice physical therapy within the scope of their education and training as provided in sections
23 334.500 to 334.620.

334.506. 1. [Nothing in this chapter shall prevent a physical therapist, whose license is
2 in good standing, from providing educational resources and training, developing fitness or
3 wellness programs for asymptomatic persons, or providing screening or consultative services
4 within the scope of physical therapy practice without the prescription and direction of a person
5 licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor
6 pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist
7 pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist
8 practicing in another jurisdiction, whose license is in good standing, except that no physical
9 therapist shall initiate treatment for a new injury or illness without the prescription or direction
10 of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a
11 chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a
12 podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or
13 podiatrist practicing in another jurisdiction, whose license is in good standing.

14 2. Nothing in this chapter shall prevent a physical therapist, whose license is in good
15 standing, from examining and treating, without the prescription and direction of a person
16 licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor
17 pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist
18 pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist
19 practicing in another jurisdiction, whose license is in good standing, any person with a recurring,
20 self-limited injury within one year of diagnosis by a person licensed and registered as a physician
21 and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a
22 dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any
23 licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose
24 license is in good standing, or any person with a chronic illness that has been previously
25 diagnosed by a person licensed and registered as a physician and surgeon pursuant to this
26 chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332,
27 RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician,
28 dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, except
29 that a physical therapist shall contact the patient's current physician, chiropractor, dentist, or
30 podiatrist, within seven days of initiating physical therapy services, pursuant to this subsection,
31 shall not change an existing physical therapy referral available to the physical therapist without
32 approval of the patient's current physician, chiropractor, dentist, or podiatrist, and shall refer to
33 a person licensed and registered as a physician and surgeon pursuant to this chapter, as a
34 chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a
35 podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or
36 podiatrist practicing in another jurisdiction, whose license is in good standing, any patient whose
37 medical condition should, at the time of examination or treatment, be determined to be beyond
38 the scope of practice of physical therapy. A physical therapist shall refer to a person licensed and
39 registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to
40 chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or as a podiatrist pursuant to
41 chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in
42 another jurisdiction, whose license is in good standing, any person whose condition, for which
43 physical therapy services are rendered pursuant to this subsection, has not been documented to
44 be progressing toward documented treatment goals after six visits or fourteen days, whichever
45 shall come first. If the person's condition for which physical therapy services are rendered under
46 this subsection shall be documented to be progressing toward documented treatment goals, a
47 physical therapist may continue treatment without referral from a physician, chiropractor, dentist
48 or podiatrist, whose license is in good standing. If treatment rendered under this subsection is
49 to continue beyond thirty days, a physical therapist shall notify the patient's current physician,

50 chiropractor, dentist, or podiatrist before continuing treatment beyond the thirty-day limitation.
51 A physical therapist shall also perform such notification before continuing treatment rendered
52 under this subsection for each successive period of thirty days.] **As used in this section,**
53 **"approved health care provider" means a person holding a current and active license as**
54 **a physician and surgeon under this chapter, a chiropractor under chapter 331, RSMo, a**
55 **dentist under chapter 332, RSMo, a podiatrist under chapter 330, RSMo, a physician**
56 **assistant under this chapter, or any licensed and registered physician, chiropractor,**
57 **dentist, or podiatrist practicing in another jurisdiction whose license is in good standing.**

58 **2. A physical therapist shall not initiate treatment for a new injury or illness**
59 **without a prescription from an approved health care provider.**

60 **3. A physical therapist may provide educational resources and training, develop**
61 **fitness or wellness programs for asymptomatic persons, or provide screening or**
62 **consultative services within the scope of physical therapy practice without the prescription**
63 **and direction of an approved health care provider.**

64 **4. A physical therapist may examine and treat without the prescription and**
65 **direction of an approved health care provider any person with a recurring self-limited**
66 **injury within one year of diagnosis by an approved health care provider or a chronic**
67 **illness that has been previously diagnosed by an approved health care provider. The**
68 **physical therapist shall:**

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

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

73 **(3) Refer to an approved health care provider any patient whose medical condition**
74 **at the time of examination or treatment is determined to be beyond the scope of practice**
75 **of physical therapy;**

76 **(4) Refer to an approved health care provider any patient whose condition for**
77 **which physical therapy services are rendered under this subsection has not been**
78 **documented to be progressing toward documented treatment goals after six visits or**
79 **fourteen days, whichever first occurs;**

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

84 **[3.] 5. The provision of physical therapy services of evaluation and screening pursuant**
85 **to this section shall be limited to a physical therapist, and any authority for evaluation and**

86 screening granted within this section may not be delegated. Upon each reinitiation of physical
87 therapy services, a physical therapist shall provide a full physical therapy evaluation prior to the
88 reinitiation of physical therapy treatment. Physical therapy treatment provided pursuant to the
89 provisions of subsection [2] **4** of this section, may be delegated by physical therapists to physical
90 therapist assistants only if the patient's current [physician, chiropractor, dentist, or podiatrist]
91 **approved health care provider** has been so informed as part of the physical therapist's
92 seven-day notification upon reinitiation of physical therapy services as required in subsection [2]
93 **4** of this section. Nothing in this subsection shall be construed as to limit the ability of physical
94 therapists or physical therapist assistants to provide physical therapy services in accordance with
95 the provisions of this chapter, and upon the referral of [a physician and surgeon licensed pursuant
96 to this chapter, a chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332,
97 RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician,
98 dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing] **an**
99 **approved health care provider**. Nothing in this subsection shall prohibit [a person licensed or
100 registered as a physician or surgeon licensed pursuant to this chapter, a chiropractor pursuant to
101 chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter
102 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another
103 jurisdiction, whose license is in good standing,] **an approved health care provider** from acting
104 within the scope of their practice as defined by the applicable chapters of RSMo.

105 [4.] **6.** No person licensed to practice, or applicant for licensure, as a physical therapist
106 or physical therapist assistant shall make a medical diagnosis.

107 **7. A physical therapist shall only delegate physical therapy treatment to a physical**
108 **therapist assistant or to a person in an entry level of a professional education program**
109 **approved by the Commission for Accreditation of Physical Therapists and Physical**
110 **Therapist Assistant Education (CAPTE) who satisfy supervised clinical education**
111 **requirements related to the person's physical therapist or physical therapist assistant**
112 **education. The entry level person shall be under onsite supervision of a physical therapist.**

334.525. 1. Notwithstanding any other provision of law to the contrary, any person
2 **licensed as a physical therapist or physical therapist assistant under this chapter may apply**
3 **to the state board of registration for the healing arts for an inactive license status on a form**
4 **furnished by the board. Upon receipt of the completed inactive status application form**
5 **and the board's determination that the licensee meets the requirements established by the**
6 **board by rule, the board shall declare the licensee inactive and shall place the licensee on**
7 **an inactive status list. A person whose license is inactive or who has discontinued his or**
8 **her practice because of retirement shall not practice his or her profession within this state.**

9 **Such person may continue to use the title of his or her profession or the initials of his or her**
10 **profession after such person's name.**

11 **2. If a licensee is granted inactive status, the licensee may return to active status by**
12 **notifying the board in advance of his or her intention, paying the appropriate fees, and**
13 **meeting all established requirements of the board as a condition of reinstatement.**

334.530. 1. A candidate for license to practice as a physical therapist shall be at least
2 twenty-one years of age. A candidate shall furnish evidence of such person's good moral
3 character and the person's educational qualifications by submitting satisfactory evidence of
4 completion of a program of physical therapy education approved as reputable by the board. A
5 candidate who presents satisfactory evidence of the person's graduation from a school of physical
6 therapy approved as reputable by the American Medical Association or, if graduated before
7 1936, by the American Physical Therapy Association, or if graduated after 1988, the Commission
8 on Accreditation for Physical Therapy Education or its successor, is deemed to have complied
9 with the educational qualifications of this subsection.

10 2. Persons desiring to practice as physical therapists in this state shall appear before the
11 board at such time and place as the board may direct and be examined as to their fitness to
12 engage in such practice. Applications for examination shall be in writing, on a form furnished
13 by the board and shall include evidence satisfactory to the board that the applicant possesses the
14 qualifications set forth in subsection 1 of this section. Each application shall contain a statement
15 that it is made under oath or affirmation and that its representations are true and correct to the
16 best knowledge and belief of the [person signing the statement] **applicant**, subject to the
17 penalties of making a false affidavit or declaration.

18 3. [The board shall not issue a permanent license to practice as a physical therapist or
19 allow any person to sit for the Missouri state board examination for physical therapists who has
20 failed three or more times any physical therapist licensing examination administered in one or
21 more states or territories of the United States or the District of Columbia.

22 4. The board may waive the provisions of subsection 3 if the applicant has met one of
23 the following provisions:

24 (1) The applicant is licensed and has maintained an active clinical practice for the
25 previous three years in another state of the United States, the District of Columbia or Canada and
26 the applicant has achieved a passing score on a licensing examination administered in a state or
27 territory of the United States, the District of Columbia and no license issued to the applicant has
28 been disciplined or limited in any state or territory of the United States, the District of Columbia
29 or Canada;

30 (2) The applicant has failed the licensure examination three times or more and then
31 obtains a professional degree in physical therapy at a level higher than previously completed, the
32 applicant can sit for the licensure examination three additional times.

33 5.] The examination of qualified candidates for licenses to practice physical therapy shall
34 [include a written examination and shall embrace the subjects taught in reputable programs of
35 physical therapy education, sufficiently strict to test the qualifications of the candidates as
36 practitioners] **test entry-level competence as related to physical therapy theory, examination
37 and evaluation, physical therapy diagnosis, prognosis, treatment, intervention, prevention,
38 and consultation.**

39 [6.] **4.** The examination shall embrace, in relation to the human being, the subjects of
40 anatomy, chemistry, kinesiology, pathology, physics, physiology, psychology, physical therapy
41 theory and procedures as related to medicine, surgery and psychiatry, and such other subjects,
42 including medical ethics, as the board deems useful to test the fitness of the candidate to practice
43 physical therapy.

44 **5. The applicant shall pass a test administered by the board on the laws and rules
45 related to the practice of physical therapy in Missouri.**

334.540. 1. The board shall issue a license to any physical therapist who [is licensed]
2 **possesses an active license** in another jurisdiction and who has had no violations, suspensions
3 or revocations of a license to practice physical therapy in any jurisdiction, provided that, such
4 person is licensed in a jurisdiction whose requirements are substantially equal to, or greater than,
5 the requirements for licensure of physical therapists in Missouri at the time the applicant applies
6 for licensure.

7 2. Every applicant for a license pursuant to this section, upon making application and
8 showing the necessary qualifications as provided in subsection 1 of this section, shall be required
9 to pay the same fee as the fee required to be paid by applicants who apply to take the
10 examination before the board. Within the limits provided in this section, the board may
11 negotiate reciprocal compacts with licensing boards of other states for the admission of licensed
12 practitioners from Missouri in other states.

13 3. [Notwithstanding the provisions of subsections 1 and 2 of this section, the board shall
14 not issue a license to any applicant who has failed three or more times any physical therapist
15 licensing examination administered in one or more states or territories of the United States or the
16 District of Columbia.

