

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1700
94TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, May 7, 2008, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

4262S.05C

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, 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 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, 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, 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700.070, 700.090, 700.100, 700.115, 700.450, 700.455, 700.460, 700.465, 700.470, 700.525, and 700.650, RSMo, are repealed and fifty new sections enacted in lieu thereof, to be known as sections 144.011, 326.256, 326.283, 326.289, 326.292, 334.500, 334.506, 334.525, 334.530, 334.540, 334.550, 334.560, 334.570, 334.601, 334.602, 334.610, 334.611, 334.612, 334.613, 334.614, 334.615, 334.616, 334.617, 334.618, 334.650, 334.655, 334.660, 334.665, 334.670, 334.675, 334.686, 334.687, 335.076, 339.010, 339.150, 700.010, 700.041, 700.045, 700.056, 700.065, 700.090, 700.095, 700.096, 700.097, 700.098, 700.100, 700.115, 700.525, 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 the taxes imposed thereby, the definition of "retail sale" or "sale at

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

3 retail" shall not be construed to include any of the following:

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

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

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

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

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

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

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

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

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

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

37 (11) The purchase by persons operating hotels, motels or other transient
38 accommodation establishments, of items of a nonreusable nature which are

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

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

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

50 (b) A transfer which involves the delivery of a "Reposessed Title" to a
51 resident of this state if the tax imposed by sections 144.010 to 144.525 was not
52 paid on the transfer of the manufactured home described in paragraph (a) of this
53 subdivision;

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

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

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

62 (b) Posts or organizations of past or present members of the armed forces
63 of the United States or an auxiliary unit or society of, or a trust or foundation for,
64 any such post or organization substantially all of the members of which are past
65 or present members of the armed forces of the United States or who are cadets,
66 spouses, widows, or widowers of past or present members of the armed forces of
67 the United States, no part of the net earnings of which inures to the benefit of
68 any private shareholder or individual.

69 2. The assumption of liabilities of the transferor by the transferee incident
70 to any of the transactions enumerated in the above subdivisions (1) to (8) of
71 subsection 1 of this section shall not disqualify the transfer from the exclusion
72 described in this section, where such liability assumption is related to the
73 property transferred and where the assumption does not have as its principal
74 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
- 4 statement services:
 - 5 (a) Any audit or other engagement to be performed in accordance with the
 - 6 Statements on Auditing Standards (SAS);
 - 7 (b) Any examination of prospective financial information to be performed
 - 8 in accordance with the Statements on Standards for Attestation Engagements
 - 9 (SSAE); **or**
 - 10 **(c) Any engagement to be performed in accordance with the**
 - 11 **auditing standards and rules of the Public Company Accounting**
 - 12 **Oversight Board (PCAOB);**
- 13 (3) "Board", the Missouri state board of accountancy established pursuant
- 14 to section 326.259 or its predecessor pursuant to prior law;
- 15 (4) "Certificate", a certificate issued pursuant to section 326.060 prior to
- 16 August 28, 2001;
- 17 (5) "Certified public accountant" or "CPA", the holder of a certificate or
- 18 license as defined in this section;
- 19 (6) "Certified public accountant firm", "CPA firm" or "firm", a sole
- 20 proprietorship, a corporation, a partnership or any other form of organization
- 21 issued a permit pursuant to section 326.289;
- 22 (7) "Client", a person or entity that agrees with a licensee or licensee's
- 23 employer to receive any professional service;
- 24 (8) "Compilation", providing a service to be performed in accordance with
- 25 Statements on Standards for Accounting and Review Services (SSARS) that is
- 26 presented in the form of financial statements information that is the
- 27 representation of management (owners) without undertaking to express any
- 28 assurance on the statements;
- 29 (9) **"Home office", the location specified by the client as the**
- 30 **address to which a service described in subdivision (4) of subsection 1**
- 31 **of section 326.283 is directed;**
- 32 **(10) "License", a license issued pursuant to section 326.280, or [a**
- 33 **provisional license issued] privilege to practice granted pursuant to section**
- 34 **326.283; or, in each case, an individual license or permit issued pursuant to**
- 35 **corresponding provisions of prior law;**
- 36 **[(10)] (11) "Licensee", the holder of a license as defined in this section;**

37 [(11)] **(12)** "Manager", a manager of a limited liability company;
38 [(12)] **(13)** "Member", a member of a limited liability company;
39 [(13)] **(14)** "NASBA", the National Association of State Boards of
40 Accountancy;
41 [(14)] **(15)** "Peer review", a study, appraisal or review of one or more
42 aspects of the professional work of a licensee or certified public accountant firm
43 that performs attest, review or compilation services, by licensees who are not
44 affiliated either personally or through their certified public accountant firm being
45 reviewed pursuant to the Standards for Performing and Reporting on Peer
46 Reviews promulgated by the AICPA or such other standard adopted by regulation
47 of the board which meets or exceeds the AICPA standards;
48 [(15)] **(16)** "Permit", a permit to practice as a certified public accountant
49 firm issued pursuant to section 326.289 or corresponding provisions of prior law
50 or pursuant to corresponding provisions of the laws of other states;
51 [(16)] **(17)** "Professional", arising out of or related to the specialized
52 knowledge or skills associated with certified public accountants;
53 [(17)] **(18)** "Public accounting":
54 (a) Performing or offering to perform for an enterprise, client or potential
55 client one or more services involving the use of accounting or auditing skills, or
56 one or more management advisory or consulting services, or the preparation of
57 tax returns or the furnishing of advice on tax matters by a person, firm, limited
58 liability company or professional corporation using the title "C.P.A." or "P.A." in
59 signs, advertising, directory listing, business cards, letterheads or other public
60 representations;
61 (b) Signing or affixing a name, with any wording indicating the person or
62 entity has expert knowledge in accounting or auditing to any opinion or certificate
63 attesting to the reliability of any representation or estimate in regard to any
64 person or organization embracing financial information or facts respecting
65 compliance with conditions established by law or contract, including but not
66 limited to statutes, ordinances, rules, grants, loans and appropriations; or
67 (c) Offering to the public or to prospective clients to perform, or actually
68 performing on behalf of clients, professional services that involve or require an
69 audit or examination of financial records leading to the expression of a written
70 attestation or opinion concerning these records;
71 [(18)] **(19)** "Report", when used with reference to financial statements,
72 means an opinion, report or other form of language that states or implies

73 assurance as to the reliability of any financial statements, and that also includes
74 or is accompanied by any statement or implication that the person or firm issuing
75 it has special knowledge or competence in accounting or auditing. Such a
76 statement or implication of special knowledge or competence may arise from use
77 by the issuer of the report of names or titles indicating that the person or firm is
78 an accountant or auditor, or from the language of the report itself. The term
79 report includes any form of language which disclaims an opinion when such form
80 of language is conventionally understood to imply any positive assurance as to the
81 reliability of the financial statements referred to or special competence on the
82 part of the person or firm issuing such language, or both, and includes any other
83 form of language that is conventionally understood to imply such assurance or
84 such special knowledge or competence, or both;

85 [(19)] **(20)** "Review", providing a service to be performed in accordance
86 with Statements on Standards for Accounting and Review Services (SSARS) that
87 is performing inquiry and analytical procedures that provide the accountant with
88 a reasonable basis for expressing limited assurance that there are no material
89 modifications that should be made to the statements for them to be in conformity
90 with generally accepted accounting principles or, if applicable, with another
91 comprehensive basis of accounting;

92 [(20)] **(21)** "State", any state of the United States, the District of
93 Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that "this state"
94 means the state of Missouri;

95 [(21)] **(22)** "Substantial equivalency" or **"substantially equivalent"**, a
96 determination by the board of accountancy or its designee that the education,
97 examination and experience requirements contained in the statutes and
98 administrative rules of another jurisdiction are comparable to or exceed the
99 education, examination and experience requirements contained in this chapter or
100 that an individual certified public accountant's education, examination and
101 experience qualifications are comparable to or exceed the education, examination
102 and experience requirements contained in this chapter;

103 [(22)] **(23)** "Transmittal", any transmission of information in any form,
104 including but not limited to any and all documents, records, minutes, computer
105 files, disks or information.

106 2. The statements on standards specified in this section shall be adopted
107 by reference by the board pursuant to rulemaking and shall be those developed
108 for general application by the AICPA or other recognized national accountancy

109 organization as prescribed by board rule.

