

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 973

98TH GENERAL ASSEMBLY
2016

5740S.08T

AN ACT

To repeal sections 197.315, 376.1237, and 536.031, RSMo, and to enact in lieu thereof
seventeen new sections relating to health care.

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

Section A. Sections 197.315, 376.1237, and 536.031, RSMo, are repealed
2 and seventeen new sections enacted in lieu thereof, to be known as sections
3 197.065, 197.315, 334.1200, 334.1203, 334.1206, 334.1209, 334.1212, 334.1215,
4 334.1218, 334.1221, 334.1224, 334.1227, 334.1230, 334.1233, 338.202, 376.1237,
5 and 536.031, to read as follows:

197.065. 1. The department of health and senior services shall
2 **promulgate regulations for the construction and renovation of hospitals**
3 **that include life safety code standards for hospitals that exclusively**
4 **reflect the life safety code standards imposed by the federal Medicare**
5 **program under Title XVIII of the Social Security Act and its conditions**
6 **of participation in the Code of Federal Regulations.**

7 **2. The department shall not require a hospital to meet the**
8 **standards contained in the Facility Guidelines Institute for the Design**
9 **and Construction of Health Care Facilities, but any hospital that**
10 **complies with the 2010 or later version of such guidelines for the**
11 **construction and renovation of hospitals shall not be required to**
12 **comply with any regulation that is inconsistent or conflicts in any way**
13 **with such guidelines.**

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

14 **3. The department may waive enforcement of the standards for**
15 **licensed hospitals imposed by this section if the department determines**
16 **that:**

17 **(1) Compliance with those specific standards would result in**
18 **unreasonable hardship for the facility and if the health and safety of**
19 **hospital patients would not be compromised by such waiver or waivers;**
20 **or**

21 **(2) The hospital has used other standards that provide for**
22 **equivalent design criteria.**

23 **4. Regulations promulgated by the department to establish and**
24 **enforce hospital licensure regulations under this chapter that conflict**
25 **with the standards established under subsections 1 and 3 of this section**
26 **shall lapse on and after January 1, 2018.**

27 **5. Any rule or portion of a rule, as that term is defined in section**
28 **536.010, that is created under the authority delegated in this section**
29 **shall become effective only if it complies with and is subject to all of**
30 **the provisions of chapter 536 and, if applicable, section 536.028. This**
31 **section and chapter 536 are nonseverable, and if any of the powers**
32 **vested with the general assembly pursuant to chapter 536 to review, to**
33 **delay the effective date, or to disapprove and annul a rule are**
34 **subsequently held unconstitutional, then the grant of rulemaking**
35 **authority and any rule proposed or adopted after August 28, 2016, shall**
36 **be invalid and void.**

197.315. 1. Any person who proposes to develop or offer a new
2 institutional health service within the state must obtain a certificate of need from
3 the committee prior to the time such services are offered.

4 2. Only those new institutional health services which are found by the
5 committee to be needed shall be granted a certificate of need. Only those new
6 institutional health services which are granted certificates of need shall be
7 offered or developed within the state. No expenditures for new institutional
8 health services in excess of the applicable expenditure minimum shall be made
9 by any person unless a certificate of need has been granted.

10 3. After October 1, 1980, no state agency charged by statute to license or
11 certify health care facilities shall issue a license to or certify any such facility, or
12 distinct part of such facility, that is developed without obtaining a certificate of
13 need.

14 4. If any person proposes to develop any new institutional health care
15 service without a certificate of need as required by sections 197.300 to 197.366,
16 the committee shall notify the attorney general, and he shall apply for an
17 injunction or other appropriate legal action in any court of this state against that
18 person.

19 5. After October 1, 1980, no agency of state government may appropriate
20 or grant funds to or make payment of any funds to any person or health care
21 facility which has not first obtained every certificate of need required pursuant
22 to sections 197.300 to 197.366.

23 6. A certificate of need shall be issued only for the premises and persons
24 named in the application and is not transferable except by consent of the
25 committee.

26 7. Project cost increases, due to changes in the project application as
27 approved or due to project change orders, exceeding the initial estimate by more
28 than ten percent shall not be incurred without consent of the committee.