17 4. The board may waive the provisions of subsection 3 if the applicant has met one of
18 the following provisions:

19 (1) The applicant is licensed and has maintained an active clinical practice for the
20 previous three years in another state of the United States, the District of Columbia or Canada and

21 the applicant has achieved a passing score on a licensing examination administered in a state or
22 territory of the United States, the District of Columbia and no license issued to the applicant has
23 been disciplined or limited in any state or territory of the United States, the District of Columbia
24 or Canada;

25 (2) The applicant has failed the licensure examination three times or more and then
26 obtains a professional degree in physical therapy at a level higher than previously completed, the
27 applicant can sit for the licensure examination three additional times] **The applicant shall pass**
28 **a test administered by the board on the laws and rules related to practice of physical**
29 **therapy in Missouri.**

334.550. **1.** An applicant who has not been previously examined in **this state or** another
2 jurisdiction and meets the qualifications of subsection 1 of section 334.530, **or an applicant**
3 **applying for reinstatement of an inactive license under a supervised active practice,** may
4 pay a temporary license fee and submit an agreement-to-supervise form, which is signed by the
5 applicant's supervising physical therapist, to the board and obtain without examination a
6 nonrenewable temporary license. Such temporary licensee may only engage in the practice of
7 physical therapy under the supervision of a licensed physical therapist. **The supervising**
8 **physical therapist shall hold an unencumbered license to practice physical therapy in this**
9 **state and shall provide the board proof of active clinical practice in this state for a**
10 **minimum of one year prior to supervising a temporary licensee. The supervising physical**
11 **therapist shall not be an immediate family member of the applicant.** The board shall define
12 **immediate family member and** the scope of such supervision by rules and regulations. **The**
13 **supervising physical therapist for the first-time examinee applicant shall submit to the**
14 **board a signed notarized form prescribed by the board attesting that the applicant for**
15 **temporary license shall begin employment at a location in this state within seven days of**
16 **issuance of the temporary license. The supervising physical therapist shall notify the board**
17 **within three days if the temporary licensee's employment ceases. A licensed physical**
18 **therapist shall not supervise more than one temporary licensee.**

19 **2.** The temporary license **for the first-time examinee applicant** shall expire on [either]
20 the date the applicant receives the results of the applicant's initial examination, **the date the**
21 **applicant withdraws from sitting for the examination, the date the board is notified by the**
22 **supervising physical therapist that the temporary licensee's employment has ceased,** or
23 within ninety days of its issuance, whichever occurs first.

24 **3. The temporary license for the reinstatement applicant under the supervised**
25 **active practice shall expire effective one year from the date of issuance.**

334.560. The board shall charge each person who applies for examination for a license
2 to practice as a physical therapist an examination fee. Should the examination prove

3 unsatisfactory and the board refuse to issue a license thereon, the applicant failing to pass the
4 examination may reapply [and return to any meeting] and be examined upon payment of a
5 reexamination fee[; but no temporary license may be issued to such persons].

334.570. 1. Every person licensed under sections 334.500 to 334.620 shall, on or before
2 the registration renewal date, apply to the board for a certificate of registration for the ensuing
3 licensing period. The application shall be made **under oath** on a form furnished to the applicant
4 [and shall state] **by the board. The application shall include, but not be limited to,**
5 **disclosure of the following:**

- 6 (1) The applicant's full name [and the address at which the person practices and the
7 address at which the person resides and the date and number of such person's license] ;
- 8 (2) **The applicant's office address or addresses and telephone number or numbers;**
- 9 (3) **The applicant's home address and telephone number;**
- 10 (4) **The date and number of the applicant's license;**
- 11 (5) **All final disciplinary actions taken against the applicant by any professional**
12 **association or society, licensed hospital or medical staff of a hospital, physical therapy**
13 **facility, state, territory, federal agency or county; and**
- 14 (6) **Information concerning the applicant's current physical and mental fitness to**
15 **practice his or her profession.**

16

17 **The applicant may be required to successfully complete a test administered by the board**
18 **on the laws and rules related to the practice of physical therapy. The test process, dates,**
19 **and passing scores shall be established by the board by rule.**

20 2. A [blank form] **notice** for application for registration shall be [mailed] **made**
21 **available** to each person licensed in this state [at the person's last known address of practice or
22 residence]. The failure to [mail the form of application or the failure to receive it] **receive the**
23 **notice** does not, however, relieve any person of the duty to register and pay the fee required by
24 sections 334.500 to 334.620 nor exempt such person from the penalties provided by sections
25 334.500 to 334.620 for failure to register.

26 **3. If a physical therapist does not renew such license for two consecutive renewal**
27 **periods, such license shall be deemed void.**

28 **4. Each applicant for registration shall accompany the application for registration**
29 **with a registration fee to be paid to the director of revenue for the licensing period for**
30 **which registration is sought.**

31 **5. If the application is filed and the fee paid after the registration renewal date, a**
32 **delinquent fee shall be paid; except that, whenever in the opinion of the board the**

33 applicant's failure to register is caused by extenuating circumstances including illness of
34 the applicant, as defined by rule, the delinquent fee may be waived by the board.

35 **6. Upon application and submission by such person of evidence satisfactory to the**
36 **board that such person is licensed to practice in this state and upon the payment of fees**
37 **required to be paid by this chapter, the board shall issue to such person a certificate of**
38 **registration. The certificate of registration shall contain the name of the person to whom**
39 **it is issued and his or her office address, the expiration date, and the number of the license**
40 **to practice.**

41 **7. Upon receiving such certificate, every person shall cause the certificate to be**
42 **readily available or conspicuously displayed at all times in every practice location**
43 **maintained by such person in the state. If the licensee maintains more than one practice**
44 **location in this state, the board shall, without additional fee, issue to such licensee duplicate**
45 **certificates of registration for each practice location so maintained. If any licensee changes**
46 **practice locations during the period for which any certificate of registration has been**
47 **issued, the licensee shall, within fifteen days thereafter, notify the board of such change**
48 **and the board shall issue to the licensee, without additional fee, a new registration**
49 **certificate showing the new location.**

50 **8. Whenever any new license is granted to any physical therapist or physical**
51 **therapist assistant under the provisions of this chapter, the board shall, upon application**
52 **therefore, issue to such physical therapist or physical therapist assistant a certificate of**
53 **registration covering a period from the date of the issuance of the license to the next**
54 **renewal date without the payment of any registration fee.**

334.601. The board shall set the amount of the fees which this chapter authorizes
2 **and requires by rule. The fees shall be set at a level to produce revenue which shall not**
3 **substantially exceed the cost and expense of administering this chapter.**

334.602. 1. Physical therapists and physical therapist assistants shall provide
2 **documentation in order that an adequate and complete patient record can be maintained.**
3 **All patient records shall be legible and available for review and shall include at a minimum**
4 **documentation of the following information:**

- 5 **(1) Identification of the patient, including name, birthdate, address, and telephone**
6 **number;**
- 7 **(2) The date or dates the patient was seen;**
- 8 **(3) The current status of the patient, including the reason for the visit;**
- 9 **(4) Observation of pertinent physical findings;**
- 10 **(5) Assessment and clinical impression of physical therapy diagnosis;**
- 11 **(6) Plan of care and treatment;**

12 **(7) Documentation of progress toward goals;**

13 **(8) Informed consent;**

14 **(9) Discharge summary.**

15 **2. Patient records remaining under the care, custody, and control of the licensee**
16 **shall be maintained by the licensee of the board, or the licensee's designee, for a minimum**
17 **of seven years from the date of when the last professional service was provided.**

18 **3. Any correction, addition, or change in any patient record shall be clearly marked**
19 **and identified as such, and the date, time, and name of the person making the correction,**
20 **addition, or change shall be included, as well as the reason for the correction, addition, or**
21 **change.**

22 **4. The board shall not obtain a patient medical record without written**
23 **authorization from the patient to obtain the medical record or the issuance of a subpoena**
24 **for the patient medical record.**

334.610. Any person who holds himself or herself out to be a physical therapist or a
2 licensed physical therapist within this state or any person who advertises as a physical therapist
3 or claims that the person can render physical therapy services and who, in fact, does not hold a
4 valid physical therapist license is guilty of a class B misdemeanor and, upon conviction, shall
5 be punished as provided by law. Any person who, in any manner, represents himself or herself
6 as a physical therapist, or who uses in connection with such person's name the words or letters
7 "physical therapist", "physiotherapist", "registered physical therapist", "**doctor of physical**
8 **therapy**", "P.T.", "Ph.T.", "P.T.T.", "R.P.T.", "**D.P.T.**", "**M.P.T.**", or any other letters, words,
9 abbreviations or insignia, indicating or implying that the person is a physical therapist without
10 a valid existing license as a physical therapist issued to such person pursuant to the provisions
11 of sections 334.500 to 334.620, is guilty of a class B misdemeanor. Nothing in sections 334.500
12 to 334.620 shall prohibit any person licensed in this state under chapter 331, RSMo, from
13 carrying out the practice for which the person is duly licensed, or from advertising the use of
14 physiologic and rehabilitative modalities; nor shall it prohibit any person licensed or registered
15 in this state under section 334.735 or any other law from carrying out the practice for which the
16 person is duly licensed or registered; nor shall it prevent professional and semiprofessional
17 teams, schools, YMCA clubs, athletic clubs and similar organizations from furnishing treatment
18 to their players and members. This section, also, shall not be construed so as to prohibit
19 masseurs and masseuses from engaging in their practice not otherwise prohibited by law and
20 provided they do not represent themselves as physical therapists. This section shall not apply
21 to physicians and surgeons licensed under this chapter or to a person in an entry level of a
22 professional education program approved by the commission for accreditation of physical
23 therapists and physical therapist assistant education (CAPTE) who is satisfying supervised

24 clinical education requirements related to the person's physical therapist or physical therapist
25 assistant education while under on-site supervision of a physical therapist; or to a physical
26 therapist who is practicing in the United States Armed Services, United States Public Health
27 Service, or Veterans Administration under federal regulations for state licensure for health care
28 providers.