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

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

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

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

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

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

34 (d) **To** the appointment of the state board [which] **that** issued the
35 individual's license as his or her agent upon whom process may be served in any

36 action or proceeding by this board against the individual.

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

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

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

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

50 **[(3)] (5)** Nothing in this **[section] chapter** shall prohibit temporary
51 practice in this state for professional business incidental to a CPA's regular
52 practice outside this state. "Temporary practice" means that practice **[which is**
53 **a continuation or extension] related to the direct purpose** of an engagement
54 for a client located outside this state, which engagement began outside this state
55 and extends into this state through common ownership, existence of a subsidiary,
56 assets or other operations located within this state.

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

326.289. 1. The board may grant or renew permits to practice as a
2 certified public accounting firm to **[entities] applicants** that **[make application**
3 **and]** demonstrate their qualifications in accordance with this **[section or to**
4 **certified public accounting firms originally licensed in another state that**
5 **establish an office in this state. A firm shall hold a permit issued pursuant to**
6 **this section to provide attest, review or compilation services or to use the title**
7 **certified public accountant or certified public accounting firm] chapter.**

8 **2. A permit issued under this chapter is required of the**

9 following:

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

12 (2) Any firm with an office in this state that uses the title "CPA"
13 or "CPA firm"; or

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

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

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

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

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

29 (1) Has the qualifications described in subsection 7 of this
30 section;

31 (2) Performs such services through an individual with the
32 privilege to practice under section 326.283; and

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

35 [2.] 5. Permits shall be initially issued and renewed for periods of not
36 more than three years or for a specific period as prescribed by board rule
37 following issuance or renewal.

38 [3.] 6. The board shall determine by rule the form for application and
39 renewal of permits and shall annually determine the fees for permits and their
40 renewals.

41 [4.] 7. An applicant for initial issuance or renewal of a permit to practice
42 pursuant to this section shall be required to show that:

43 (1) [Notwithstanding any other provision of law to the contrary,] A simple
44 majority of the ownership of the firm, in terms of financial interests and voting
45 rights of all partners, officers, principals, shareholders, members or managers,

46 belongs to licensees who are licensed in some state, and the partners, officers,
47 principals, shareholders, members or managers, whose principal place of business
48 is in this state and who perform professional services in this state are licensees
49 pursuant to section 326.280 or the corresponding provision of prior law. Although
50 firms may include nonlicensee owners, the firm and its ownership shall comply
51 with rules promulgated by the board;

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

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

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

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

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

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

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

76 [5.] 8. An applicant for initial issuance or renewal of a permit to practice
77 shall register each office of the firm within this state with the board and show
78 that all attest, review and compilation services rendered in this state are under
79 the charge of a licensee.

80 [6.] 9. No licensee or firm holding a permit pursuant to this chapter shall
81 use a professional or firm name or designation that is misleading as to:

82 (1) The legal form of the firm;

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

85 (3) Any other matter.

86 The names of one or more former partners, members or shareholders may be
87 included in the name of a firm or its successor unless the firm becomes a sole
88 proprietorship because of the death or withdrawal of all other partners, officers,
89 members or shareholders. A firm may use a fictitious name if the fictitious name
90 is registered with the board and is not otherwise misleading. The name of a firm
91 shall not include the name or initials of an individual who is not a present or a
92 past partner, member or shareholder of the firm or its predecessor. The name of
93 the firm shall not include the name of an individual who is not a licensee.

94 [7.] 10. Applicants for initial issuance or renewal of permits shall list in
95 their application all states in which they have applied for or hold permits as
96 certified public accounting firms and list any past denial, revocation, suspension
97 or any discipline of a permit by any other state. Each holder of or applicant for
98 a permit pursuant to this section shall notify the board in writing within thirty
99 days after its occurrence of any change in the identities of partners, principals,
100 officers, shareholders, members or managers whose principal place of business is
101 in this state; any change in the number or location of offices within this state; any
102 change in the identity of the persons in charge of such offices; and any issuance,
103 denial, revocation, suspension or any discipline of a permit by any other state.

104 [8.] 11. Firms which fall out of compliance with the provisions of this
105 section due to changes in firm ownership or personnel after receiving or renewing
106 a permit shall take corrective action to bring the firm back into compliance as
107 quickly as possible. The board may grant a reasonable period of time for a firm
108 to take such corrective action. Failure to bring the firm back into compliance
109 within a reasonable period as defined by the board may result in the suspension
110 or revocation of the firm permit.

111 [9.] 12. The board shall require by rule, as a condition to the renewal of
112 permits, that firms undergo, no more frequently than once every three years, peer
113 reviews conducted in a manner as the board shall specify. The review shall
114 include a verification that individuals in the firm who are responsible for
115 supervising attest, review and compilation services or sign or authorize someone
116 to sign the accountant's report on the financial statements on behalf of the firm
117 meet the competency requirements set out in the professional standards for such

118 services, provided that any such rule:

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

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

128 (3) Shall require, with respect to peer reviews, that the peer review
129 processes be operated and documents maintained in a manner designed to
130 preserve confidentiality, and that the board or any third party other than the
131 oversight body shall not have access to documents furnished or generated in the
132 course of the peer review of the firm except as provided in subdivision (2) of this
133 subsection.

134 [10.] **13.** Prior to January 1, 2008, licensees who perform fewer than
135 three attest services during each calendar year shall be exempt from the
136 requirements of subsection [9] **12** of this section.

137 [11.] **14.** The board may, by rule, charge a fee for oversight of peer
138 reviews, provided that the fee charged shall be substantially equivalent to the
139 cost of oversight.

140 [12.] **15.** In connection with proceedings before the board or upon receipt
141 of a complaint involving the licensee performing peer reviews, the board shall not
142 have access to any documents furnished or generated in the course of the
143 performance of the peer reviews except for peer review reports, letters of comment
144 and summary review memoranda. The documents shall be furnished to the board
145 only in a redacted manner that does not specifically identify any firm or licensee
146 being peer reviewed or any of their clients.

147 [13.] **16.** The peer review processes shall be operated and the documents
148 generated thereby be maintained in a manner designed to preserve their
149 confidentiality. No third party, other than the oversight body, the board, subject
150 to the provisions of subsection [12] **15** of this section, or the organization
151 performing peer review shall have access to documents furnished or generated in
152 the course of the review. All documents shall be privileged and closed records for
153 all purposes and all meetings at which the documents are discussed shall be

154 considered closed meetings pursuant to subdivision (1) of section 610.021,
155 RSMo. The proceedings, records and workpapers of the board and any peer
156 review subjected to the board process shall be privileged and shall not be subject
157 to discovery, subpoena or other means of legal process or introduction into
158 evidence at any civil action, arbitration, administrative proceeding or board
159 proceeding. No member of the board or person who is involved in the peer review
160 process shall be permitted or required to testify in any civil action, arbitration,
161 administrative proceeding or board proceeding as to any matters produced,
162 presented, disclosed or discussed during or in connection with the peer review
163 process or as to any findings, recommendations, evaluations, opinions or other
164 actions of such committees or any of its members; provided, however, that
165 information, documents or records that are publicly available shall not be subject
166 to discovery or use in any civil action, arbitration, administrative proceeding or
167 board proceeding merely because they were presented or considered in connection
168 with the peer review process.

326.292. 1. Only licensees may issue a report on financial statements of
2 any person, firm, organization or governmental unit or offer to render or render
3 any attest service. Such restriction shall not prohibit any act of a public official
4 or public employee in the performance of the person's duties as such; nor prohibit
5 the performance by any nonlicensee of other services involving the use of
6 accounting skills, including the preparation of tax returns, management advisory
7 services and the preparation of nonattest financial statements. Nonlicensees may
8 prepare financial statements and issue nonattest transmittals or information
9 thereon which do not purport to be in compliance with the Statements on
10 Standards for Accounting and Review Services (SSARS).

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

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

20 (2) A person who holds a certificate, then in force and effect, issued
21 pursuant to the laws of this state prior to August 28, 2001, and who is regularly

22 employed by or is a director or officer of a corporation, partnership, association
23 or business trust, in his or her capacity as such, from signing, delivering or
24 issuing any financial, accounting or related statement, or report thereon relating
25 to such corporation, partnership, association or business trust provided the
26 capacity is so designated, and provided in the signature line the title CPA or
27 certified public accountant is not designated.