29 8. Periodic reports to the committee shall be required of any applicant
30 who has been granted a certificate of need until the project has been
31 completed. The committee may order the forfeiture of the certificate of need upon
32 failure of the applicant to file any such report.

33 9. A certificate of need shall be subject to forfeiture for failure to incur a
34 capital expenditure on any approved project within six months after the date of
35 the order. The applicant may request an extension from the committee of not
36 more than six additional months based upon substantial expenditure made.

37 10. Each application for a certificate of need must be accompanied by an
38 application fee. The time of filing commences with the receipt of the application
39 and the application fee. The application fee is one thousand dollars, or one-tenth
40 of one percent of the total cost of the proposed project, whichever is greater. All
41 application fees shall be deposited in the state treasury. Because of the loss of
42 federal funds, the general assembly will appropriate funds to the Missouri health
43 facilities review committee.

44 11. In determining whether a certificate of need should be granted, no
45 consideration shall be given to the facilities or equipment of any other health care
46 facility located more than a fifteen-mile radius from the applying facility.

47 12. When a nursing facility shifts from a skilled to an intermediate level
48 of nursing care, it may return to the higher level of care if it meets the licensure
49 requirements, without obtaining a certificate of need.

50 13. In no event shall a certificate of need be denied because the applicant
51 refuses to provide abortion services or information.

52 14. A certificate of need shall not be required for the transfer of ownership
53 of an existing and operational health facility in its entirety.

54 15. A certificate of need may be granted to a facility for an expansion, an
55 addition of services, a new institutional service, or for a new hospital facility
56 which provides for something less than that which was sought in the application.

57 16. The provisions of this section shall not apply to facilities operated by
58 the state, and appropriation of funds to such facilities by the general assembly
59 shall be deemed in compliance with this section, and such facilities shall be
60 deemed to have received an appropriate certificate of need without payment of
61 any fee or charge. **The provisions of this subsection shall not apply to**
62 **hospitals operated by the state and licensed under chapter 197, except**
63 **for department of mental health state-operated psychiatric hospitals.**

64 17. Notwithstanding other provisions of this section, a certificate of need
65 may be issued after July 1, 1983, for an intermediate care facility operated
66 exclusively for the intellectually disabled.

67 18. To assure the safe, appropriate, and cost-effective transfer of new
68 medical technology throughout the state, a certificate of need shall not be
69 required for the purchase and operation of:

70 (1) Research equipment that is to be used in a clinical trial that has
71 received written approval from a duly constituted institutional review board of
72 an accredited school of medicine or osteopathy located in Missouri to establish its
73 safety and efficacy and does not increase the bed complement of the institution
74 in which the equipment is to be located. After the clinical trial has been
75 completed, a certificate of need must be obtained for continued use in such
76 facility; or

77 (2) **Equipment that is to be used by an academic health center**
78 **operated by the state in furtherance of its research or teaching**
79 **missions.**

334.1200. PURPOSE

2 The purpose of this compact is to facilitate interstate practice of
3 physical therapy with the goal of improving public access to physical
4 therapy services. The practice of physical therapy occurs in the state
5 where the patient/client is located at the time of the patient/client
6 encounter. The compact preserves the regulatory authority of states to

7 **protect public health and safety through the current system of state**
8 **licensure.**

9 **This compact is designed to achieve the following objectives:**

- 10 **1. Increase public access to physical therapy services by**
11 **providing for the mutual recognition of other member state licenses;**
- 12 **2. Enhance the states' ability to protect the public's health and**
13 **safety;**
- 14 **3. Encourage the cooperation of member states in regulating**
15 **multistate physical therapy practice;**
- 16 **4. Support spouses of relocating military members;**
- 17 **5. Enhance the exchange of licensure, investigative, and**
18 **disciplinary information between member states; and**
- 19 **6. Allow a remote state to hold a provider of services with a**
20 **compact privilege in that state accountable to that state's practice**
21 **standards.**

334.1203. DEFINITIONS

2 **As used in this compact, and except as otherwise provided, the**
3 **following definitions shall apply:**