**334.611. Notwithstanding any other provision of law to the contrary, any qualified
2 physical therapist who is legally authorized to practice under the laws of another state may
3 practice as a physical therapist in this state without examination by the board or payment
4 of any fee if such practice consists solely of the provision of gratuitous services provided
5 for a summer camp or teaching or participating in a continuing educational seminar for
6 a period not to exceed fourteen days in any one calendar year. Nothing in sections 334.500
7 to 334.625 shall be construed to prohibit isolated or occasional gratuitous service to and
8 treatment of the afflicted or to prohibit physical therapists from other nations, states, or
9 territories from performing their duties for their respective teams or organizations during
10 the course of their teams' or organizations' stay in this state.**

**334.612. 1. If the board finds merit to a complaint by an individual incarcerated
2 or under the care and control of the department of corrections and takes further
3 investigative action, no documentation shall appear on file or disciplinary action shall be
4 taken in regards to the licensee's license unless the provisions of subsection 2 of section
5 334.613 have been violated. Any case file documentation that does not result in the board
6 filing an action under subsection 2 of section 334.613 shall be destroyed within three
7 months after the final case disposition by the board. No notification to any other licensing
8 board in another state or any national registry regarding any investigative action shall be
9 made unless the provisions of subsection 2 of section 334.613 have been violated.**

**2. Upon written request of the physical therapist or physical therapist assistant
11 subject to a complaint prior to August 28, 1999, by an individual incarcerated or under the
12 care and control of the department of corrections that did not result in the board filing an
13 action described in subsection 2 of section 334.613, the board and the division of
14 professional registration shall in a timely fashion:**

15 (1) Destroy all documentation regarding the complaint;

**16 (2) If previously notified of the complaint, notify any other licensing board in
17 another state or any national registry regarding the board's actions; and**

**18 (3) Send a letter to the licensee that clearly states that the board found the
19 complaint to be unsubstantiated, that the board has taken the requested action, and notify
20 the licensee of the provisions of subsection 3 of this section.**

21 **3. Any person who has been the subject of an unsubstantiated complaint as**
22 **provided in subsection 1 or 2 of this section shall not be required to disclose the existence**
23 **of such complaint in subsequent applications or representations relating to their practice.**

334.613. 1. The board may refuse to issue or renew a license to practice as a
2 **physical therapist or physical therapist assistant for one or any combination of causes**
3 **stated in subsection 2 of this section. The board shall notify the applicant in writing of the**
4 **reasons for the refusal and shall advise the applicant of the applicant's right to file a**
5 **complaint with the administrative hearing commission as provided by chapter 621, RSMo.**
6 **As an alternative to a refusal to issue or renew a license to practice as a physical therapist**
7 **or physical therapist assistant, the board may, at its discretion, issue a license which is**
8 **subject to probation, restriction, or limitation to an applicant for licensure for any one or**
9 **any combination of causes stated in subsection 2 of this section. The board's order of**
10 **probation, limitation, or restriction shall contain a statement of the discipline imposed, the**
11 **basis therefor, the date such action shall become effective, and a statement that the**
12 **applicant has thirty days to request in writing a hearing before the administrative hearing**
13 **commission. If the board issues a probationary, limited, or restricted license to an**
14 **applicant for licensure, either party may file a written petition with the administrative**
15 **hearing commission within thirty days of the effective date of the probationary, limited,**
16 **or restricted license seeking review of the board's determination. If no written request for**
17 **a hearing is received by the administrative hearing commission within the thirty-day**
18 **period, the right to seek review of the board's decision shall be considered as waived.**

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

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

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

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

35 **(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct, or**
36 **unprofessional conduct in the performance of the functions or duties of a physical therapist**
37 **or physical therapist assistant, including but not limited to the following:**

38 **(a) Obtaining or attempting to obtain any fee, charge, tuition, or other**
39 **compensation by fraud, deception, or misrepresentation; willfully and continually**
40 **overcharging or overtreating patients; or charging for sessions of physical therapy which**
41 **did not occur unless the services were contracted for in advance, or for services which were**
42 **not rendered or documented in the patient's records;**

43 **(b) Attempting, directly or indirectly, by way of intimidation, coercion, or**
44 **deception, to obtain or retain a patient or discourage the use of a second opinion or**
45 **consultation;**

46 **(c) Willfully and continually performing inappropriate or unnecessary treatment**
47 **or services;**

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

50 **(e) Misrepresenting that any disease, ailment, or infirmity can be cured by a**
51 **method, procedure, treatment, medicine, or device;**

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

54 **(g) Final disciplinary action by any professional association, professional society,**
55 **licensed hospital or medical staff of the hospital, or physical therapy facility in this or any**
56 **other state or territory, whether agreed to voluntarily or not, and including but not limited**
57 **to any removal, suspension, limitation, or restriction of the person's professional**
58 **employment, malpractice, or any other violation of any provision of this chapter;**

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

62 **(i) Engaging in or soliciting sexual relationships, whether consensual or**
63 **nonconsensual, while a physical therapist or physical therapist assistant/patient**
64 **relationship exists; making sexual advances, requesting sexual favors, or engaging in other**
65 **verbal conduct or physical contact of a sexual nature with patients or clients;**

66 **(j) Terminating the care of a patient without adequate notice or without making**
67 **other arrangements for the continued care of the patient;**

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

71 **(l) Failure of any applicant or licensee, other than the licensee subject to the**
72 **investigation, to cooperate with the board during any investigation;**

73 **(m) Failure to comply with any subpoena or subpoena duces tecum from the board**
74 **or an order of the board;**

75 **(n) Failure to timely pay license renewal fees specified in this chapter;**

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

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

79 **(q) Advertising by an applicant or licensee which is false or misleading, or which**
80 **violates any rule of the board, or which claims without substantiation the positive cure of**
81 **any disease, or professional superiority to or greater skill than that possessed by any other**
82 **physical therapist or physical therapist assistant. An applicant or licensee shall also be in**
83 **violation of this provision if the applicant or licensee has a financial interest in any**
84 **organization, corporation, or association which issues or conducts such advertising;**

85 **(5) Any conduct or practice which is or might be harmful or dangerous to the**
86 **mental or physical health of a patient or the public; or incompetency, gross negligence, or**
87 **repeated negligence in the performance of the functions or duties of a physical therapist**
88 **or physical therapist assistant. For the purposes of this subdivision, "repeated negligence"**
89 **means the failure, on more than one occasion, to use that degree of skill and learning**
90 **ordinarily used under the same or similar circumstances by the member of the applicant's**
91 **or licensee's profession;**

92 **(6) Violation of, or attempting to violate, directly or indirectly, or assisting or**
93 **enabling any person to violate, any provision of this chapter, or of any lawful rule adopted**
94 **under this chapter;**

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

98 **(8) Revocation, suspension, restriction, modification, limitation, reprimand,**
99 **warning, censure, probation, or other final disciplinary action against a physical therapist**
100 **or physical therapist assistant for a license or other right to practice as a physical therapist**
101 **or physical therapist assistant by another state, territory, federal agency or country,**
102 **whether or not voluntarily agreed to by the licensee or applicant, including but not limited**
103 **to the denial of licensure, surrender of the license, allowing the license to expire or lapse,**

104 or discontinuing or limiting the practice of physical therapy while subject to an
105 investigation or while actually under investigation by any licensing authority, medical
106 facility, branch of the armed forces of the United States of America, insurance company,
107 court, agency of the state or federal government, or employer;

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

110 (10) Assisting or enabling any person to practice or offer to practice who is not
111 licensed and currently eligible to practice under this chapter; or knowingly performing any
112 act which in any way aids, assists, procures, advises, or encourages any person to practice
113 physical therapy who is not licensed and currently eligible to practice under this chapter;

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

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

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

121 (14) Soliciting patronage in person or by agents or representatives, or by any other
122 means or manner, under the person's own name or under the name of another person or
123 concern, actual or pretended, in such a manner as to confuse, deceive, or mislead the public
124 as to the need or necessity for or appropriateness of physical therapy services for all
125 patients, or the qualifications of an individual person or persons to render, or perform
126 physical therapy services;

127 (15) Using, or permitting the use of, the person's name under the designation of
128 "physical therapist", "physiotherapist", "registered physical therapist", "P.T.", "Ph.T.",
129 "P.T.T.", "D.P.T.", "M.P.T." or "R.P.T.", "physical therapist assistant", "P.T.A.",
130 "L.P.T.A.", "C.P.T.A.", or any similar designation with reference to the commercial
131 exploitation of any goods, wares or merchandise;

132 (16) Knowingly making or causing to be made a false statement or
133 misrepresentation of a material fact, with intent to defraud, for payment under chapter
134 208, RSMo, or chapter 630, RSMo, or for payment from Title XVIII or Title XIX of the
135 federal Medicare program;

136 (17) Failure or refusal to properly guard against contagious, infectious, or
137 communicable diseases or the spread thereof; maintaining an unsanitary facility or
138 performing professional services under unsanitary conditions; or failure to report the

139 existence of an unsanitary condition in any physical therapy facility to the board, in
140 writing, within thirty days after the discovery thereof;

141 (18) Any candidate for licensure or person licensed to practice as a physical
142 therapist or physical therapist assistant, paying or offering to pay a referral fee or,
143 notwithstanding section 334.010 to the contrary, practicing or offering to practice
144 professional physical therapy independent of the prescription and direction of a person
145 licensed and registered as a physician and surgeon under this chapter, as a physician
146 assistant under this chapter, as a chiropractor under chapter 331, RSMo, as a dentist
147 under chapter 332, RSMo, as a podiatrist under chapter 330, RSMo, or any licensed and
148 registered physician, chiropractor, dentist, or podiatrist practicing in another jurisdiction,
149 whose license is in good standing;

150 (19) Any candidate for licensure or person licensed to practice as a physical
151 therapist or physical therapist assistant, treating or attempting to treat ailments or other
152 health conditions of human beings other than by professional physical therapy and as
153 authorized by sections 334.500 to 334.685;

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

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

158 (22) Attempting to engage in conduct that subverts or undermines the integrity of
159 the licensing examination or the licensing examination process, including but not limited
160 to utilizing in any manner recalled or memorized licensing examination questions from or
161 with any person or entity, failing to comply with all test center security procedures,
162 communicating or attempting to communicate with any other examinees during the test,
163 or copying or sharing licensing examination questions or portions of questions;

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

171 (24) Being unable to practice as a physical therapist or physical therapist assistant
172 with reasonable skill and safety to patients by reasons of incompetency, or because of
173 illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any
174 mental or physical condition. The following shall apply to this subdivision:

175 (a) In enforcing this subdivision the board shall, after a hearing by the board, upon
176 a finding of probable cause, require a physical therapist or physical therapist assistant to
177 submit to a reexamination for the purpose of establishing his or her competency to practice
178 as a physical therapist or physical therapist assistant conducted in accordance with rules
179 adopted for this purpose by the board, including rules to allow the examination of the
180 pattern and practice of such physical therapist's or physical therapist assistant's
181 professional conduct, or to submit to a mental or physical examination or combination
182 thereof by a facility or professional approved by the board;

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

186 (c) In addition to ordering a physical or mental examination to determine
187 competency, the board may, notwithstanding any other law limiting access to medical or
188 other health data, obtain medical data and health records relating to a physical therapist,
189 physical therapist assistant or applicant without the physical therapist's, physical therapist
190 assistant's or applicant's consent;

191 (d) Written notice of the reexamination or the physical or mental examination shall
192 be sent to the physical therapist or physical therapist assistant, by registered mail,
193 addressed to the physical therapist or physical therapist assistant at the physical therapist's
194 or physical therapist assistant's last known address. Failure of a physical therapist or
195 physical therapist assistant to submit to the examination when directed shall constitute an
196 admission of the allegations against the physical therapist or physical therapist assistant,
197 in which case the board may enter a final order without the presentation of evidence,
198 unless the failure was due to circumstances beyond the physical therapist's or physical
199 therapist assistant's control. A physical therapist or physical therapist assistant whose
200 right to practice has been affected under this subdivision shall, at reasonable intervals, be
201 afforded an opportunity to demonstrate that the physical therapist or physical therapist
202 assistant can resume the competent practice as a physical therapist or physical therapist
203 assistant with reasonable skill and safety to patients;

204 (e) In any proceeding under this subdivision neither the record of proceedings nor
205 the orders entered by the board shall be used against a physical therapist or physical
206 therapist assistant in any other proceeding. Proceedings under this subdivision shall be
207 conducted by the board without the filing of a complaint with the administrative hearing
208 commission;

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

212 3. After the filing of such complaint before the administrative hearing commission,
213 the proceedings shall be conducted in accordance with the provisions of chapter 621,
214 RSMo. Upon a finding by the administrative hearing commission that the grounds
215 provided in subsection 2 of this section for disciplinary action are met, the board may,
216 singly or in combination:

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

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

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

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

225 (5) Administer a public or private reprimand;

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

228 (7) Permanently withhold issuance of a license;

229 (8) Require the physical therapist or physical therapist assistant to submit to the
230 care, counseling or treatment of physicians designated by the board at the expense of the
231 physical therapist or physical therapist assistant to be examined;

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

234 4. In any order of revocation, the board may provide that the physical therapist or
235 physical therapist assistant shall not apply for reinstatement of the physical therapist's or
236 physical therapist assistant's license for a period of time ranging from two to seven years
237 following the date of the order of revocation. All stay orders shall toll this time period.