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

32 (1) The firm holds a valid permit issued pursuant to section 326.289 **or**
33 **is a firm exempt from the permit requirement under subsections 3 and**
34 **4 of section 326.289 and complies with all other applicable provisions**
35 **of that section;** and

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

38 4. Only persons holding a valid license or permit issued pursuant to
39 section 326.280 or 326.289, **or persons qualifying for the privilege to**
40 **practice under section 326.283, and firms exempt from the permit**
41 **requirement under section 326.289** shall assume or use the title certified
42 accountant, chartered accountant, enrolled accountant, licensed accountant,
43 registered accountant, accredited accountant or any other title or designation
44 likely to be confused with the titles certified public accountant or public
45 accountant, or use any of the abbreviations CA, LA, RA, AA or similar
46 abbreviation likely to be confused with the abbreviation CPA or PA. The title
47 enrolled agent or EA shall only be used by individuals so designated by the
48 Internal Revenue Service. Nothing in this section shall prohibit the use or
49 issuance of a title for nonattest services provided that the organization and the
50 title issued by the organization existed prior to August 28, 2001.

51 5. (1) Nonlicensees shall not use language in any statement relating to
52 the financial affairs of a person or entity that is conventionally used by certified
53 public accountants in reports on financial statements. Nonlicensees may use the
54 following safe harbor language:

55 (a) For compilations:

56 "I (We) have prepared the accompanying (financial statements) of (name of entity)
57 as of (time period) for the (period) then ended. This presentation is limited to

58 preparing in the form of a financial statement information that is the
59 representation of management (owners). I (We) have not audited or reviewed the
60 accompanying financial statements and accordingly do not express an opinion or
61 any other form of assurance on them.";

62 (b) For reviews:

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

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

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

85 7. No licensee [or holder of a provisional license] or firm holding a permit
86 pursuant to sections 326.280 to 326.289 shall use a professional or firm name or
87 designation that is misleading about the legal form of the firm, or about the
88 persons who are partners, principals, officers, members, managers or
89 shareholders of the firm, or about any other matter.

90 8. None of the foregoing provisions of this section shall apply to a person
91 or firm holding a certification, designation, degree or license granted in a foreign
92 country entitling the holder to engage in the practice of public accounting or its
93 equivalent in the country whose activities in this state are limited to the

94 provision of professional services to persons or firms who are residents of,
95 governments of, or business entities of the country in which the person holds the
96 entitlement, who performs no attest, review or compilation services and who
97 issues no reports with respect to the financial statements of any other persons,
98 firms or governmental units in this state, and who does not use in this state any
99 title or designation other than the one under which the person practices in such
100 country, followed by a translation of such title or designation into the English
101 language, if it is in a different language, and by the name of such country.

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

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

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

113 12. Nothing herein shall prohibit any director or officer of a corporation,
114 partner or a partnership, sole proprietor of a business enterprise, member of a
115 joint venture, member of a committee appointed by stockholders, creditors or
116 courts, or an employee of any of the foregoing, in his or her capacity as such, from
117 signing, delivering or issuing any financial, accounting or related statement, or
118 report thereon, relating to the corporation, partnership, business enterprise, joint
119 venture or committee, provided the capacity is designated on the statement or
120 report.

121 13. (1) A licensee shall not for a commission recommend or refer to a
122 client any product or service, or for a commission recommend or refer any product
123 or service to be supplied by a client, or receive a commission, when the licensee
124 also performs for that client:

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

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

129 (c) An examination of prospective financial information.

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

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

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

141 14. (1) A licensee shall not:

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

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

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

148 c. An examination of prospective financial information;

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

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

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

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

164 15. Any person who violates any provision of subsections 1 to 5 of this
165 section shall be guilty of a class A misdemeanor. Whenever the board has reason

166 to believe that any person has violated this section it may certify the facts to the
167 attorney general of this state or bring other appropriate proceedings.

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

3 (1) "Board", the state board of registration for the healing arts in the state
4 of Missouri;

5 (2) "Physical therapist assistant", a person who is licensed as a physical
6 therapist assistant by the board or a person who was actively engaged in practice
7 as a physical therapist assistant on August 28, 1993;

8 (3) "Physical therapist", a person who is licensed to practice physical
9 therapy;

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

334.506. 1. [Nothing in this chapter shall prevent a physical therapist,
2 whose license is in good standing, from providing educational resources and
3 training, developing fitness or wellness programs for asymptomatic persons, or
4 providing screening or consultative services within the scope of physical therapy
5 practice without the prescription and direction of a person licensed and registered

6 as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant
7 to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist
8 pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist,
9 or podiatrist practicing in another jurisdiction, whose license is in good standing,
10 except that no physical therapist shall initiate treatment for a new injury or
11 illness without the prescription or direction of a person licensed and registered
12 as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant
13 to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist
14 pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist,
15 or podiatrist practicing in another jurisdiction, whose license is in good standing.

16 2. Nothing in this chapter shall prevent a physical therapist, whose
17 license is in good standing, from examining and treating, without the prescription
18 and direction of a person licensed and registered as a physician and surgeon
19 pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a
20 dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330,
21 RSMo, or any licensed and registered physician, dentist, or podiatrist practicing
22 in another jurisdiction, whose license is in good standing, any person with a
23 recurring, self-limited injury within one year of diagnosis by a person licensed
24 and registered as a physician and surgeon pursuant to this chapter, as a
25 chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter
26 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and
27 registered physician, dentist, or podiatrist practicing in another jurisdiction,
28 whose license is in good standing, or any person with a chronic illness that has
29 been previously diagnosed by a person licensed and registered as a physician and
30 surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331,
31 RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to
32 chapter 330, RSMo, or any licensed and registered physician, dentist, or
33 podiatrist practicing in another jurisdiction, whose license is in good standing,
34 except that a physical therapist shall contact the patient's current physician,
35 chiropractor, dentist, or podiatrist, within seven days of initiating physical
36 therapy services, pursuant to this subsection, shall not change an existing
37 physical therapy referral available to the physical therapist without approval of
38 the patient's current physician, chiropractor, dentist, or podiatrist, and shall refer
39 to a person licensed and registered as a physician and surgeon pursuant to this
40 chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant
41 to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any

42 licensed and registered physician, dentist, or podiatrist practicing in another
43 jurisdiction, whose license is in good standing, any patient whose medical
44 condition should, at the time of examination or treatment, be determined to be
45 beyond the scope of practice of physical therapy. A physical therapist shall refer
46 to a person licensed and registered as a physician and surgeon pursuant to this
47 chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant
48 to chapter 332, RSMo, or as a podiatrist pursuant to chapter 330, RSMo, or any
49 licensed and registered physician, dentist, or podiatrist practicing in another
50 jurisdiction, whose license is in good standing, any person whose condition, for
51 which physical therapy services are rendered pursuant to this subsection, has not
52 been documented to be progressing toward documented treatment goals after six
53 visits or fourteen days, whichever shall come first. If the person's condition for
54 which physical therapy services are rendered under this subsection shall be
55 documented to be progressing toward documented treatment goals, a physical
56 therapist may continue treatment without referral from a physician, chiropractor,
57 dentist or podiatrist, whose license is in good standing. If treatment rendered
58 under this subsection is to continue beyond thirty days, a physical therapist shall
59 notify the patient's current physician, chiropractor, dentist, or podiatrist before
60 continuing treatment beyond the thirty-day limitation. A physical therapist shall
61 also perform such notification before continuing treatment rendered under this
62 subsection for each successive period of thirty days.] **As used in this section,**
63 **"approved health care provider" means a person holding a current and**
64 **active license as a physician and surgeon under this chapter, a**
65 **chiropractor under chapter 331, RSMo, a dentist under chapter 332,**
66 **RSMo, a podiatrist under chapter 330, RSMo, a physician assistant**
67 **under this chapter, or any licensed and registered physician,**
68 **chiropractor, dentist, or podiatrist practicing in another jurisdiction**
69 **whose license is in good standing.**

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

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

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

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

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

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

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

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

103 **[3.] 5. The provision of physical therapy services of evaluation and**
104 **screening pursuant to this section shall be limited to a physical therapist, and**
105 **any authority for evaluation and screening granted within this section may not**
106 **be delegated. Upon each reinitiation of physical therapy services, a physical**
107 **therapist shall provide a full physical therapy evaluation prior to the reinitiation**
108 **of physical therapy treatment. Physical therapy treatment provided pursuant to**
109 **the provisions of subsection [2] 4 of this section, may be delegated by physical**
110 **therapists to physical therapist assistants only if the patient's current [physician,**
111 **chiropractor, dentist, or podiatrist] approved health care provider has been**
112 **so informed as part of the physical therapist's seven-day notification upon**
113 **reinitiation of physical therapy services as required in subsection [2] 4 of this**
114 **section. Nothing in this subsection shall be construed as to limit the ability of**

115 physical therapists or physical therapist assistants to provide physical therapy
116 services in accordance with the provisions of this chapter, and upon the referral
117 of [a physician and surgeon licensed pursuant to this chapter, a chiropractor
118 pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a
119 podiatrist pursuant to chapter 330, RSMo, or any licensed and registered
120 physician, dentist, or podiatrist practicing in another jurisdiction, whose license
121 is in good standing] **an approved health care provider**. Nothing in this
122 subsection shall prohibit [a person licensed or registered as a physician or
123 surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331,
124 RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to
125 chapter 330, RSMo, or any licensed and registered physician, dentist, or
126 podiatrist practicing in another jurisdiction, whose license is in good standing,]
127 **an approved health care provider** from acting within the scope of their
128 practice as defined by the applicable chapters of RSMo.