- 4 **1. "Active Duty Military" means full-time duty status in the active**
5 **uniformed service of the United States, including members of the**
6 **National Guard and Reserve on active duty orders pursuant to 10 U.S.C.**
7 **Section 1209 and 1211.**
- 8 **2. "Adverse Action" means disciplinary action taken by a physical**
9 **therapy licensing board based upon misconduct, unacceptable**
10 **performance, or a combination of both.**
- 11 **3. "Alternative Program" means a nondisciplinary monitoring or**
12 **practice remediation process approved by a physical therapy licensing**
13 **board. This includes, but is not limited to, substance abuse issues.**
- 14 **4. "Compact privilege" means the authorization granted by a**
15 **remote state to allow a licensee from another member state to practice**
16 **as a physical therapist or work as a physical therapist assistant in the**
17 **remote state under its laws and rules. The practice of physical therapy**
18 **occurs in the member state where the patient/client is located at the**
19 **time of the patient/client encounter.**
- 20 **5. "Continuing competence" means a requirement, as a condition**
21 **of license renewal, to provide evidence of participation in, and/or**
22 **completion of, educational and professional activities relevant to**

23 practice or area of work.

24 6. "Data system" means a repository of information about
25 licensees, including examination, licensure, investigative, compact
26 privilege, and adverse action.

27 7. "Encumbered license" means a license that a physical therapy
28 licensing board has limited in any way.

29 8. "Executive Board" means a group of directors elected or
30 appointed to act on behalf of, and within the powers granted to them
31 by, the commission.

32 9. "Home state" means the member state that is the licensee's
33 primary state of residence.

34 10. "Investigative information" means information, records, and
35 documents received or generated by a physical therapy licensing board
36 pursuant to an investigation.

37 11. "Jurisprudence requirement" means the assessment of an
38 individual's knowledge of the laws and rules governing the practice of
39 physical therapy in a state.

40 12. "Licensee" means an individual who currently holds an
41 authorization from the state to practice as a physical therapist or to
42 work as a physical therapist assistant.

43 13. "Member state" means a state that has enacted the compact.

44 14. "Party state" means any member state in which a licensee
45 holds a current license or compact privilege or is applying for a license
46 or compact privilege.

47 15. "Physical therapist" means an individual who is licensed by
48 a state to practice physical therapy.

49 16. "Physical therapist assistant" means an individual who is
50 licensed/certified by a state and who assists the physical therapist in
51 selected components of physical therapy.

52 17. "Physical therapy", "physical therapy practice", and "the
53 practice of physical therapy" mean the care and services provided by
54 or under the direction and supervision of a licensed physical therapist.

55 18. "Physical therapy compact commission" or "commission"
56 means the national administrative body whose membership consists of
57 all states that have enacted the compact.

58 19. "Physical therapy licensing board" or "licensing board" means
59 the agency of a state that is responsible for the licensing and regulation

60 of physical therapists and physical therapist assistants.

61 20. "Remote state" means a member state other than the home
62 state, where a licensee is exercising or seeking to exercise the compact
63 privilege.

64 21. "Rule" means a regulation, principle, or directive
65 promulgated by the commission that has the force of law.

66 22. "State" means any state, commonwealth, district, or territory
67 of the United States of America that regulates the practice of physical
68 therapy.

334.1206. STATE PARTICIPATION IN THE COMPACT

2 A. To participate in the compact, a state must:

3 1. Participate fully in the commission's data system, including
4 using the commission's unique identifier as defined in rules;

5 2. Have a mechanism in place for receiving and investigating
6 complaints about licensees;

7 3. Notify the commission, in compliance with the terms of the
8 compact and rules, of any adverse action or the availability of
9 investigative information regarding a licensee;

10 4. Fully implement a criminal background check requirement,
11 within a time frame established by rule, by receiving the results of the
12 Federal Bureau of Investigation record search on criminal background
13 checks and use the results in making licensure decisions in accordance
14 with section 334.1206.B.;

15 5. Comply with the rules of the commission;

16 6. Utilize a recognized national examination as a requirement for
17 licensure pursuant to the rules of the commission; and

18 7. Have continuing competence requirements as a condition for
19 license renewal.

20 B. Upon adoption of sections 334.1200 to 334.1233, the member
21 state shall have the authority to obtain biometric-based information
22 from each physical therapy licensure applicant and submit this
23 information to the Federal Bureau of Investigation for a criminal
24 background check in accordance with 28 U.S.C. Section 534 and 42
25 U.S.C. Section 14616.