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

242 6. In any investigation, hearing or other proceeding to determine a physical
243 therapist's, physical therapist assistant's or applicant's fitness to practice, any record
244 relating to any patient of the physical therapist, physical therapist assistant, or applicant

245 shall be discoverable by the board and admissible into evidence, regardless of any statutory
246 or common law privilege which such physical therapist, physical therapist assistant,
247 applicant, record custodian, or patient might otherwise invoke. In addition, no such
248 physical therapist, physical therapist assistant, applicant, or record custodian may
249 withhold records or testimony bearing upon a physical therapist's, physical therapist
250 assistant's, or applicant's fitness to practice on the ground of privilege between such
251 physical therapist, physical therapist assistant, applicant, or record custodian and a
252 patient.

334.614. 1. Notwithstanding any other provisions of section 620.010, RSMo, to the
2 contrary, the board shall at least quarterly publish a list of the names and addresses of all
3 physical therapists and physical therapist assistants who hold licenses under the provisions
4 of this chapter, and shall publish a list of all physical therapists and physical therapist
5 assistants whose licenses have been suspended, revoked, surrendered, restricted, denied,
6 or withheld.

7 2. Notwithstanding any other provisions of section 620.010, RSMo, to the contrary,
8 in addition, the board shall prepare and make available to the public a report upon the
9 disciplinary matters submitted to them where the board recommends disciplinary action,
10 except in those instances when physical therapists and physical therapist assistants
11 possessing licenses voluntarily enter treatment and monitoring programs for purposes of
12 rehabilitation and, in such instances, only such specific action shall not be reported with
13 any other actions taken prior to, as part of, or following voluntary entrance into such
14 treatment programs. The report shall set forth findings of fact and any final disciplinary
15 actions of the board. If the board does not recommend disciplinary action, a report stating
16 that no action is recommended shall be prepared and forwarded to the complaining party.

334.615. 1. Upon receipt of information that the holder of any license as a physical
2 therapist or physical therapist assistant issued under this chapter may present a clear and
3 present danger to the public health and safety, the executive director shall direct that the
4 information be brought to the board in the form of sworn testimony or affidavits during
5 a meeting of the board.

6 2. The board may issue an order suspending or restricting the holder of a license
7 as a physical therapist or physical therapist assistant if it believes:

8 (1) The licensee's acts, conduct, or condition may have violated subsection 2 of
9 section 334.613; and

10 (2) A licensee is practicing, attempting, or intending to practice in Missouri; and

11 **(3) (a) A licensee is unable by reason of any physical or mental condition to receive**
12 **and evaluate information or to communicate decisions to the extent that the licensee's**
13 **condition or actions significantly affect the licensee's ability to practice; or**

14 **(b) Another state, territory, federal agency, or country has issued an order**
15 **suspending or restricting the physical therapist's or physical therapist assistant's right to**
16 **practice his or her profession; or**

17 **(c) The licensee has engaged in repeated acts of life-threatening negligence as**
18 **defined in subsection 2 of section 334.613; and**

19 **(4) The acts, conduct, or condition of the licensee constitute a clear and present**
20 **danger to the public health and safety.**

21 **3. (1) The order of suspension or restriction:**

22 **(a) Shall be based on the sworn testimony or affidavits presented to the board;**

23 **(b) May be issued without notice and hearing to the licensee;**

24 **(c) Shall include the facts which lead the board to conclude that the acts, conduct,**
25 **or condition of the licensee constitute a clear and present danger to the public health and**
26 **safety.**

27 **(2) The board or the administrative hearing commission shall serve the licensee, in**
28 **person or by certified mail, with a copy of the order of suspension or restriction and all**
29 **sworn testimony or affidavits presented to the board, a copy of the complaint and the**
30 **request for expedited hearing, and a notice of the place of and the date upon which the**
31 **preliminary hearing will be held.**

32 **(3) The order of restriction shall be effective upon service of the documents**
33 **required in subdivision (2) of this subsection.**

34 **(4) The order of suspension shall become effective upon the entry of the**
35 **preliminary order of the administrative hearing commission.**

36 **(5) The licensee may seek a stay order from the circuit court of Cole County from**
37 **the preliminary order of suspension, pending the issuance of a final order by the**
38 **administrative hearing commission.**

39 **4. The board shall file a complaint in the administrative hearing commission with**
40 **a request for expedited preliminary hearing and shall certify the order of suspension or**
41 **restriction and all sworn testimony or affidavits presented to the board. Immediately upon**
42 **receipt of a complaint filed under this section, the administrative hearing commission shall**
43 **set the place and date of the expedited preliminary hearing which shall be conducted as**
44 **soon as possible, but not later than five days after the date of service upon the licensee. The**
45 **administrative hearing commission shall grant a licensee's request for a continuance of the**
46 **preliminary hearing; however, the board's order shall remain in full force and effect until**

47 the preliminary hearing, which shall be held not later than forty-five days after service of
48 the documents required in subdivision (2) of subsection 3 of this section.

49 **5. At the preliminary hearing, the administrative hearing commission shall receive**
50 **into evidence all information certified by the board and shall only hear evidence on the**
51 **issue of whether the board's order of suspension or restriction should be terminated or**
52 **modified. Within one hour after the preliminary hearing, the administrative hearing**
53 **commission shall issue its oral or written preliminary order, with or without findings of**
54 **fact and conclusions of law, that adopts, terminates, or modifies the board's order. The**
55 **administrative hearing commission shall reduce to writing any oral preliminary order**
56 **within five business days, but the effective date of the order shall be the date orally issued.**

57 **6. The preliminary order of the administrative hearing commission shall become**
58 **a final order and shall remain in effect for three years unless either party files a request**
59 **for a full hearing on the merits of the complaint filed by the board within thirty days from**
60 **the date of the issuance of the preliminary order of the administrative hearing commission.**

61 **7. Upon receipt of a request for full hearing, the administrative hearing commission**
62 **shall set a date for hearing and notify the parties in writing of the time and place of the**
63 **hearing. If a request for full hearing is timely filed, the preliminary order of the**
64 **administrative hearing commission shall remain in effect until the administrative hearing**
65 **commission enters an order terminating, modifying, or dismissing its preliminary order**
66 **or until the board issues an order of discipline following its consideration of the decision**
67 **of the administrative hearing commission under section 621.110, RSMo, and subsection 3**
68 **of section 334.100.**

69 **8. In cases where the board initiates summary suspension or restriction proceedings**
70 **against a physical therapist or physical therapist assistant licensed under this chapter, and**
71 **such petition is subsequently denied by the administrative hearing commission, in addition**
72 **to any award made under sections 536.085 and 536.087, RSMo, the board, but not**
73 **individual members of the board, shall pay actual damages incurred during any period of**
74 **suspension or restriction.**

75 **9. Notwithstanding the provisions of this chapter or chapter 610, RSMo, or chapter**
76 **621, RSMo, to the contrary, the proceedings under this section shall be closed and no order**
77 **shall be made public until it is final, for purposes of appeal.**

78 **10. The burden of proving the elements listed in subsection 2 of this section shall**
79 **be upon the state board of registration for the healing arts.**

334.616. 1. A license issued under this chapter by the Missouri state board of
2 **registration for the healing arts shall be automatically revoked at such time as the final**
3 **trial proceedings are concluded whereby a licensee has been adjudicated and found guilty,**

4 or has entered a plea of guilty or nolo contendere, in a felony criminal prosecution under
5 the laws of the state of Missouri, the laws of any other state, or the laws of the United States
6 of America for any offense reasonably related to the qualifications, functions or duties of
7 their profession, or for any felony offense, an essential element of which is fraud,
8 dishonesty or an act of violence, or for any felony offense involving moral turpitude,
9 whether or not sentence is imposed, or, upon the final and unconditional revocation of the
10 license to practice their profession in another state or territory upon grounds for which
11 revocation is authorized in this state following a review of the record of the proceedings
12 and upon a formal motion of the state board of registration for the healing arts. The
13 license of any such licensee shall be automatically reinstated if the conviction or the
14 revocation is ultimately set aside upon final appeal in any court of competent jurisdiction.

15 2. Anyone who has been denied a license, permit, or certificate to practice in
16 another state shall automatically be denied a license to practice in this state. However, the
17 board of healing arts may set up other qualifications by which such person may ultimately
18 be qualified and licensed to practice in Missouri.

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

4 (1) Offering to engage or engaging in the performance of any acts or practices for
5 which a license is required by chapters 334.500 to 334.687 upon a showing that such acts
6 or practices were performed or offered to be performed without a license; or

7 (2) Engaging in any practice or business authorized by a license issued under
8 chapters 334.500 to 334.687 upon a showing that the holder presents a substantial
9 probability of serious danger to the health, safety, or welfare of any resident of the state
10 or client or patient of the licensee.

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

13 3. Any action brought under this section shall be in addition to and not in lieu of
14 any penalty provided by chapters 334.500 to 334.687 and may be brought concurrently
15 with other actions to enforce chapters 334.500 to 334.687.

334.618. Upon receiving information that any provision of sections 334.500 to
2 334.687 has been or is being violated, the executive director of the board or other person
3 designated by the board shall investigate, and upon probable cause appearing, the
4 executive director shall, under the direction of the board, file a complaint with the
5 administrative hearing commission or appropriate official or court. All such complaints

6 **shall be handled as provided by rule promulgated under subdivision (6) of subsection 16**
7 **of section 620.010, RSMo.**

334.650. 1. After January 1, 1997, no person shall hold himself or herself out as being
2 a physical therapist assistant in this state unless the person is licensed as provided in sections
3 334.650 to 334.685.

4 2. A licensed physical therapist shall direct and supervise a physical therapist assistant
5 [at all times. The licensed physical therapist shall have the responsibility of supervising the
6 physical therapy treatment program]. **The physical therapist shall retain ultimate authority**
7 **and responsibility for the physical therapy treatment. The licensed physical therapist shall**
8 **have the responsibility of supervising the physical therapy treatment program.** No physical
9 therapist may establish a treating office in which the physical therapist assistant is the primary
10 care provider. No licensed physical therapist shall have under their direct supervision more than
11 four **full-time equivalent** physical therapist assistants.

334.655. 1. A candidate for licensure to practice as a physical therapist assistant shall
2 be at least nineteen years of age. A candidate shall furnish evidence of the person's good moral
3 character and of the person's educational qualifications. The educational requirements for
4 licensure as a physical therapist assistant are:

5 (1) A certificate of graduation from an accredited high school or its equivalent; and

6 (2) Satisfactory evidence of completion of an associate degree program of physical
7 therapy education accredited by the commission on accreditation of physical therapy education.