129 [4.] **6.** No person licensed to practice, or applicant for licensure, as a
130 physical therapist or physical therapist assistant shall make a medical diagnosis.

131 **7. A physical therapist shall only delegate physical therapy**
132 **treatment to a physical therapist assistant or to a person in an entry**
133 **level of a professional education program approved by the Commission**
134 **for Accreditation of Physical Therapists and Physical Therapist**
135 **Assistant Education (CAPTE) who satisfy supervised clinical education**
136 **requirements related to the person's physical therapist or physical**
137 **therapist assistant education. The entry level person shall be under**
138 **onsite supervision of a physical therapist.**

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

13 **such person's name.**

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

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

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

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

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

29 (1) The applicant is licensed and has maintained an active clinical
30 practice for the previous three years in another state of the United States, the
31 District of Columbia or Canada and the applicant has achieved a passing score

32 on a licensing examination administered in a state or territory of the United
33 States, the District of Columbia and no license issued to the applicant has been
34 disciplined or limited in any state or territory of the United States, the District
35 of Columbia or Canada;

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

40 5.] The examination of qualified candidates for licenses to practice
41 physical therapy shall [include a written examination and shall embrace the
42 subjects taught in reputable programs of physical therapy education, sufficiently
43 strict to test the qualifications of the candidates as practitioners] **test entry-**
44 **level competence as related to physical therapy theory, examination**
45 **and evaluation, physical therapy diagnosis, prognosis, treatment,**
46 **intervention, prevention, and consultation.**

47 [6.] 4. The examination shall embrace, in relation to the human being,
48 the subjects of anatomy, chemistry, kinesiology, pathology, physics, physiology,
49 psychology, physical therapy theory and procedures as related to medicine,
50 surgery and psychiatry, and such other subjects, including medical ethics, as the
51 board deems useful to test the fitness of the candidate to practice physical
52 therapy.

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

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

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

13 with licensing boards of other states for the admission of licensed practitioners
14 from Missouri in other states.

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

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

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

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

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

16 **supervising physical therapist for the first-time examinee applicant**
17 **shall submit to the board a signed notarized form prescribed by the**
18 **board attesting that the applicant for temporary license shall begin**
19 **employment at a location in this state within seven days of issuance of**
20 **the temporary license. The supervising physical therapist shall notify**
21 **the board within three days if the temporary licensee's employment**
22 **ceases. A licensed physical therapist shall not supervise more than one**
23 **temporary licensee.**

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

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

334.560. The board shall charge each person who applies for examination
2 for a license to practice as a physical therapist an examination fee. Should the
3 examination prove unsatisfactory and the board refuse to issue a license thereon,
4 the applicant failing to pass the examination may reapply [and return to any
5 meeting] and be examined upon payment of a reexamination fee[; but no
6 temporary license may be issued to such persons].

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

7 **(1) The applicant's full name [and the address at which the person**
8 **practices and the address at which the person resides and the date and number**
9 **of such person's license];**

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

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

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

14 **(5) All final disciplinary actions taken against the applicant by**
15 **any professional association or society, licensed hospital or medical**
16 **staff of a hospital, physical therapy facility, state, territory, federal**
17 **agency or county; and**

18 **(6) Information concerning the applicant's current physical and**
19 **mental fitness to practice his or her profession.**

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

24 **2. A [blank form] notice for application for registration shall be**
25 **[mailed] made available to each person licensed in this state [at the person's**
26 **last known address of practice or residence]. The failure to [mail the form of**
27 **application or the failure to receive it] receive the notice does not, however,**
28 **relieve any person of the duty to register and pay the fee required by sections**
29 **334.500 to 334.620 nor exempt such person from the penalties provided by**
30 **sections 334.500 to 334.620 for failure to register.**

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

33 **4. Each applicant for registration shall accompany the**
34 **application for registration with a registration fee to be paid to the**
35 **director of revenue for the licensing period for which registration is**
36 **sought.**

37 **5. If the application is filed and the fee paid after the**
38 **registration renewal date, a delinquent fee shall be paid; except that,**
39 **whenever in the opinion of the board the applicant's failure to register**
40 **is caused by extenuating circumstances including illness of the**
41 **applicant, as defined by rule, the delinquent fee may be waived by the**
42 **board.**

43 **6. Upon application and submission by such person of evidence**
44 **satisfactory to the board that such person is licensed to practice in this**
45 **state and upon the payment of fees required to be paid by this chapter,**
46 **the board shall issue to such person a certificate of registration. The**
47 **certificate of registration shall contain the name of the person to whom**
48 **it is issued and his or her office address, the expiration date, and the**
49 **number of the license to practice.**

50 **7. Upon receiving such certificate, every person shall cause the**

51 certificate to be readily available or conspicuously displayed at all
52 times in every practice location maintained by such person in the state.
53 If the licensee maintains more than one practice location in this state,
54 the board shall, without additional fee, issue to such licensee duplicate
55 certificates of registration for each practice location so maintained. If
56 any licensee changes practice locations during the period for which any
57 certificate of registration has been issued, the licensee shall, within
58 fifteen days thereafter, notify the board of such change and the board
59 shall issue to the licensee, without additional fee, a new registration
60 certificate showing the new location.

61 8. Whenever any new license is granted to any physical therapist
62 or physical therapist assistant under the provisions of this chapter, the
63 board shall, upon application therefore, issue to such physical therapist
64 or physical therapist assistant a certificate of registration covering a
65 period from the date of the issuance of the license to the next renewal
66 date without the payment of any registration fee.

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

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

- 6 (1) Identification of the patient, including name, birthdate,
7 address, and telephone number;
- 8 (2) The date or dates the patient was seen;
- 9 (3) The current status of the patient, including the reason for the
10 visit;
- 11 (4) Observation of pertinent physical findings;
- 12 (5) Assessment and clinical impression of physical therapy
13 diagnosis;
- 14 (6) Plan of care and treatment;
- 15 (7) Documentation of progress toward goals;
- 16 (8) Informed consent;
- 17 (9) Discharge summary.

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

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

26 **4. The board shall not obtain a patient medical record without**
27 **written authorization from the patient to obtain the medical record or**
28 **the issuance of a subpoena for the patient medical record.**

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

26 to a person in an entry level of a professional education program approved by the
27 commission for accreditation of physical therapists and physical therapist
28 assistant education (CAPTE) who is satisfying supervised clinical education
29 requirements related to the person's physical therapist or physical therapist
30 assistant education while under on-site supervision of a physical therapist; or to
31 a physical therapist who is practicing in the United States Armed Services,
32 United States Public Health Service, or Veterans Administration under federal
33 regulations for state licensure for health care providers.

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

**334.612. 1. If the board finds merit to a complaint by an
2 individual incarcerated or under the care and control of the
3 department of corrections and takes further investigative action, no
4 documentation shall appear on file or disciplinary action shall be taken
5 in regards to the licensee's license unless the provisions of subsection
6 2 of section 334.613 have been violated. Any case file documentation
7 that does not result in the board filing an action under subsection 2 of
8 section 334.613 shall be destroyed within three months after the final
9 case disposition by the board. No notification to any other licensing
10 board in another state or any national registry regarding any
11 investigative action shall be made unless the provisions of subsection
12 2 of section 334.613 have been violated.**

**13 2. Upon written request of the physical therapist or physical
14 therapist assistant subject to a complaint prior to August 28, 1999, by
15 an individual incarcerated or under the care and control of the
16 department of corrections that did not result in the board filing an**

17 action described in subsection 2 of section 334.613, the board and the
18 division of professional registration shall in a timely fashion:

19 (1) Destroy all documentation regarding the complaint;

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

23 (3) Send a letter to the licensee that clearly states that the board
24 found the complaint to be unsubstantiated, that the board has taken the
25 requested action, and notify the licensee of the provisions of subsection
26 3 of this section.