26 C. A member state shall grant the compact privilege to a licensee
27 holding a valid unencumbered license in another member state in
28 accordance with the terms of the compact and rules.

29 **D. Member states may charge a fee for granting a compact**
30 **privilege.**

334.1209. COMPACT PRIVILEGE

2 **A. To exercise the compact privilege under the terms and**
3 **provisions of the compact, the licensee shall:**

4 **1. Hold a license in the home state;**

5 **2. Have no encumbrance on any state license;**

6 **3. Be eligible for a compact privilege in any member state in**
7 **accordance with section 334.1209D, G and H;**

8 **4. Have not had any adverse action against any license or**
9 **compact privilege within the previous 2 years;**

10 **5. Notify the commission that the licensee is seeking the compact**
11 **privilege within a remote state(s);**

12 **6. Pay any applicable fees, including any state fee, for the**
13 **compact privilege;**

14 **7. Meet any jurisprudence requirements established by the**
15 **remote state(s) in which the licensee is seeking a compact privilege;**
16 **and**

17 **8. Report to the commission adverse action taken by any**
18 **nonmember state within thirty days from the date the adverse action**
19 **is taken.**

20 **B. The compact privilege is valid until the expiration date of the**
21 **home license. The licensee must comply with the requirements of**
22 **section 334.1209.A. to maintain the compact privilege in the remote**
23 **state.**

24 **C. A licensee providing physical therapy in a remote state under**
25 **the compact privilege shall function within the laws and regulations of**
26 **the remote state.**

27 **D. A licensee providing physical therapy in a remote state is**
28 **subject to that state's regulatory authority. A remote state may, in**
29 **accordance with due process and that state's laws, remove a licensee's**
30 **compact privilege in the remote state for a specific period of time,**
31 **impose fines, and/or take any other necessary actions to protect the**
32 **health and safety of its citizens. The licensee is not eligible for a**
33 **compact privilege in any state until the specific time for removal has**
34 **passed and all fines are paid.**

35 **E. If a home state license is encumbered, the licensee shall lose**

36 the compact privilege in any remote state until the following occur:

37 1. The home state license is no longer encumbered; and

38 2. Two years have elapsed from the date of the adverse action.

39 F. Once an encumbered license in the home state is restored to
40 good standing, the licensee must meet the requirements of section
41 334.1209A to obtain a compact privilege in any remote state.

42 G. If a licensee's compact privilege in any remote state is
43 removed, the individual shall lose the compact privilege in any remote
44 state until the following occur:

45 1. The specific period of time for which the compact privilege
46 was removed has ended;

47 2. All fines have been paid; and

48 3. Two years have elapsed from the date of the adverse action.

49 H. Once the requirements of section 334.1209G have been met,
50 the license must meet the requirements in section 334.1209A to obtain
51 a compact privilege in a remote state.

334.1212. ACTIVE DUTY MILITARY PERSONNEL OR THEIR 2 SPOUSES

3 A licensee who is active duty military or is the spouse of an
4 individual who is active duty military may designate one of the
5 following as the home state:

6 A. Home of record;

7 B. Permanent change of station (PCS); or

8 C. State of current residence if it is different than the PCS state
9 or home of record.

334.1215. ADVERSE ACTIONS

2 A. A home state shall have exclusive power to impose adverse
3 action against a license issued by the home state.

4 B. A home state may take adverse action based on the
5 investigative information of a remote state, so long as the home state
6 follows its own procedures for imposing adverse action.

7 C. Nothing in this compact shall override a member state's
8 decision that participation in an alternative program may be used in
9 lieu of adverse action and that such participation shall remain
10 nonpublic if required by the member state's laws. Member states must
11 require licensees who enter any alternative programs in lieu of
12 discipline to agree not to practice in any other member state during the

13 term of the alternative program without prior authorization from such
14 other member state.

15 D. Any member state may investigate actual or alleged violations
16 of the statutes and rules authorizing the practice of physical therapy
17 in any other member state in which a physical therapist or physical
18 therapist assistant holds a license or compact privilege.