8 2. Persons desiring to practice as a physical therapist assistant in this state shall appear
9 before the board at such time and place as the board may direct and be examined as to the
10 person's fitness to engage in such practice. Applications for examination shall be [in writing,]
11 on a form furnished by the board and shall include evidence satisfactory to the board that the
12 applicant possesses the qualifications provided in subsection 1 of this section. Each application
13 shall contain a statement that the statement is made under oath of affirmation and that its
14 representations are true and correct to the best knowledge and belief of the person signing the
15 statement, subject to the penalties of making a false affidavit or declaration.

16 3. The examination of qualified candidates for licensure to practice as physical therapist
17 assistants shall embrace [a written] **an** examination [and] which shall cover the curriculum taught
18 in accredited associate degree programs of physical therapy assistant education. Such
19 examination shall be sufficient to test the qualification of the candidates as practitioners.

20 4. [The board shall not issue a license to practice as a physical therapist assistant or allow
21 any person to sit for the Missouri state board examination for physical therapist assistants who
22 has failed three or more times any physical therapist licensing examination administered in one
23 or more states or territories of the United States or the District of Columbia.

24 5. The board may waive the provisions of subsection 4 if the applicant has met one of
25 the following provisions: the applicant is licensed and has maintained an active clinical practice
26 for the previous three years in another state of the United States, the District of Columbia or
27 Canada and the applicant has achieved a passing score on a licensing examination administered
28 in a state or territory of the United States, the District of Columbia and no license issued to the
29 applicant has been disciplined or limited in any state or territory of the United States, the District
30 of Columbia or Canada.

31 6.] The examination shall include, as related to the human body, the subjects of anatomy,
32 kinesiology, pathology, physiology, psychology, physical therapy theory and procedures as
33 related to medicine and such other subjects, including medical ethics, as the board deems useful
34 to test the fitness of the candidate to practice as a physical therapist assistant.

35 **5. The applicant shall pass a test administered by the board on the laws and rules**
36 **related to the practice as a physical therapist assistant in this state.**

37 [7.] **6.** The board shall license without examination any legally qualified person who is
38 a resident of this state and who was actively engaged in practice as a physical therapist assistant
39 on August 28, 1993. The board may license such person pursuant to this subsection until ninety
40 days after the effective date of this section.

41 [8.] **7.** A candidate to practice as a physical therapist assistant who does not meet the
42 educational qualifications may submit to the board an application for examination if such person
43 can furnish written evidence to the board that the person has been employed in this state for at
44 least three of the last five years under the supervision of a licensed physical therapist and such
45 person possesses the knowledge and training equivalent to that obtained in an accredited school.
46 The board may license such persons pursuant to this subsection until ninety days after rules
47 developed by the state board of healing arts regarding physical therapist assistant licensing
48 become effective.

 334.660. 1. The board shall license without examination legally qualified persons who
2 [hold] **possess active** certificates of licensure, registration or certification in any state or territory
3 of the United States or the District of Columbia, who have had no violations, suspensions or
4 revocations of such license, registration or certification, if such persons have passed [a written]
5 **an** examination to practice as a physical therapist assistant that was substantially equal to the
6 examination requirements of this state and in all other aspects, including education, the
7 requirements for such certificates of licensure, registration or certification were, at the date of
8 issuance, substantially equal to the requirements for licensure in this state.

9 2. [The board shall not issue a license to any applicant who has failed three or more
10 times any physical therapist assistant licensing examination administered in one or more states
11 or territories of the United States or the District of Columbia.

12 3. The board may waive the provisions of subsection 1 if the applicant has met one of
13 the following provisions: the applicant is licensed and has maintained an active clinical practice
14 for the previous three years in another state of the United States, the District of Columbia or
15 Canada and the applicant has achieved a passing score on a licensing examination administered
16 in a state or territory of the United States, the District of Columbia and no license issued to the
17 applicant has been disciplined or limited in any state or territory of the United States, the District
18 of Columbia or Canada.

19 4.] Every applicant for a license pursuant to this section, upon making application and
20 providing documentation of the necessary qualifications as provided in this section, shall pay the
21 same fee required of applicants to take the examination before the board. Within the limits of
22 this section, the board may negotiate reciprocal contracts with licensing boards of other states
23 for the admission of licensed practitioners from Missouri in other states.

24 **3. The applicant shall successfully pass a test administered by the board on the laws**
25 **and rules related to practice as a physical therapist assistant in this state.**

 334.665. **1.** An applicant who has not been previously examined in another jurisdiction
2 and meets the qualifications of subsection 1 of section 334.655 **or an applicant applying for**
3 **reinstatement of an inactive license under a supervised active practice** may pay a temporary
4 license fee and submit an agreement-to-supervise form which is signed by the applicant's
5 supervising physical therapist to the board and obtain without examination a nonrenewable
6 temporary license. Such temporary licensee may only practice under the supervision of a
7 licensed physical therapist. **The supervising physical therapist shall hold an unencumbered**
8 **license to practice physical therapy in the state of Missouri and shall provide the board**
9 **proof of active clinical practice in the state of Missouri for a minimum of one year prior**
10 **to supervising the temporary licensee. The supervising physical therapist shall not be an**
11 **immediate family member of the applicant. The board shall define immediate family**
12 **member and the scope of such supervision by rule. The supervising physical therapist for**
13 **the first-time examinee applicant shall submit to the board a signed notarized form**
14 **prescribed by the board attesting that the applicant for temporary license shall begin**
15 **employment at a location in this state within seven days of issuance of the temporary**
16 **license. The supervising physical therapist shall notify the board within three days if the**
17 **temporary licensee's employment ceases.** A licensed physical therapist shall supervise no
18 more than one temporary licensee. [The board shall define the scope of such supervision by rules
19 and regulations.]

20 **2.** The temporary license **for the first-time examinee applicant** shall expire on [either]
21 the date the applicant receives the results of the applicant's initial examination, **the date the**
22 **applicant withdraws from sitting for the examination, the date the board is notified by the**

23 **supervising physical therapist that the temporary licensee's employment has ceased,** or
24 within ninety days of its issuance, whichever occurs first.

25 **3. The temporary license for the reinstatement applicant under the supervised**
26 **active practice shall expire effective one year from the date of issuance.**

334.670. The board shall charge a person, who applies for examination for a license to
2 practice as a physical therapist assistant, an examination fee. If the person does not score a
3 passing grade on the examination, the board may refuse to issue a license. Any applicant who
4 fails to pass the examination may reapply and be reexamined upon payment of a reexamination
5 fee. [No temporary license may be issued to any person who has previously failed the
6 examination in Missouri or any other state or jurisdiction.]

334.675. 1. Every person licensed pursuant to sections 334.650 to 334.685 shall, on or
2 before the licensing renewal date, apply to the board for a certificate of licensure for the next
3 licensing period. The application for renewal shall be made **under oath** on a form furnished to
4 the applicant [and shall state] **by the board. The application shall include, but not be limited**
5 **to, disclosure of the following:**

6 (1) The applicant's full name [and the address at which the applicant practices and the
7 address at which the applicant resides and] ;

8 (2) **The applicant's office address or addresses and telephone number or numbers;**

9 (3) **The applicant's home address and telephone number;**

10 (4) The date and number of the applicant's license;

11 (5) **All final disciplinary actions taken against the applicant by any professional**
12 **association or society, licensed hospital or medical staff of the hospital, physical therapy**
13 **facility, state, territory, federal agency or country; and**

14 (6) **Information concerning the applicant's current physical and mental fitness to**
15 **practice the applicant's profession.**

16

17 **The applicant may be required to successfully complete a test administered by the board**
18 **on the laws and rules related to the practice of physical therapy in this state. The test**
19 **process, dates, and passing scores shall be established by the board by rule.**

20 2. A [blank application form] **notice** shall be [mailed] **made available** to each person
21 licensed in this state [pursuant to sections 334.650 to 334.685 at the person's last known address
22 of practice or residence. The failure to mail the application for or the failure to receive the
23 application form] . **The failure to receive the notice** does not relieve any person of the duty to
24 renew the person's license and pay the renewal fee as required by sections 334.650 to 334.685
25 nor shall it exempt the person from the penalties provided by sections 334.650 to 334.685 for
26 failure to renew a license.

27 **3. If a physical therapist assistant does not renew such license for two consecutive**
28 **renewal periods, such license shall be deemed voided.**

29 **4. Each applicant for registration shall accompany the application for registration**
30 **with a registration fee to be paid to the director of revenue for the licensing period for**
31 **which registration is sought.**

32 **5. If the application is filed and the fee paid after the registration renewal date, a**
33 **delinquent fee shall be paid; except that, if in the opinion of the board the applicant's**
34 **failure to register is caused by extenuating circumstances, including illness of the applicant**
35 **as defined by rule, the delinquent fee may be waived by the board.**

36 **6. Upon due application therefore and upon submission by such person of evidence**
37 **satisfactory to the board that he or she is licensed to practice in this state and upon the**
38 **payment of fees required to be paid by this chapter, the board shall issue to such person**
39 **a certificate of registration. The certificate of registration shall contain the name of the**
40 **person to whom it is issued and his or her office address, the expiration date, and the**
41 **number of the license to practice.**

42 **7. Upon receiving such certificate, every person shall cause it to be readily available**
43 **or conspicuously displayed at all times in every practice location maintained by such**
44 **licensee in the state. If the licensee maintains more than one practice location in this state,**
45 **the board shall without additional fee issue to them duplicate certificates of registration for**
46 **each practice location so maintained. If any licensee changes practice locations during the**
47 **period for which any certificate of registration has been issued, such licensee shall, within**
48 **fifteen days thereafter, notify the board of such change and the board shall issue to the**
49 **licensee, without additional fee, a new registration certificate showing the new location.**

50 **8. Whenever any new license is granted to any physical therapist or physical**
51 **therapist assistant under the provisions of this chapter, the board shall, upon application**
52 **therefore, issue to such physical therapist or physical therapist assistant a certificate of**
53 **registration covering a period from the date of the issuance of the license to the next**
54 **renewal date without the payment of any registration fee.**

334.686. Any person who holds himself or herself out to be a physical therapist
2 **assistant or a licensed physical therapist assistant within this state or any person who**
3 **advertises as a physical therapist assistant and who, in fact, does not hold a valid physical**
4 **therapist assistant license is guilty of a class B misdemeanor and, upon conviction, shall be**
5 **punished as provided by law. Any person who, in any manner, represents himself or**
6 **herself as a physical therapist assistant, or who uses in connection with such person's name**
7 **the words or letters, "physical therapist assistant", the letters "P.T.A.", "L.P.T.A.",**
8 **"C.P.T.A.", or any other letters, words, abbreviations or insignia, indicating or implying**

9 that the person is a physical therapist assistant without a valid existing license as a physical
10 therapist assistant issued to such person under the provisions of sections 334.500 to
11 334.620, is guilty of a class B misdemeanor. This section shall not apply to physicians and
12 surgeons licensed under this chapter or to a person in an entry level of a professional
13 education program approved by the Commission for Accreditation of Physical Therapists
14 and Physical Therapist Assistant Education (CAPTE) who is satisfying supervised clinical
15 education requirements related to the person's physical therapist or physical therapist
16 assistant education while under onsite supervision of a physical therapist; or to a physical
17 therapist who is practicing in the United States Armed Forces, United States Public Health
18 Service, or Veterans Administration under federal regulations for state licensure for health
19 care providers.