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

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

24 be considered as waived.

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

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

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

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

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

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

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

60 (c) Willfully and continually performing inappropriate or

61 unnecessary treatment or services;

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

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

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

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

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

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

85 (j) Terminating the care of a patient without adequate notice or
86 without making other arrangements for the continued care of the
87 patient;

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

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

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

97 (n) Failure to timely pay license renewal fees specified in this

98 **chapter;**

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

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

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

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

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

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

127 **(8) Revocation, suspension, restriction, modification, limitation,**
128 **reprimand, warning, censure, probation, or other final disciplinary**
129 **action against a physical therapist or physical therapist assistant for**
130 **a license or other right to practice as a physical therapist or physical**
131 **therapist assistant by another state, territory, federal agency or**
132 **country, whether or not voluntarily agreed to by the licensee or**
133 **applicant, including but not limited to the denial of licensure,**
134 **surrender of the license, allowing the license to expire or lapse, or**

135 **discontinuing or limiting the practice of physical therapy while subject**
136 **to an investigation or while actually under investigation by any**
137 **licensing authority, medical facility, branch of the armed forces of the**
138 **United States of America, insurance company, court, agency of the state**
139 **or federal government, or employer;**

140 **(9) A person is finally adjudged incapacitated or disabled by a**
141 **court of competent jurisdiction;**

142 **(10) Assisting or enabling any person to practice or offer to**
143 **practice who is not licensed and currently eligible to practice under**
144 **this chapter; or knowingly performing any act which in any way aids,**
145 **assists, procures, advises, or encourages any person to practice**
146 **physical therapy who is not licensed and currently eligible to practice**
147 **under this chapter;**

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

150 **(12) Failure to display a valid license pursuant to practice as a**
151 **physical therapist or physical therapist assistant;**

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

155 **(14) Soliciting patronage in person or by agents or**
156 **representatives, or by any other means or manner, under the person's**
157 **own name or under the name of another person or concern, actual or**
158 **pretended, in such a manner as to confuse, deceive, or mislead the**
159 **public as to the need or necessity for or appropriateness of physical**
160 **therapy services for all patients, or the qualifications of an individual**
161 **person or persons to render, or perform physical therapy services;**

162 **(15) Using, or permitting the use of, the person's name under the**
163 **designation of "physical therapist", "physiotherapist", "registered**
164 **physical therapist", "P.T.", "Ph.T.", "P.T.T.", "D.P.T.", "M.P.T." or "R.P.T.",**
165 **"physical therapist assistant", "P.T.A.", "L.P.T.A.", "C.P.T.A.", or any**
166 **similar designation with reference to the commercial exploitation of**
167 **any goods, wares or merchandise;**

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

172 (17) Failure or refusal to properly guard against contagious,
173 infectious, or communicable diseases or the spread thereof; maintaining
174 an unsanitary facility or performing professional services under
175 unsanitary conditions; or failure to report the existence of an
176 unsanitary condition in any physical therapy facility to the board, in
177 writing, within thirty days after the discovery thereof;

178 (18) Any candidate for licensure or person licensed to practice
179 as a physical therapist or physical therapist assistant, paying or
180 offering to pay a referral fee or, notwithstanding section 334.010 to the
181 contrary, practicing or offering to practice professional physical
182 therapy independent of the prescription and direction of a person
183 licensed and registered as a physician and surgeon under this chapter,
184 as a physician assistant under this chapter, as a chiropractor under
185 chapter 331, RSMo, as a dentist under chapter 332, RSMo, as a
186 podiatrist under chapter 330, RSMo, or any licensed and registered
187 physician, chiropractor, dentist, or podiatrist practicing in another
188 jurisdiction, whose license is in good standing;

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

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

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

198 (22) Attempting to engage in conduct that subverts or
199 undermines the integrity of the licensing examination or the licensing
200 examination process, including but not limited to utilizing in any
201 manner recalled or memorized licensing examination questions from or
202 with any person or entity, failing to comply with all test center security
203 procedures, communicating or attempting to communicate with any
204 other examinees during the test, or copying or sharing licensing
205 examination questions or portions of questions;

206 (23) Any candidate for licensure or person licensed to practice
207 as a physical therapist or physical therapist assistant who requests,
208 receives, participates or engages directly or indirectly in the division,

209 transferring, assigning, rebating or refunding of fees received for
210 professional services or profits by means of a credit or other valuable
211 consideration such as wages, an unearned commission, discount or
212 gratuity with any person who referred a patient, or with any relative
213 or business associate of the referring person;

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

219 (a) In enforcing this subdivision the board shall, after a hearing
220 by the board, upon a finding of probable cause, require a physical
221 therapist or physical therapist assistant to submit to a reexamination
222 for the purpose of establishing his or her competency to practice as a
223 physical therapist or physical therapist assistant conducted in
224 accordance with rules adopted for this purpose by the board, including
225 rules to allow the examination of the pattern and practice of such
226 physical therapist's or physical therapist assistant's professional
227 conduct, or to submit to a mental or physical examination or
228 combination thereof by a facility or professional approved by the
229 board;

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

234 (c) In addition to ordering a physical or mental examination to
235 determine competency, the board may, notwithstanding any other law
236 limiting access to medical or other health data, obtain medical data and
237 health records relating to a physical therapist, physical therapist
238 assistant or applicant without the physical therapist's, physical
239 therapist assistant's or applicant's consent;

240 (d) Written notice of the reexamination or the physical or mental
241 examination shall be sent to the physical therapist or physical therapist
242 assistant, by registered mail, addressed to the physical therapist or
243 physical therapist assistant at the physical therapist's or physical
244 therapist assistant's last known address. Failure of a physical therapist
245 or physical therapist assistant to submit to the examination when

246 directed shall constitute an admission of the allegations against the
247 physical therapist or physical therapist assistant, in which case the
248 board may enter a final order without the presentation of evidence,
249 unless the failure was due to circumstances beyond the physical
250 therapist's or physical therapist assistant's control. A physical
251 therapist or physical therapist assistant whose right to practice has
252 been affected under this subdivision shall, at reasonable intervals, be
253 afforded an opportunity to demonstrate that the physical therapist or
254 physical therapist assistant can resume the competent practice as a
255 physical therapist or physical therapist assistant with reasonable skill
256 and safety to patients;

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

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

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

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

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

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

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

- 283 **(5) Administer a public or private reprimand;**
284 **(6) Deny the physical therapist's or physical therapist assistant's**
285 **application for a license;**
286 **(7) Permanently withhold issuance of a license;**
287 **(8) Require the physical therapist or physical therapist assistant**
288 **to submit to the care, counseling or treatment of physicians designated**
289 **by the board at the expense of the physical therapist or physical**
290 **therapist assistant to be examined;**
291 **(9) Require the physical therapist or physical therapist assistant**
292 **to attend such continuing educational courses and pass such**
293 **examinations as the board may direct.**
- 294 **4. In any order of revocation, the board may provide that the**
295 **physical therapist or physical therapist assistant shall not apply for**
296 **reinstatement of the physical therapist's or physical therapist**
297 **assistant's license for a period of time ranging from two to seven years**
298 **following the date of the order of revocation. All stay orders shall toll**
299 **this time period.**
- 300 **5. Before restoring to good standing a license issued under this**
301 **chapter which has been in a revoked, suspended, or inactive state for**
302 **any cause for more than two years, the board may require the applicant**
303 **to attend such continuing medical education courses and pass such**
304 **examinations as the board may direct.**
- 305 **6. In any investigation, hearing or other proceeding to determine**
306 **a physical therapist's, physical therapist assistant's or applicant's**
307 **fitness to practice, any record relating to any patient of the physical**
308 **therapist, physical therapist assistant, or applicant shall be**
309 **discoverable by the board and admissible into evidence, regardless of**
310 **any statutory or common law privilege which such physical therapist,**
311 **physical therapist assistant, applicant, record custodian, or patient**
312 **might otherwise invoke. In addition, no such physical therapist,**
313 **physical therapist assistant, applicant, or record custodian may**
314 **withhold records or testimony bearing upon a physical therapist's,**
315 **physical therapist assistant's, or applicant's fitness to practice on the**
316 **ground of privilege between such physical therapist, physical therapist**
317 **assistant, applicant, or record custodian and a patient.**

334.614. 1. Notwithstanding any other provisions of section
2 620.010, RSMo, to the contrary, the board shall at least quarterly

3 publish a list of the names and addresses of all physical therapists and
4 physical therapist assistants who hold licenses under the provisions of
5 this chapter, and shall publish a list of all physical therapists and
6 physical therapist assistants whose licenses have been suspended,
7 revoked, surrendered, restricted, denied, or withheld.

