

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 835, Page 20, Section 334.104, Line 156,
2 by inserting after all of said section and line the following:

3
4 "334.506. 1. As used in this section, "approved health care provider" means a person
5 holding a current and active license as a physician and surgeon under this chapter, a chiropractor
6 under chapter 331, a dentist under chapter 332, a podiatrist under chapter 330, a physician assistant
7 under this chapter, an advanced practice registered nurse under chapter 335, or any licensed and
8 registered physician, chiropractor, dentist, or podiatrist practicing in another jurisdiction whose
9 license is in good standing.

10 2. A physical therapist [shall not initiate treatment for a new injury or illness] may initiate
11 physical therapy evaluation and treatment with or without a prescription from an approved health
12 care provider.

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

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

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

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

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

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

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

35 5.] The provision of physical therapy services of evaluation and screening pursuant to this
36 section shall be limited to a physical therapist, and any authority for evaluation and screening

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granted within this section may not be delegated. Upon each reinitiation of physical therapy services, a physical therapist shall provide a full physical therapy evaluation prior to the reinitiation of physical therapy treatment. [Physical therapy treatment provided pursuant to the provisions of subsection 4 of this section may be delegated by physical therapists to physical therapist assistants only if the patient's current approved health care provider has been so informed as part of the physical therapist's seven-day notification upon reinitiation of physical therapy services as required in subsection 4 of this section.] Nothing in this subsection shall be construed as to limit the ability of physical therapists or physical therapist assistants to provide physical therapy services in accordance with the provisions of this chapter, and upon the referral of an approved health care provider. Nothing in this subsection shall prohibit an approved health care provider from acting within the scope of their practice as defined by the applicable chapters of RSMo.

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

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

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

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

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

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

(3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate of

1 registration or authority, permit, or license issued under this chapter or in obtaining permission to
2 take any examination given or required under this chapter;

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

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

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

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

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

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

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

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

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

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

32 (j) Terminating the care of a patient without adequate notice or without making other
33 arrangements for the continued care of the patient;

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

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

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

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

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

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

45 (q) Advertising by an applicant or licensee which is false or misleading, or which violates
46 any rule of the board, or which claims without substantiation the positive cure of any disease, or
47 professional superiority to or greater skill than that possessed by any other physical therapist or
48 physical therapist assistant. An applicant or licensee shall also be in violation of this provision if the

1 applicant or licensee has a financial interest in any organization, corporation, or association which
2 issues or conducts such advertising;

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

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

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

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

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

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

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

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

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

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

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

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

46 (17) Failure or refusal to properly guard against contagious, infectious, or communicable
47 diseases or the spread thereof; maintaining an unsanitary facility or performing professional services
48 under unsanitary conditions; or failure to report the existence of an unsanitary condition in any

1 physical therapy facility to the board, in writing, within thirty days after the discovery thereof;

2 (18) Any candidate for licensure or person licensed to practice as a physical therapist or
3 physical therapist assistant paying or offering to pay a referral fee [or, notwithstanding section
4 334.010 to the contrary, practicing or offering to practice professional physical therapy independent
5 of the prescription and direction of a person licensed and registered as a physician and surgeon
6 under this chapter, as a physician assistant under this chapter, as a chiropractor under chapter 331, as
7 a dentist under chapter 332, as a podiatrist under chapter 330, as an advanced practice registered
8 nurse under chapter 335, or any licensed and registered physician, chiropractor, dentist, podiatrist,
9 or advanced practice registered nurse practicing in another jurisdiction, whose license is in good
10 standing];

11 (19) Any candidate for licensure or person licensed to practice as a physical therapist or
12 physical therapist assistant treating or attempting to treat ailments or other health conditions of
13 human beings other than by professional physical therapy and as authorized by sections 334.500 to
14 334.685;

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

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

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

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

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

34 (a) In enforcing this subdivision the board shall, after a hearing by the board, upon a finding
35 of probable cause, require a physical therapist or physical therapist assistant to submit to a
36 reexamination for the purpose of establishing his or her competency to practice as a physical
37 therapist or physical therapist assistant conducted in accordance with rules adopted for this purpose
38 by the board, including rules to allow the examination of the pattern and practice of such physical
39 therapist's or physical therapist assistant's professional conduct, or to submit to a mental or physical
40 examination or combination thereof by a facility or professional approved by the board;

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

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

48 (d) Written notice of the reexamination or the physical or mental examination shall be sent

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

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

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

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

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

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

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

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

31 (5) Administer a public or private reprimand;

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

33 (7) Permanently withhold issuance of a license;

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

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

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

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

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

1 the physical therapist, physical therapist assistant, or applicant shall be discoverable by the board
2 and admissible into evidence, regardless of any statutory or common law privilege which such
3 physical therapist, physical therapist assistant, applicant, record custodian, or patient might
4 otherwise invoke. In addition, no such physical therapist, physical therapist assistant, applicant, or
5 record custodian may withhold records or testimony bearing upon a physical therapist's, physical
6 therapist assistant's, or applicant's fitness to practice on the grounds of privilege between such
7 physical therapist, physical therapist assistant, applicant, or record custodian and a patient."; and

8
9 Further amend said bill by amending the title, enacting clause, and intersectional references
10 accordingly.