334.687. 1. For purposes of this section, the licensing of physical therapists and
2 physical therapist assistants shall take place within processes established by the state board
3 of registration for the healing arts through rules. The board of healing arts is authorized
4 to adopt rules establishing licensing and renewal procedures, supervision of physical
5 therapist assistants, and former licensees who wish to return to the practice of physical
6 therapy, fees, and addressing such other matters as are necessary to protect the public and
7 discipline the profession.

8 2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
9 that is created under the authority delegated in this section shall become effective only if
10 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
11 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
12 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
13 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
14 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
15 adopted after August 28, 2008, shall be invalid and void.

335.076. 1. Any person who holds a license to practice professional nursing in this state
2 may use the title "Registered Professional Nurse" and the abbreviation "R.N.". No other person
3 shall use the title "Registered Professional Nurse" or the abbreviation "R.N.". No other person
4 shall assume any title or use any abbreviation or any other words, letters, signs, or devices to
5 indicate that the person using the same is a registered professional nurse.

6 2. Any person who holds a license to practice practical nursing in this state may use the
7 title "Licensed Practical Nurse" and the abbreviation "L.P.N.". No other person shall use the title
8 "Licensed Practical Nurse" or the abbreviation "L.P.N.". No other person shall assume any title
9 or use any abbreviation or any other words, letters, signs, or devices to indicate that the person
10 using the same is a licensed practical nurse.

11 3. Any person who holds a license or recognition to practice advanced practice nursing
12 in this state may use the title "Advanced Practice Registered Nurse", and the abbreviation
13 "APRN", and any other title designations appearing on his or her license. No other person shall
14 use the title "Advanced Practice Registered Nurse" or the abbreviation "APRN". No other
15 person shall assume any title or use any abbreviation or any other words, letters, signs, or devices
16 to indicate that the person using the same is an advanced practice registered nurse.

17 4. No person shall practice or offer to practice professional nursing, practical nursing,
18 or advanced practice nursing in this state or use any title, sign, abbreviation, card, or device to
19 indicate that such person is a practicing professional nurse, practical nurse, or advanced practice
20 nurse unless he or she has been duly licensed under the provisions of this chapter.

21 5. In the interest of public safety and consumer awareness, it is unlawful for any person
22 to use the title "nurse" in reference to himself or herself in any capacity, except individuals who
23 are or have been licensed as a registered nurse, licensed practical nurse, or advanced practice
24 registered nurse under this chapter.

25 6. Notwithstanding any law to the contrary, nothing in this chapter shall prohibit a
26 [person listed as a] Christian Science nurse [in the Christian Science Journal published by the
27 Christian Science Publishing Society, Boston, Massachusetts,] from using the title "Christian
28 Science nurse", so long as such person provides **only** religious nonmedical services when
29 offering or providing **such** services to [a member of his or her own religious organization and
30 does not hold his or her own religious organization] **those who choose to rely upon healing by**
31 **spiritual means alone** and does not hold himself or herself out as a registered nurse, advanced
32 practice registered nurse, nurse practitioner, licensed practical nurse, nurse midwife, clinical
33 nurse specialist, or nurse anesthetist, unless otherwise authorized by law to do so.

338.132. Any provision of the law to the contrary notwithstanding, the board of
2 pharmacy shall prepare and maintain an equitable salary schedule for professional staff that are
3 employees of the board. **The position of executive director and inspector shall be licensed**
4 **pharmacists with at least three years of pharmacy practice experience.** The positions and
5 classification plan for personnel attributed to **the executive director and** the inspection of
6 licensed entities within this chapter shall allow for a comparison of such positions with similar
7 positions in adjoining states. Board of pharmacy professional positions shall [not] be
8 compensated at [more than ninety percent parity] **the composite average** for corresponding
9 positions within adjoining states for pharmacists employed in those positions. **An equitable**
10 **salary survey will be conducted on an annual basis prior to the first day of July and salary**
11 **adjustments as determined by the board will begin prior to the first day of September of**
12 **each calendar year.**

- 339.010. 1. A "real estate broker" is any person, partnership, association, or corporation,
2 foreign or domestic who, for another, and for a compensation or valuable consideration, does,
3 or attempts to do, any or all of the following:
- 4 (1) Sells, exchanges, purchases, rents, or leases real estate;
 - 5 (2) Offers to sell, exchange, purchase, rent or lease real estate;
 - 6 (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or
7 leasing of real estate;
 - 8 (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;
 - 9 (5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or
10 improvements thereon;
 - 11 (6) Advertises or holds himself or herself out as a licensed real estate broker while
12 engaged in the business of buying, selling, exchanging, renting, or leasing real estate;
 - 13 (7) Assists or directs in the procuring of prospects, calculated to result in the sale,
14 exchange, leasing or rental of real estate;
 - 15 (8) Assists or directs in the negotiation of any transaction calculated or intended to result
16 in the sale, exchange, leasing or rental of real estate;
 - 17 (9) Engages in the business of charging to an unlicensed person an advance fee in
18 connection with any contract whereby the real estate broker undertakes to promote the sale of
19 that person's real estate through its listing in a publication issued for such purpose intended to
20 be circulated to the general public;
 - 21 (10) Performs any of the foregoing acts [as an employee of, or] on behalf of[,] the owner
22 of real estate, or interest therein, or improvements affixed thereon, for compensation.
- 23 2. A "real estate salesperson" is any person who for a compensation or valuable
24 consideration becomes associated, either as an independent contractor or employee, either
25 directly or indirectly, with a real estate broker to do any of the things above mentioned. The
26 provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not be construed
27 to deny a real estate salesperson who is compensated solely by commission the right to be
28 associated with a broker as an independent contractor.
- 29 3. The term "commission" as used in sections 339.010 to 339.180 and sections 339.710
30 to 339.860 means the Missouri real estate commission.
- 31 4. "Real estate" for the purposes of sections 339.010 to 339.180 and sections 339.710
32 to 339.860 shall mean, and include, leaseholds, as well as any other interest or estate in land,
33 whether corporeal, incorporeal, freehold or nonfreehold, and the real estate is situated in this
34 state.
- 35 5. "Advertising" shall mean any communication, whether oral or written, between a
36 licensee or other entity acting on behalf of one or more licensees and the public[; it] , **and** shall

37 include, but not be limited to, business cards, signs, insignias, letterheads, radio, television,
38 newspaper and magazine ads, Internet advertising, web sites, display or group ads in telephone
39 directories, and billboards.

40 6. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall
41 not apply to:

42 (1) Any person, partnership, association, or corporation who as owner, lessor, or lessee
43 shall perform any of the acts described in subsection 1 of this section with reference to property
44 owned or leased by them, or to the regular employees thereof[, provided such owner, lessor, or
45 lessee is not engaged in the real estate business];

46 (2) Any licensed attorney-at-law;

47 (3) An auctioneer employed by the owner of the property;

48 (4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or
49 guardian or while acting under a court order or under the authority of a will, trust instrument or
50 deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state
51 or any governmental subdivision or agency;

52 (5) Any person employed or retained to manage real property by, for, or on behalf of the
53 agent or the owner of any real estate shall be exempt from holding a license, if the person is
54 limited to one or more of the following activities:

55 (a) Delivery of a lease application, a lease, or any amendment thereof, to any person;

56 (b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental
57 payment, or any related payment, for delivery to, and made payable to, a broker or owner;

58 (c) Showing a rental unit to any person, as long as the employee is acting under the direct
59 instructions of the broker or owner, including the execution of leases or rental agreements;

60 (d) Conveying information prepared by a broker or owner about a rental unit, a lease, an
61 application for lease, or the status of a security deposit, or the payment of rent, by any person;

62 (e) Assisting in the performance of brokers' or owners' functions, administrative, clerical
63 or maintenance tasks;

64 (f) If the person described in this section is employed or retained by, for, or on behalf of
65 a real estate broker, the real estate broker shall be subject to discipline under this chapter for any
66 conduct of the person that violates this chapter or the regulations promulgated thereunder;

67 (6) Any officer or employee of a federal agency or the state government or any political
68 subdivision thereof performing official duties;

69 (7) Railroads and other public utilities regulated by the state of Missouri, or their
70 subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless
71 performance of any of the acts described in subsection 1 of this section is in connection with the
72 sale, purchase, lease or other disposition of real estate or investment therein unrelated to the

73 principal business activity of such railroad or other public utility or affiliated or subsidiary
74 corporation thereof;

75 (8) Any bank, trust company, savings and loan association, credit union, insurance
76 company, mortgage banker, or farm loan association organized under the laws of this state or of
77 the United States when engaged in the transaction of business on its own behalf and not for
78 others;

79 (9) Any newspaper, magazine, periodical, Internet site, Internet communications, or any
80 form of communications regulated or licensed by the Federal Communications Commission or
81 any successor agency or commission whereby the advertising of real estate is incidental to its
82 operation;

83 (10) Any developer selling Missouri land owned by the developer;

84 (11) Any employee acting on behalf of a nonprofit community, or regional economic
85 development association, agency or corporation which has as its principal purpose the general
86 promotion and economic advancement of the community at large, provided that such entity:

87 (a) Does not offer such property for sale, lease, rental or exchange on behalf of another
88 person or entity;

89 (b) Does not list or offer or agree to list such property for sale, lease, rental or exchange;
90 or

91 (c) Receives no fee, commission or compensation, either monetary or in kind, that is
92 directly related to sale or disposal of such properties. An economic developer's normal annual
93 compensation shall be excluded from consideration as commission or compensation related to
94 sale or disposal of such properties; or

95 (12) Any neighborhood association, as that term is defined in section 441.500, RSMo,
96 that without compensation, either monetary or in kind, provides to prospective purchasers or
97 lessors of property the asking price, location, and contact information regarding properties in and
98 near the association's neighborhood, including any publication of such information in a
99 newsletter, Internet site, or other medium.

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,**
8 **a person regularly engaged in the real estate brokerage business outside the state of**
9 **Missouri who 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**
14 **any 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.