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

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

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

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

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

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

18 (b) Another state, territory, federal agency, or country has issued

19 an order suspending or restricting the physical therapist's or physical
20 therapist assistant's right to practice his or her profession; or

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

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

25 3. (1) The order of suspension or restriction:

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

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

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

32 (2) The board or the administrative hearing commission shall
33 serve the licensee, in person or by certified mail, with a copy of the
34 order of suspension or restriction and all sworn testimony or affidavits
35 presented to the board, a copy of the complaint and the request for
36 expedited hearing, and a notice of the place of and the date upon which
37 the preliminary hearing will be held.

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

40 (4) The order of suspension shall become effective upon the entry
41 of the preliminary order of the administrative hearing commission.

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

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

56 which shall be held not later than forty-five days after service of the
57 documents required in subdivision (2) of subsection 3 of this section.

58 5. At the preliminary hearing, the administrative hearing
59 commission shall receive into evidence all information certified by the
60 board and shall only hear evidence on the issue of whether the board's
61 order of suspension or restriction should be terminated or
62 modified. Within one hour after the preliminary hearing, the
63 administrative hearing commission shall issue its oral or written
64 preliminary order, with or without findings of fact and conclusions of
65 law, that adopts, terminates, or modifies the board's order. The
66 administrative hearing commission shall reduce to writing any oral
67 preliminary order within five business days, but the effective date of
68 the order shall be the date orally issued.

69 6. The preliminary order of the administrative hearing
70 commission shall become a final order and shall remain in effect for
71 three years unless either party files a request for a full hearing on the
72 merits of the complaint filed by the board within thirty days from the
73 date of the issuance of the preliminary order of the administrative
74 hearing commission.

75 7. Upon receipt of a request for full hearing, the administrative
76 hearing commission shall set a date for hearing and notify the parties
77 in writing of the time and place of the hearing. If a request for full
78 hearing is timely filed, the preliminary order of the administrative
79 hearing commission shall remain in effect until the administrative
80 hearing commission enters an order terminating, modifying, or
81 dismissing its preliminary order or until the board issues an order of
82 discipline following its consideration of the decision of the
83 administrative hearing commission under section 621.110, RSMo, and
84 subsection 3 of section 334.100.

85 8. In cases where the board initiates summary suspension or
86 restriction proceedings against a physical therapist or physical
87 therapist assistant licensed under this chapter, and such petition is
88 subsequently denied by the administrative hearing commission, in
89 addition to any award made under sections 536.085 and 536.087, RSMo,
90 the board, but not individual members of the board, shall pay actual
91 damages incurred during any period of suspension or restriction.

92 9. Notwithstanding the provisions of this chapter or chapter 610,

93 RSMo, or chapter 621, RSMo, to the contrary, the proceedings under
94 this section shall be closed and no order shall be made public until it
95 is final, for purposes of appeal.

96 10. The burden of proving the elements listed in subsection 2 of
97 this section shall be upon the state board of registration for the healing
98 arts.

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

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

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

5 (1) Offering to engage or engaging in the performance of any acts
6 or practices for which a license is required by chapters 334.500 to
7 334.687 upon a showing that such acts or practices were performed or

8 offered to be performed without a license; or

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

14 2. Any such action shall be commenced in the county in which
15 such conduct occurred or in the county in which the defendant resides
16 or Cole County.

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

334.618. Upon receiving information that any provision of
2 sections 334.500 to 334.687 has been or is being violated, the executive
3 director of the board or other person designated by the board shall
4 investigate, and upon probable cause appearing, the executive director
5 shall, under the direction of the board, file a complaint with the
6 administrative hearing commission or appropriate official or court. All
7 such complaints shall be handled as provided by rule promulgated
8 under subdivision (6) of subsection 16 of section 620.010, RSMo.

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

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

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

4 qualifications. The educational requirements for licensure as a physical therapist
5 assistant are:

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

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

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

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

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

31 5. The board may waive the provisions of subsection 4 if the applicant has
32 met one of the following provisions: the applicant is licensed and has maintained
33 an active clinical practice for the previous three years in another state of the
34 United States, the District of Columbia or Canada and the applicant has achieved
35 a passing score on a licensing examination administered in a state or territory of
36 the United States, the District of Columbia and no license issued to the applicant
37 has been disciplined or limited in any state or territory of the United States, the
38 District of Columbia or Canada.

39 6.] The examination shall include, as related to the human body, the

40 subjects of anatomy, kinesiology, pathology, physiology, psychology, physical
41 therapy theory and procedures as related to medicine and such other subjects,
42 including medical ethics, as the board deems useful to test the fitness of the
43 candidate to practice as a physical therapist assistant.

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

47 **[7.] 6.** The board shall license without examination any legally qualified
48 person who is a resident of this state and who was actively engaged in practice
49 as a physical therapist assistant on August 28, 1993. The board may license such
50 person pursuant to this subsection until ninety days after the effective date of
51 this section.

52 **[8.] 7.** A candidate to practice as a physical therapist assistant who does
53 not meet the educational qualifications may submit to the board an application
54 for examination if such person can furnish written evidence to the board that the
55 person has been employed in this state for at least three of the last five years
56 under the supervision of a licensed physical therapist and such person possesses
57 the knowledge and training equivalent to that obtained in an accredited
58 school. The board may license such persons pursuant to this subsection until
59 ninety days after rules developed by the state board of healing arts regarding
60 physical therapist assistant licensing become effective.

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

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

15 3. The board may waive the provisions of subsection 1 if the applicant has

16 met one of the following provisions: the applicant is licensed and has maintained
17 an active clinical practice for the previous three years in another state of the
18 United States, the District of Columbia or Canada and the applicant has achieved
19 a passing score on a licensing examination administered in a state or territory of
20 the United States, the District of Columbia and no license issued to the applicant
21 has been disciplined or limited in any state or territory of the United States, the
22 District of Columbia or Canada.

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

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

334.665. 1. An applicant who has not been previously examined in
2 another jurisdiction and meets the qualifications of subsection 1 of section
3 334.655 **or an applicant applying for reinstatement of an inactive license**
4 **under a supervised active practice** may pay a temporary license fee and
5 submit an agreement-to-supervise form which is signed by the applicant's
6 supervising physical therapist to the board and obtain without examination a
7 nonrenewable temporary license. Such temporary licensee may only practice
8 under the supervision of a licensed physical therapist. **The supervising**
9 **physical therapist shall hold an unencumbered license to practice**
10 **physical therapy in the state of Missouri and shall provide the board**
11 **proof of active clinical practice in the state of Missouri for a minimum**
12 **of one year prior to supervising the temporary licensee. The**
13 **supervising physical therapist shall not be an immediate family**
14 **member of the applicant. The board shall define immediate family**
15 **member and the scope of such supervision by rule. The supervising**
16 **physical therapist for the first-time examinee applicant shall submit to**
17 **the board a signed notarized form prescribed by the board attesting**
18 **that the applicant for temporary license shall begin employment at a**
19 **location in this state within seven days of issuance of the temporary**
20 **license. The supervising physical therapist shall notify the board**

21 **within three days if the temporary licensee's employment ceases.** A
22 licensed physical therapist shall supervise no more than one temporary
23 licensee. [The board shall define the scope of such supervision by rules and
24 regulations.]

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

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

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

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

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

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

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

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

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

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

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

23 2. A [blank application form] notice shall be [mailed] **made available**
24 **to each person licensed in this state [pursuant to sections 334.650 to 334.685 at**
25 **the person's last known address of practice or residence. The failure to mail the**
26 **application for or the failure to receive the application form]. The failure to**
27 **receive the notice** does not relieve any person of the duty to renew the person's
28 license and pay the renewal fee as required by sections 334.650 to 334.685 nor
29 shall it exempt the person from the penalties provided by sections 334.650 to
30 334.685 for failure to renew a license.