19 E. A remote state shall have the authority to:

20 1. Take adverse actions as set forth in section 334.1209.D. against
21 a licensee's compact privilege in the state;

22 2. Issue subpoenas for both hearings and investigations that
23 require the attendance and testimony of witnesses, and the production
24 of evidence. Subpoenas issued by a physical therapy licensing board
25 in a party state for the attendance and testimony of witnesses, and/or
26 the production of evidence from another party state, shall be enforced
27 in the latter state by any court of competent jurisdiction, according to
28 the practice and procedure of that court applicable to subpoenas issued
29 in proceedings pending before it. The issuing authority shall pay any
30 witness fees, travel expenses, mileage, and other fees required by the
31 service statutes of the state where the witnesses and/or evidence are
32 located; and

33 3. If otherwise permitted by state law, recover from the licensee
34 the costs of investigations and disposition of cases resulting from any
35 adverse action taken against that licensee.

36 F. Joint Investigations

37 1. In addition to the authority granted to a member state by its
38 respective physical therapy practice act or other applicable state law,
39 a member state may participate with other member states in joint
40 investigations of licensees.

41 2. Member states shall share any investigative, litigation, or
42 compliance materials in furtherance of any joint or individual
43 investigation initiated under the compact.

334.1218. ESTABLISHMENT OF THE PHYSICAL THERAPY 2 COMPACT COMMISSION.

3 A. The compact member states hereby create and establish a
4 joint public agency known as the physical therapy compact commission:

5 1. The commission is an instrumentality of the compact states.

6 2. Venue is proper and judicial proceedings by or against the

7 commission shall be brought solely and exclusively in a court of
8 competent jurisdiction where the principal office of the commission is
9 located. The commission may waive venue and jurisdictional defenses
10 to the extent it adopts or consents to participate in alternative dispute
11 resolution proceedings.

12 3. Nothing in this compact shall be construed to be a waiver of
13 sovereign immunity.

14 **B. Membership, Voting, and Meetings**

15 1. Each member state shall have and be limited to one delegate
16 selected by that member state's licensing board.

17 2. The delegate shall be a current member of the licensing board,
18 who is a physical therapist, physical therapist assistant, public
19 member, or the board administrator.

20 3. Any delegate may be removed or suspended from office as
21 provided by the law of the state from which the delegate is appointed.

22 4. The member state board shall fill any vacancy occurring in the
23 commission.

24 5. Each delegate shall be entitled to one vote with regard to the
25 promulgation of rules and creation of bylaws and shall otherwise have
26 an opportunity to participate in the business and affairs of the
27 commission.

28 6. A delegate shall vote in person or by such other means as
29 provided in the bylaws. The bylaws may provide for delegates'
30 participation in meetings by telephone or other means of
31 communication.

32 7. The commission shall meet at least once during each calendar
33 year. Additional meetings shall be held as set forth in the bylaws.

34 **C. The commission shall have the following powers and duties:**

35 1. Establish the fiscal year of the commission;

36 2. Establish bylaws;

37 3. Maintain its financial records in accordance with the bylaws;

38 4. Meet and take such actions as are consistent with the
39 provisions of this compact and the bylaws;

40 5. Promulgate uniform rules to facilitate and coordinate
41 implementation and administration of this compact. The rules shall
42 have the force and effect of law and shall be binding in all member
43 states;

44 **6. Bring and prosecute legal proceedings or actions in the name**
45 **of the commission, provided that the standing of any state physical**
46 **therapy licensing board to sue or be sued under applicable law shall**
47 **not be affected;**

48 **7. Purchase and maintain insurance and bonds;**

49 **8. Borrow, accept, or contract for services of personnel,**
50 **including, but not limited to, employees of a member state;**

51 **9. Hire employees, elect or appoint officers, fix compensation,**
52 **define duties, grant such individuals appropriate authority to carry out**
53 **the purposes of the compact, and to establish the commission's**
54 **personnel policies and programs relating to conflicts of interest,**
55 **qualifications of personnel, and other related personnel matters;**

56 **10. Accept any and all appropriate donations and grants of**
57 **money, equipment, supplies, materials and services, and to receive,**
58 **utilize and dispose of the same; provided that at all times the**
59 **commission shall avoid any appearance of impropriety and/or conflict**
60 **of interest;**

61 **11. Lease, purchase, accept appropriate gifts or donations of, or**
62 **otherwise to own, hold, improve or use, any property, real, personal or**
63 **mixed; provided that at all times the commission shall avoid any**
64 **appearance of impropriety;**