 700.010. As used in sections 700.010 to 700.500, for the purpose of sections 700.010
2 to 700.500, the following terms mean:

3 (1) "Authorized representative", any person, firm or corporation, or employee thereof,
4 approved or hired by the commission to perform inspection services;

5 (2) "Code", the standards relating to manufactured homes, or modular units as adopted
6 by the commission. The commission, in its discretion, may incorporate, in whole or in part, the
7 standards codes promulgated by the American National Standards Institute, the United States
8 Department of Housing and Urban Development or other recognized agencies or organizations;

9 (3) "Commission", the public service commission;

10 (4) "Dealer", any person, other than a manufacturer, who sells or offers for sale four or
11 more manufactured homes, or modular units in any consecutive twelve-month period;

12 (5) **"Installer", an individual who is licensed by the commission to install**
13 **manufactured homes under sections 700.650 to 700.692;**

14 (6) "Manufactured home", [a factory-built structure or structures which, in the traveling
15 mode, is eight body feet or more in width or forty body feet or more in length, or, when erected
16 on site, contains three hundred twenty or more square feet, equipped with the necessary service
17 connections and made so as to be readily movable as a unit or units on its or their own running
18 gear and designed to be used as a dwelling unit or units with or without a permanent foundation.
19 The phrase "without a permanent foundation" indicates that the support system is constructed
20 with the intent that the manufactured home placed thereon may be moved from time to time at
21 the convenience of the owner] **a structure, transportable in one or more sections, which, in**
22 **the traveling mode, is eight body feet or more in width or forty body feet or more in length,**
23 **or, when erected on site, is three hundred twenty or more square feet, and which is built**
24 **on a permanent chassis and designed to be used as a dwelling with or without a permanent**
25 **foundation when connected to the required utilities, and includes the plumbing, heating,**
26 **air conditioning, and electrical systems contained therein. The term includes any structure**
27 **that meets all of the requirements of this subdivision except the size requirements and with**
28 **respect to which the manufacturer voluntarily files a certification required by the United**
29 **States Secretary of Housing and Urban Development and complies with the standards**
30 **established under Title 42 of the United States Code;**

31 [(6)] (7) "Manufacturer", any person who manufactures manufactured homes, or modular
32 units, including persons who engage in importing manufactured homes, or modular units for
33 resale;

34 [(7)] (8) "Modular unit", a transportable building unit designed to be used by itself or to
35 be incorporated with similar units at a point-of-use into a modular structure to be used for
36 residential, commercial, educational or industrial purposes. **A modular unit shall be built to**
37 **the International Residential Codes (IRC) for residential units and the International**
38 **Building Codes (IBC) for commercial, educational, and industrial units as adopted by the**
39 **commission.** This definition shall not apply to structures under six hundred fifty square feet
40 used temporarily and exclusively for construction site office purposes;

41 [(8)] (9) "New", being sold or offered for sale to the first purchaser for purposes other
42 than resale;

43 [(9)] (10) "Person", an individual, partnership, corporation or other legal entity;

44 [(10)] (11) "Premises", a lot, plot, or parcel of land including the buildings, structures,
45 and manufactured homes thereon;

46 [(11)] (12) "Recreational park trailer", a recreational park trailer as defined in the
47 American National Standards Institute (ANSI) A119.5 Standard on Recreational Park Trailers.
48 A recreational park trailer is not a recreational vehicle;

49 [(12)] (13) "Recreational vehicle", a recreational vehicle as defined in the American
50 National Standards Institute (ANSI) A119.2 Standard on Recreational Vehicles;

51 [(13)] (14) "Seal", a device, label or insignia issued by the public service commission,
52 U.S. Department of Housing and Urban Development, or its agent, to be displayed on the
53 exterior of the manufactured home, or modular unit to evidence compliance with the code;

54 [(14)] (15) "Setup", the operations performed at the occupancy site which renders a
55 manufactured home or modular unit fit for habitation, which operations include, but are not
56 limited to, moving, blocking, leveling, supporting, and assembling multiple or expandable units.

**700.041. 1. There is hereby established a fund in the state treasury to be known as
2 the "Manufactured Housing Consumer Recovery Fund" for the purpose of paying
3 consumer claims under procedures the commission may promulgate by rule. The public
4 service commission shall administer the manufactured housing consumer recovery fund
5 and all moneys in the fund shall be used solely as prescribed in this section. Any interest
6 earned from the investment of moneys in the fund shall be credited to the fund.**

7 **2. Claims approved by the commission under law may be paid from the fund
8 subject to appropriation. No claims shall be considered by the commission until all other
9 legal remedies have been exhausted. The commission shall establish an advisory committee
10 to assist with the evaluation of all claims filed by consumers. The committee members shall
11 be volunteers and serve without compensation.**

12 **3. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys
13 in the manufactured housing consumer recovery fund shall not be transferred to the credit
14 of the general revenue fund at the end of the biennium; however, the total amount in the
15 manufactured housing consumer recovery fund shall not exceed thirty-two percent of the
16 amount of the annual appropriation of the manufactured housing fund from the preceding
17 fiscal year. Moneys in the manufactured housing consumer recovery fund may be
18 transferred back to the manufactured housing fund by appropriation.**

700.045. It shall be a misdemeanor:

2 (1) For a manufacturer or dealer to manufacture, rent, lease, sell or offer to sell any
3 manufactured home or modular unit after January 1, 1977, unless there is in effect a registration
4 with the commission;

5 (2) To rent, lease, sell or offer to sell any new manufactured home or new modular unit
6 or used modular unit used for educational purposes manufactured after January 1, 1974, which
7 does not bear a seal as required by sections 700.010 to 700.115;

- 8 (3) To affix a seal or cause a seal to be affixed to any manufactured home or modular
9 unit which does not comply with the code;
- 10 (4) To alter a manufactured home or modular unit in a manner prohibited by the
11 provisions of sections 700.010 to 700.115;
- 12 (5) To fail to correct within a reasonable time not to exceed ninety days after being
13 ordered to do so in writing by an authorized representative of the commission a code violation
14 in a new manufactured home or new modular unit or used modular unit used for educational
15 purposes owned, manufactured or sold if the same is manufactured after January 1, 1974.
16 **Reasonable and necessary extensions may be granted by the commission;** or
- 17 (6) To interfere with, obstruct, or hinder any authorized representative of the commission
18 in the performance of his or her duties.

700.056. Every dealer of a **new** manufactured home offered for sale in this state shall
2 at the time of sale provide the purchaser with a bill of sale **or the purchase agreement**
3 containing at least the following: The total price of the unit, **serial number if available, if not**
4 **available, the manufacturer name and model number of the unit**, and its contents, **any**
5 **waivers**, a list of all furniture and appliances in the manufactured home, any other costs which
6 will be assessed to the purchaser **by the dealer** such as transportation, handling, or such other
7 costs, and the sales tax payable for such manufactured home.

700.065. All **new** manufactured homes located in this state shall be anchored and tied
2 down in accordance with the standards promulgated by the commission pursuant to the
3 provisions of sections 700.010 to 700.115 **and 700.650 to 700.692**.

700.090. 1. Every manufacturer or dealer [of manufactured homes] who sells or offers
2 for sale, on consignment or otherwise, a manufactured home or modular unit from or in the state
3 of Missouri shall register [each location] with the commission **each place of business at which**
4 **the manufacturer or dealer sells or offers for sale a manufactured home or modular unit**.

5 2. The commission shall issue a certificate of registration to a manufacturer who:

- 6 (1) Completes and files with the commission an application for registration which
7 contains the following information:
- 8 (a) The name of the manufacturer;
- 9 (b) The address of the manufacturer and addresses of each factory owned or operated by
10 the manufacturer, if different from the address of the manufacturer;
- 11 (c) If a corporation, the state of original incorporation, a list of the names and addresses
12 of all officers and directors of the corporation, and proof of the filing of all franchise and sales
13 tax forms required by Missouri law;
- 14 (d) If not a corporation, the name and address of the managing person or persons
15 responsible for overall operation of the manufacturer;

16 (2) Files with the commission an initial registration fee of seven hundred fifty dollars in
17 the form of a cashier's check or money order made payable to the state of Missouri.

18 3. The commission shall issue a certificate of registration to a dealer who:

19 (1) Completes and files with the commission an application for registration which
20 contains the following information:

21 (a) The name of the dealer;

22 (b) The business address of the dealer and addresses of each separate facility owned and
23 operated by the dealer from which manufactured homes or modular units are offered for sale if
24 different from the business address of the dealer;

25 (c) If a corporation, the state of original incorporation, a list of the names and addresses
26 of all officers and directors of the corporation, proof of the filing of all franchise and sales tax
27 forms required by Missouri law;

28 (d) If not a corporation, the name and address of the managing person or persons
29 responsible for the overall operations of the manufacturer;

30 (2) Files with the commission an initial registration fee of two hundred dollars in the
31 form of a cashier's check or money order made payable to the state of Missouri;

32 (3) Files with the commission proof of compliance with the provisions of section
33 301.280, RSMo.

34 4. The registration of any manufacturer or dealer shall be effective for a period of one
35 year and shall be renewed by the commission upon receipt by it from the registered dealer of a
36 renewal fee of seven hundred fifty dollars for manufacturers and two hundred dollars for dealers
37 and a form provided by the commission upon which shall be placed any changes from the
38 information requested on the initial registration form.

39 5. The commission may stagger the renewal of certificates of registration to provide for
40 more equal distribution over the twelve months of the number of registration renewals.

**700.095. 1. Every dealer shall, on or before January fifteenth of each year, make
2 application for registration or renewal and shall be required to maintain a bona fide
3 established place of business and maintain a permanent enclosed building or structure,
4 either owned in fee or leased and actually occupied as a place of business by the applicant
5 for the selling, bartering, trading, or exchanging of manufactured homes or modular units
6 where the public may contact the owner or operator at any reasonable time and where the
7 books, records, files, and other matter required and necessary to conduct the business shall
8 be kept and maintained.**

9 **2. The application shall contain the business address, not a post office box address,
10 and telephone number of the place where the books, records, files, and other matters**

11 required and necessary to conduct the business are located and where the same may be
12 inspected during normal daytime business hours.

13 **3. Each application shall contain such additional information as may be required**
14 **by the commission to enable it to determine whether the applicant is a bona fide dealer in**
15 **fact and is of good moral character.**

16 **4. Upon the payment of a registration or renewal fee of two hundred dollars, there**
17 **shall be assigned to each dealer a certificate of registration in such form as the commission**
18 **shall prescribe.**

700.096. 1. Each person registered as a dealer under the provisions of sections
2 **700.010 to 700.115 shall file monthly reports with the commission, and such reports shall**
3 **be in the form and manner and contain the information required by the commission by**
4 **rules promulgated under chapter 536, RSMo, and shall permit an employee of the**
5 **commission or any law enforcement official to inspect during normal business hours any**
6 **of the following documents which are in his or her possession or under his or her control:**

7 **(1) Any manufacturer's invoice or invoices, certificate of origin, statement of origin,**
8 **or title to any manufactured home or modular unit;**

9 **(2) Any application for title to any manufactured home;**

10 **(3) Any affidavit provided under chapter 301, RSMo, or chapter 407, RSMo;**

11 **(4) Any assignment of title to any manufactured home;**

12 **(5) Any disclosure statement or other document required by the laws of the United**
13 **States or any other state.**

14 **2. For the purposes of this section, the term "law enforcement official" means any**
15 **of the following:**

16 **(1) The attorney general, or any person designated by the attorney general to make**
17 **such an inspection;**

18 **(2) Any prosecuting attorney or any person designated by the prosecuting attorney**
19 **to make such an inspection;**

20 **(3) Any member of the highway patrol;**

21 **(4) Any sheriff or deputy sheriff;**

22 **(5) Any peace officer certified under chapter 590, RSMo, acting in his or her**
23 **official capacity.**

700.097. No insurance company, finance company, bank, or trust company shall
2 **be required to register with the commission in order to sell any manufactured home or**
3 **modular unit repossessed or purchased by the company on the basis of total destruction**
4 **or theft thereof when the sale of the manufactured home or modular unit is in conformance**
5 **with applicable title and registration laws of this state.**

700.098. 1. The commission may refuse to register an applicant as a dealer, or may suspend the registration of an existing dealer from one day to thirty days, or revoke the registration of a dealer after a written notice and a hearing when the commission is satisfied that the applicant or dealer has failed to comply with the provisions set out in sections 700.010 to 700.115. Notification of unfavorable action by the commission on any application for registration or renewal of registration shall be accompanied by a notice informing the recipient that the decision of the commission may be appealed as provided in chapter 386, RSMo.

2. It shall be unlawful for any person to hold forth or act as a dealer who is not currently registered as a dealer by the commission as required by sections 700.010 to 700.115.