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

34 4. **Each applicant for registration shall accompany the**
35 **application for registration with a registration fee to be paid to the**
36 **director of revenue for the licensing period for which registration is**
37 **sought.**

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

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

50 7. **Upon receiving such certificate, every person shall cause it to**
51 **be readily available or conspicuously displayed at all times in every**
52 **practice location maintained by such licensee in the state. If the**
53 **licensee maintains more than one practice location in this state, the**

54 board shall without additional fee issue to them duplicate certificates
55 of registration for each practice location so maintained. If any licensee
56 changes practice locations during the period for which any certificate
57 of registration has been issued, such licensee shall, within fifteen days
58 thereafter, notify the board of such change and the board shall issue to
59 the licensee, without additional fee, a new registration certificate
60 showing the new location.

61 8. Whenever any new license is granted to any physical therapist
62 or physical therapist assistant under the provisions of this chapter, the
63 board shall, upon application therefore, issue to such physical therapist
64 or physical therapist assistant a certificate of registration covering a
65 period from the date of the issuance of the license to the next renewal
66 date without the payment of any registration fee.

334.686. Any person who holds himself or herself out to be a
2 physical therapist assistant or a licensed physical therapist assistant
3 within this state or any person who advertises as a physical therapist
4 assistant and who, in fact, does not hold a valid physical therapist
5 assistant license is guilty of a class B misdemeanor and, upon
6 conviction, shall be punished as provided by law. Any person who, in
7 any manner, represents himself or herself as a physical therapist
8 assistant, or who uses in connection with such person's name the words
9 or letters, "physical therapist assistant", the letters "P.T.A.", "L.P.T.A.",
10 "C.P.T.A.", or any other letters, words, abbreviations or insignia,
11 indicating or implying that the person is a physical therapist assistant
12 without a valid existing license as a physical therapist assistant issued
13 to such person under the provisions of sections 334.500 to 334.620, is
14 guilty of a class B misdemeanor. This section shall not apply to
15 physicians and surgeons licensed under this chapter or to a person in
16 an entry level of a professional education program approved by the
17 Commission for Accreditation of Physical Therapists and Physical
18 Therapist Assistant Education (CAPTE) who is satisfying supervised
19 clinical education requirements related to the person's physical
20 therapist or physical therapist assistant education while under onsite
21 supervision of a physical therapist; or to a physical therapist who is
22 practicing in the United States Armed Forces, United States Public
23 Health Service, or Veterans Administration under federal regulations
24 for state licensure for health care providers.

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

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

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

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

12 3. Any person who holds a license or recognition to practice advanced
13 practice nursing in this state may use the title "Advanced Practice Registered
14 Nurse", and the abbreviation "APRN", and any other title designations appearing
15 on his or her license. No other person shall use the title "Advanced Practice
16 Registered Nurse" or the abbreviation "APRN". No other person shall assume

18 any title or use any abbreviation or any other words, letters, signs, or devices to
19 indicate that the person using the same is an advanced practice registered nurse.

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

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

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

339.010. 1. A "real estate broker" is any person, partnership, association,
2 or corporation, foreign or domestic who, for another, and for a compensation or
3 valuable consideration, does, 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,
7 purchase, rental or leasing of real estate;
- 8 (4) Lists or offers or agrees to list real estate for sale, lease, rental or
9 exchange;
- 10 (5) Buys, sells, offers to buy or sell or otherwise deals in options on real
11 estate or improvements thereon;
- 12 (6) Advertises or holds himself or herself out as a licensed real estate
13 broker while engaged in the business of buying, selling, exchanging, renting, or
14 leasing real estate;

15 (7) Assists or directs in the procuring of prospects, calculated to result in
16 the sale, exchange, leasing or rental of real estate;

17 (8) Assists or directs in the negotiation of any transaction calculated or
18 intended to result in the sale, exchange, leasing or rental of real estate;

19 (9) Engages in the business of charging to an unlicensed person an
20 advance fee in connection with any contract whereby the real estate broker
21 undertakes to promote the sale of that person's real estate through its listing in
22 a publication issued for such purpose intended to be circulated to the general
23 public;

24 (10) Performs any of the foregoing acts [as an employee of, or] on behalf
25 of[,] the owner of real estate, or interest therein, or improvements affixed
26 thereon, for compensation.

27 2. A "real estate salesperson" is any person who for a compensation or
28 valuable consideration becomes associated, either as an independent contractor
29 or employee, either directly or indirectly, with a real estate broker to do any of
30 the things above mentioned. The provisions of sections 339.010 to 339.180 and
31 sections 339.710 to 339.860 shall not be construed to deny a real estate
32 salesperson who is compensated solely by commission the right to be associated
33 with a broker as an independent contractor.

34 3. The term "commission" as used in sections 339.010 to 339.180 and
35 sections 339.710 to 339.860 means the Missouri real estate commission.

36 4. "Real estate" for the purposes of sections 339.010 to 339.180 and
37 sections 339.710 to 339.860 shall mean, and include, leaseholds, as well as any
38 other interest or estate in land, whether corporeal, incorporeal, freehold or
39 nonfreehold, and the real estate is situated in this state.

40 5. "Advertising" shall mean any communication, whether oral or written,
41 between a licensee or other entity acting on behalf of one or more licensees and
42 the public[; it], **and** shall include, but not be limited to, business cards, signs,
43 insignias, letterheads, radio, television, newspaper and magazine ads, Internet
44 advertising, web sites, display or group ads in telephone directories, and
45 billboards.

46 6. The provisions of sections 339.010 to 339.180 and sections 339.710 to
47 339.860 shall not apply to:

48 (1) Any person, partnership, association, or corporation who as owner,
49 lessor, or lessee shall perform any of the acts described in subsection 1 of this
50 section with reference to property owned or leased by them, or to the regular

51 employees thereof[, provided such owner, lessor, or lessee is not engaged in the
52 real estate business];

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

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

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

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

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

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

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

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

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

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

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

82 (7) Railroads and other public utilities regulated by the state of Missouri,
83 or their subsidiaries or affiliated corporations, or to the officers or regular
84 employees thereof, unless performance of any of the acts described in subsection
85 1 of this section is in connection with the sale, purchase, lease or other
86 disposition of real estate or investment therein unrelated to the principal

87 business activity of such railroad or other public utility or affiliated or subsidiary
88 corporation thereof;

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

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

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

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

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

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

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

110 (12) Any neighborhood association, as that term is defined in section
111 441.500, RSMo, that without compensation, either monetary or in kind, provides
112 to prospective purchasers or lessors of property the asking price, location, and
113 contact information regarding properties in and near the association's
114 neighborhood, including any publication of such information in a newsletter,
115 Internet site, or other medium.

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

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

7 (2) For a transaction involving commercial real estate as defined

8 in section 339.710, a person regularly engaged in the real estate
9 brokerage business outside the state of Missouri who has, in such forms
10 as the commission may adopt by rule:

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

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

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

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

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

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

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

31 3. Notwithstanding the provisions of subsections 1 and 2 of this section,
32 any real estate broker who shall refuse to pay any person for services rendered
33 by such person to the broker, with the consent, knowledge and acquiescence of the
34 broker that such person was not licensed as required by section 339.020, in
35 buying, selling, exchanging, leasing, renting or negotiating a loan upon any real
36 estate for which services a license is required, and who is employed or engaged
37 by such broker to perform such services, shall be liable to such person for the
38 reasonable value of the same or similar services rendered to the broker,
39 regardless of whether or not the person possesses or holds any particular license,
40 permit or certification at the time the service was performed. Any such person
41 may bring a civil action for the reasonable value of his services rendered to a
42 broker notwithstanding the provisions of section 339.160.