700.100. 1. The commission may refuse to register or refuse to renew the registration of any person who fails to comply with the provisions of [section 700.090 or this section] **sections 700.010 to 700.115.** Notification of unfavorable action by the commission on any application for registration or renewal of registration must be delivered to the applicant within thirty days from date it is received by the commission. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be accompanied by a notice informing the recipient that the decision of the commission may be appealed as provided in chapter 386, RSMo.

2. The commission may consider a complaint filed with it charging a registered manufacturer or dealer with a violation of the provisions of this section, which charges, if proven, shall constitute grounds for revocation or suspension of his registration, or the placing of the registered manufacturer or dealer on probation.

3. The following specifications shall constitute grounds for the suspension, revocation or placing on probation of a manufacturer's or dealer's registration:

(1) If required, failure to comply with the provisions of section 301.280, RSMo;

(2) Failing to be in compliance with the provisions of section 700.090;

(3) If a corporation, failing to file all franchise or sales tax forms required by Missouri law;

(4) Engaging in any conduct which constitutes a violation of the provisions of section 407.020, RSMo;

(5) Failing to comply with the provisions of Sections 2301-2312 of Title 15 of the United States Code (Magnuson-Moss Warranty Act);

(6) As a dealer, failing to arrange for the proper initial setup of any new manufactured home or modular unit sold from or in the state of Missouri, [unless] **except as allowed under**

25 **subsection 5 of section 700.656**; the dealer [receives] **shall receive** a written waiver of that
26 service from the purchaser or his or her authorized agent;

27 (7) Requiring any person to purchase any type of insurance from that manufacturer or
28 dealer as a condition to his being sold any manufactured home or modular unit;

29 (8) Requiring any person to arrange financing or utilize the services of any particular
30 financing service as a condition to his being sold any manufactured home or modular unit;
31 provided, however, the registered manufacturer or dealer may reserve the right to establish
32 reasonable conditions for the approval of any financing source;

33 (9) Engaging in conduct in violation of section 700.045;

34 (10) Failing to comply with the provisions of section 301.210, RSMo;

35 (11) Failing to pay all necessary fees and assessments authorized pursuant to sections
36 700.010 to 700.115.

37 **4. The commission may order that any suspension, revocation, or probation**
38 **ordered under subsection 3 of this section shall apply to all manufacturer's or dealer's**
39 **registrations that are held by the same manufacturer or dealer or that are owned or**
40 **controlled by the same person or persons if a continued and consistent pattern of the**
41 **violations have been identified by the commission to be present with each registrant under**
42 **the same control or ownership.**

700.115. 1. Except as otherwise provided in subsections 2 and 3 of this section, a
2 violation of the provisions of sections 700.010 to 700.115 shall constitute a violation of the
3 provisions of section 407.020, RSMo. In addition to the authority vested in the attorney general
4 to enforce the provisions of that section, he may petition the court and the court may enter an
5 order revoking the registration certificate of the defendant or defendants issued pursuant to the
6 provisions of section 700.090.

7 2. Notwithstanding any provisions of subsection 1 of this section to the contrary,
8 whoever violates any provision of this chapter shall be liable to the state of Missouri for a civil
9 penalty in an amount which shall not exceed one thousand dollars for each such violation. **If,**
10 **after a hearing, the commission finds that the person has violated any provision of this**
11 **chapter, it may direct its general counsel to enforce the provisions of this section by filing**
12 **a petition in circuit court for such civil penalties.** Each violation of this chapter shall
13 constitute a separate violation with respect to each manufactured home **or modular unit** or with
14 respect to each failure or refusal to allow or perform an act required by this chapter; except that,
15 the maximum civil penalty may not exceed one million dollars for any related series of violations
16 occurring within one year from the date of the first violation.

17 3. Any individual or director, officer, or agent of a corporation who knowingly and
18 willfully violates any provision of sections 700.010 to 700.115, in a manner which threatens the

19 health or safety of any purchaser, shall, upon conviction therefor, be fined not more than one
20 thousand dollars or imprisoned for not more than one year, or both.

700.525. As used in sections 700.525 to 700.541, the following terms mean:

2 (1) "Abandoned", a physical absence from the property, and either:

3 (a) Failure by a renter of real property to pay any required rent for fifteen consecutive
4 days, along with the discontinuation of utility service to the rented property for such period; or

5 (b) Indication of or notice of abandonment of real property rented from a landlord;

6 (2) "Manufactured home", a factory-built structure as defined in subdivision [(5) or (7)]
7 **(6) or (8)** of section 700.010.

700.650. 1. Sections 700.650 to 700.692 shall be known and may be cited as the
2 "Manufactured Home Installation Act".

3 2. For the purposes of sections 700.650 to 700.692, the following terms shall mean:

4 (1) "Applicant", a person who applies to the commission for a license or limited-use
5 license to install manufactured homes;

6 (2) "Commission", the Missouri public service commission;

7 (3) "Dealer", any person, other than a manufacturer, who sells or offers for sale four or
8 more manufactured homes in any consecutive twelve-month period;

9 (4) "Installation", work undertaken at the place of occupancy to ensure the proper initial
10 setup of a manufactured home which shall include the joining of all sections of the home,
11 installation of stabilization, support, and leveling systems, assembly of multiple or expanded
12 units, and installation of applicable utility hookups and anchoring systems that render the home
13 fit for habitation;

14 (5) "Installation standards", reasonable specifications for the installation of a
15 manufactured home;

16 (6) "Installer", an individual who is licensed by the commission to install manufactured
17 homes, pursuant to sections 700.650 to [700.680] **700.692**;

18 (7) "Manufactured home", a manufactured home as that term is defined in subdivision
19 [(5)] **(6)** of section 700.010;

20 (8) "Manufacturer", any person who manufactures manufactured homes, including
21 persons who engage in importing manufactured homes for resale; and

22 (9) "Person", an individual, partnership, corporation, or other legal entity.

**Section 1. Notwithstanding any law to the contrary, a compelling governmental
2 interest shall be deemed to exist for the purposes of section 536.025, RSMo, for licensure
3 fees to be reduced by emergency rule, if the projected fund balance of any agency assigned
4 to the division of professional registration is reasonably expected to exceed an amount that
5 would require transfer from that fund to general revenue.**

2 [700.070. Effective November 27, 1973, all purchasers of manufactured
3 homes shall, within thirty days from the date of occupancy, anchor and secure the
4 manufactured home in accordance with the standards promulgated by the
5 commission pursuant to the provisions of sections 700.010 to 700.115.]

2 [700.450. As used in sections 700.450 to 700.470, the following terms
3 shall mean:

- 3 (1) "Commission", the public service commission;
4 (2) "Dealer", any person, including, but not limited to, real estate brokers
5 and salespersons, other than a manufacturer, who sells or offers for sale four or
6 more manufactured homes in any consecutive twelve-month period;
7 (3) "Manufactured home", a factory-built structure or structures which,
8 in the traveling mode, is eight body feet or more in width or forty body feet or
9 more in length, or, when erected on site, contains three hundred twenty or more
10 square feet, equipped with the necessary service connections and made so as to
11 be readily movable as a unit or units on its or their own running gear and
12 designed to be used as a dwelling unit or units with or without a permanent
13 foundation. The phrase "without a permanent foundation" indicates that the
14 support system is constructed with the intent that the manufactured home placed
15 thereon may be moved from time to time at the convenience of the owner;
16 (4) "Manufacturer", any person who manufactures manufactured homes,
17 including persons who engage in importing manufactured homes for resale;
18 (5) "Person", any individual, partnership, corporation or other legal
19 entity.]
20

2 [700.455. 1. Every dealer shall, on or before January fifteenth of each
3 year, instead of registering each manufactured home dealt in, make a verified
4 application, upon a blank for such purpose to be furnished by the commission,
5 for a distinctive number for all the manufactured homes dealt in or controlled by
6 such dealer. The application shall contain, but need not be limited to:

6 (1) When the applicant is a partnership, the name and address of each
7 partner, or, when the applicant is a corporation, the names of the principal
8 officers of the corporation and the state in which it is incorporated. The
9 application shall be verified by the oath or affirmation of the applicant, if an
10 individual, or in the event an applicant is a partnership or corporation, then by a
11 partner or officer;

12 (2) A bona fide established place of business shall be required for every
13 dealer. A bona fide established place of business for any dealer shall include a
14 permanent enclosed building or structure, either owned in fee or leased and
15 actually occupied as a place of business by the applicant for the selling, bartering,
16 trading or exchanging of manufactured homes, where the public may contact the
17 owner or operator at any reasonable time and where the books, records, files and

18 other matters required and necessary to conduct the business shall be kept and
19 maintained.

20 2. The application shall contain the business address, not a post-office
21 box, and telephone number of the place where the books, records, files and other
22 matters required and necessary to conduct the business are located and where the
23 same may be inspected during normal daytime business hours.

24 3. Each application shall contain such additional information as may be
25 required by the commission to enable it to determine whether the applicant is a
26 bona fide dealer in fact and is of good moral character.

27 4. On the payment of a registration fee of fifty dollars there shall be
28 assigned to each dealer a certificate of registration in such form as the
29 commission shall prescribe.]
30

[700.460. 1. Each person registered as a dealer pursuant to the provisions
2 of sections 700.450 to 700.470 shall file monthly reports with the commission,
3 which reports shall be in the form and manner and contain the information
4 required by the commission by rules promulgated pursuant to chapter 536,
5 RSMo, and shall permit an employee of the commission or any law enforcement
6 official to inspect, during normal business hours, any of the following documents
7 which are in his possession or under his custody or control:

- 8 (1) Any title to any manufactured home;
- 9 (2) Any application for title to any manufactured home;
- 10 (3) Any affidavit provided pursuant to chapter 301 or 407, RSMo;
- 11 (4) Any assignment of title to any manufactured home;
- 12 (5) Any disclosure statement or other document required by the laws of
13 the United States or any other state.

14 2. For purposes of this section, the term "law enforcement official" shall
15 mean any of the following:

- 16 (1) Attorney general, or any person designated by him to make such an
17 inspection;
- 18 (2) Any prosecuting attorney or any person designated by a prosecuting
19 attorney to make such an inspection;
- 20 (3) Any member of the highway patrol;
- 21 (4) Any sheriff or deputy sheriff;
- 22 (5) Any peace officer certified pursuant to chapter 590, RSMo, acting in
23 his official capacity.]
24

[700.465. No insurance company, finance company, bank or trust
2 company shall be required to register with the commission in order to sell any
3 manufactured home repossessed or purchased by the company on the basis of
4 total destruction or theft thereof when the sale of the manufactured home is in
5 conformance with applicable title and registration laws of this state.]
6

2 [700.470. 1. The commission may refuse to register an applicant as a
3 dealer, or may suspend the registration of an existing dealer from one day to
4 thirty days, or revoke the registration of a dealer, after a written notice and a
5 hearing when he is satisfied that the applicant or dealer has failed to comply with
6 the provisions set out in sections 700.450 to 700.470. Notification of unfavorable
7 action by the commission on any application for registration or renewal of
8 registration must be accompanied by a notice informing the recipient that the
9 decision of the director may be appealed as provided in chapter 536, RSMo.

10 2. It shall be unlawful for any person to hold forth or act as a dealer who
11 is not currently registered as a dealer by the commission as required by sections
700.450 to 700.470.]

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