700.010. As used in sections 700.010 to 700.500, for the purpose of

2 sections 700.010 to 700.500, the following terms mean:

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

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

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

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

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

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

38 [(6)] (7) "Manufacturer", any person who manufactures manufactured
39 homes, or modular units, including persons who engage in importing
40 manufactured homes, or modular units for resale;

41 [(7)] (8) "Modular unit", a transportable building unit designed to be
42 used by itself or to be incorporated with similar units at a point-of-use into a
43 modular structure to be used for residential, commercial, educational or
44 industrial purposes. **A modular unit shall be built to the International**
45 **Residential Codes (IRC) for residential units and the International**
46 **Building Codes (IBC) for commercial, educational, and industrial units**
47 **as adopted by the commission.** This definition shall not apply to structures
48 under six hundred fifty square feet used temporarily and exclusively for
49 construction site office purposes;

50 [(8)] (9) "New", being sold or offered for sale to the first purchaser for
51 purposes other than resale;

52 [(9)] (10) "Person", an individual, partnership, corporation or other legal
53 entity;

54 [(10)] (11) "Premises", a lot, plot, or parcel of land including the
55 buildings, structures, and manufactured homes thereon;

56 [(11)] (12) "Recreational park trailer", a recreational park trailer as
57 defined in the American National Standards Institute (ANSI) A119.5 Standard
58 on Recreational Park Trailers. A recreational park trailer is not a recreational
59 vehicle;

60 [(12)] (13) "Recreational vehicle", a recreational vehicle as defined in the
61 American National Standards Institute (ANSI) A119.2 Standard on Recreational
62 Vehicles;

63 [(13)] (14) "Seal", a device, label or insignia issued by the public service
64 commission, U.S. Department of Housing and Urban Development, or its agent,
65 to be displayed on the exterior of the manufactured home, or modular unit to
66 evidence compliance with the code;

67 [(14)] (15) "Setup", the operations performed at the occupancy site which
68 renders a manufactured home or modular unit fit for habitation, which operations
69 include, but are not limited to, moving, blocking, leveling, supporting, and
70 assembling multiple or expandable units.

700.041. 1. There is hereby established a fund in the state
2 **treasury to be known as the "Manufactured Housing Consumer**
3 **Recovery Fund" for the purpose of paying consumer claims under**

4 **procedures the commission may promulgate by rule. The public service**
5 **commission shall administer the manufactured housing consumer**
6 **recovery fund and all moneys in the fund shall be used solely as**
7 **prescribed in this section. Any interest earned from the investment of**
8 **moneys in the fund shall be credited to the fund.**

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

16 **3. Notwithstanding the provisions of section 33.080, RSMo, to the**
17 **contrary, moneys in the manufactured housing consumer recovery fund**
18 **shall not be transferred to the credit of the general revenue fund at the**
19 **end of the biennium; however, the total amount in the manufactured**
20 **housing consumer recovery fund shall not exceed thirty-two percent of**
21 **the amount of the annual appropriation of the manufactured housing**
22 **fund from the preceding fiscal year. Moneys in the manufactured**
23 **housing consumer recovery fund may be transferred back to the**
24 **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
3 to sell any manufactured home or modular unit after January 1, 1977, unless
4 there is in effect a registration with the commission;

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

9 (3) To affix a seal or cause a seal to be affixed to any manufactured home
10 or modular unit which does not comply with the code;

11 (4) To alter a manufactured home or modular unit in a manner prohibited
12 by the provisions of sections 700.010 to 700.115;

13 (5) To fail to correct within a reasonable time not to exceed ninety days
14 after being ordered to do so in writing by an authorized representative of the
15 commission a code violation in a new manufactured home or new modular unit

16 or used modular unit used for educational purposes owned, manufactured or sold
17 if the same is manufactured after January 1, 1974. **Reasonable and necessary**
18 **extensions may be granted by the commission;** or

19 (6) To interfere with, obstruct, or hinder any authorized representative
20 of the commission in the performance of his or her duties.

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

700.065. All **new** manufactured homes located in this state shall be
2 anchored and tied down in accordance with the standards promulgated by the
3 commission pursuant to the provisions of sections 700.010 to 700.115 **and**
4 **700.650 to 700.692.**

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

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

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

10 (a) The name of the manufacturer;

11 (b) The address of the manufacturer and addresses of each factory owned
12 or operated by the manufacturer, if different from the address of the
13 manufacturer;

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

17 (d) If not a corporation, the name and address of the managing person or
18 persons responsible for overall operation of the manufacturer;

19 (2) Files with the commission an initial registration fee of seven hundred

20 fifty dollars in the form of a cashier's check or money order made payable to the
21 state of Missouri.

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

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

25 (a) The name of the dealer;

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

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

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

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

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

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

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

700.095. 1. Every dealer shall, on or before January fifteenth of
2 each year, make application for registration or renewal and shall be
3 required to maintain a bona fide established place of business and
4 maintain a permanent enclosed building or structure, either owned in
5 fee or leased and actually occupied as a place of business by the
6 applicant for the selling, bartering, trading, or exchanging of
7 manufactured homes or modular units where the public may contact

8 the owner or operator at any reasonable time and where the books,
9 records, files, and other matter required and necessary to conduct the
10 business shall be kept and maintained.

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

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

20 4. Upon the payment of a registration of renewal fee of two
21 hundred dollars, there shall be assigned to each dealer a certificate of
22 registration in such form as the commission shall prescribe.

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

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

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

12 (3) Any affidavit provided under chapter 301, RSMo, or chapter
13 407, RSMo;

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

15 (5) Any disclosure statement or other document required by the
16 laws of the United States or any other state.

17 2. For the purposes of this section, the term "law enforcement
18 official" means any of the following:

19 (1) The attorney general, or any person designated by the
20 attorney general to make such an inspection;

21 (2) Any prosecuting attorney or any person designated by the
22 prosecuting attorney to make such an inspection;

- 23 **(3) Any member of the highway patrol;**
24 **(4) Any sheriff or deputy sheriff;**
25 **(5) Any peace officer certified under chapter 590, RSMo, acting**
26 **in his or her official capacity.**

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

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

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

700.100. 1. The commission may refuse to register or refuse to renew the
2 **registration of any person who fails to comply with the provisions of [section**
3 **700.090 or this section] sections 700.010 to 700.115. Notification of**
4 **unfavorable action by the commission on any application for registration or**
5 **renewal of registration must be delivered to the applicant within thirty days from**
6 **date it is received by the commission. Notification of unfavorable action by the**
7 **commission on any application for registration or renewal of registration must be**
8 **accompanied by a notice informing the recipient that the decision of the**
9 **commission may be appealed as provided in chapter 386, RSMo.**

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

14 dealer on probation.

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

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

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

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

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

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

26 (6) As a dealer, failing to arrange for the proper initial setup of any new
27 manufactured home or modular unit sold from or in the state of Missouri,
28 **[unless] except as allowed under subsection 5 of section 700.656;** the
29 dealer **[receives] shall receive** a written waiver of that service from the
30 purchaser or his or her authorized agent;

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

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

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

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

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

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

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

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

3. Any individual or director, officer, or agent of a corporation who knowingly and willfully violates any provision of sections 700.010 to 700.115, in a manner which threatens the health or safety of any purchaser, shall, upon conviction therefor, be fined not more than one 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:

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

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

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

(2) "Manufactured home", a factory-built structure as defined in subdivision [(5) or (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 "Manufactured Home Installation Act".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (2) "Dealer", any person, including, but not limited to, real
5 estate brokers and salespersons, other than a manufacturer, who
6 sells or offers for sale four or more manufactured homes in any
7 consecutive twelve-month period;

8 (3) "Manufactured home", a factory-built structure or
9 structures which, in the traveling mode, is eight body feet or more
10 in width or forty body feet or more in length, or, when erected on
11 site, contains three hundred twenty or more square feet, equipped
12 with the necessary service connections and made so as to be readily
13 movable as a unit or units on its or their own running gear and
14 designed to be used as a dwelling unit or units with or without a
15 permanent foundation. The phrase "without a permanent
16 foundation" indicates that the support system is constructed with
17 the intent that the manufactured home placed thereon may be
18 moved from time to time at the convenience of the owner;

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

22 (5) "Person", any individual, partnership, corporation or
23 other legal entity.]

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

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

15 (2) A bona fide established place of business shall be

16 required for every dealer. A bona fide established place of business
17 for any dealer shall include a permanent enclosed building or
18 structure, either owned in fee or leased and actually occupied as a
19 place of business by the applicant for the selling, bartering, trading
20 or exchanging of manufactured homes, where the public may
21 contact the owner or operator at any reasonable time and where
22 the books, records, files and other matters required and necessary
23 to conduct the business shall be kept and maintained.

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

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

33 4. On the payment of a registration fee of fifty dollars there
34 shall be assigned to each dealer a certificate of registration in such
35 form as the commission shall prescribe.]

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

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

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

19 (1) Attorney general, or any person designated by him to
20 make such an inspection;

21 (2) Any prosecuting attorney or any person designated by
22 a prosecuting attorney to make such an inspection;

23 (3) Any member of the highway patrol;

24 (4) Any sheriff or deputy sheriff;

25 (5) Any peace officer certified pursuant to chapter 590,
26 RSMo, acting in his official capacity.]

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

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

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

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