65 **12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or**
66 **otherwise dispose of any property real, personal, or mixed;**

67 **13. Establish a budget and make expenditures;**

68 **14. Borrow money;**

69 **15. Appoint committees, including standing committees**
70 **comprised of members, state regulators, state legislators or their**
71 **representatives, and consumer representatives, and such other**
72 **interested persons as may be designated in this compact and the**
73 **bylaws;**

74 **16. Provide and receive information from, and cooperate with,**
75 **law enforcement agencies;**

76 **17. Establish and elect an executive board; and**

77 **18. Perform such other functions as may be necessary or**
78 **appropriate to achieve the purposes of this compact consistent with the**
79 **state regulation of physical therapy licensure and practice.**

80 **D. The Executive Board**

81 **The executive board shall have the power to act on behalf of the**
82 **commission according to the terms of this compact.**

83 **1. The executive board shall be comprised of nine members:**

84 **a. Seven voting members who are elected by the commission**
85 **from the current membership of the commission;**

86 **b. One ex officio, nonvoting member from the recognized**
87 **national physical therapy professional association; and**

88 **c. One ex officio, nonvoting member from the recognized**
89 **membership organization of the physical therapy licensing boards.**

90 **2. The ex officio members will be selected by their respective**
91 **organizations.**

92 **3. The commission may remove any member of the executive**
93 **board as provided in bylaws.**

94 **4. The executive board shall meet at least annually.**

95 **5. The executive board shall have the following duties and**
96 **responsibilities:**

97 **a. Recommend to the entire commission changes to the rules or**
98 **bylaws, changes to this compact legislation, fees paid by compact**
99 **member states such as annual dues, and any commission compact fee**
100 **charged to licensees for the compact privilege;**

101 **b. Ensure compact administration services are appropriately**
102 **provided, contractual or otherwise;**

103 **c. Prepare and recommend the budget;**

104 **d. Maintain financial records on behalf of the commission;**

105 **e. Monitor compact compliance of member states and provide**
106 **compliance reports to the commission;**

107 **f. Establish additional committees as necessary; and**

108 **g. Other duties as provided in rules or bylaws.**

109 **E. Meetings of the Commission**

110 **1. All meetings shall be open to the public, and public notice of**
111 **meetings shall be given in the same manner as required under the**
112 **rulemaking provisions in section 334.1224.**

113 **2. The commission or the executive board or other committees**
114 **of the commission may convene in a closed, nonpublic meeting if the**
115 **commission or executive board or other committees of the commission**
116 **must discuss:**

117 **a. Noncompliance of a member state with its obligations under**

118 **the compact;**

119 **b. The employment, compensation, discipline or other matters,**
120 **practices or procedures related to specific employees or other matters**
121 **related to the commission's internal personnel practices and**
122 **procedures;**

123 **c. Current, threatened, or reasonably anticipated litigation;**

124 **d. Negotiation of contracts for the purchase, lease, or sale of**
125 **goods, services, or real estate;**

126 **e. Accusing any person of a crime or formally censuring any**
127 **person;**

128 **f. Disclosure of trade secrets or commercial or financial**
129 **information that is privileged or confidential;**

130 **g. Disclosure of information of a personal nature where**
131 **disclosure would constitute a clearly unwarranted invasion of personal**
132 **privacy;**

133 **h. Disclosure of investigative records compiled for law**
134 **enforcement purposes;**

135 **i. Disclosure of information related to any investigative reports**
136 **prepared by or on behalf of or for use of the commission or other**
137 **committee charged with responsibility of investigation or**
138 **determination of compliance issues pursuant to the compact; or**

139 **j. Matters specifically exempted from disclosure by federal or**
140 **member state statute.**

141 **3. If a meeting, or portion of a meeting, is closed pursuant to this**
142 **provision, the commission's legal counsel or designee shall certify that**
143 **the meeting may be closed and shall reference each relevant exempting**
144 **provision.**

145 **4. The commission shall keep minutes that fully and clearly**
146 **describe all matters discussed in a meeting and shall provide a full and**
147 **accurate summary of actions taken, and the reasons therefore,**
148 **including a description of the views expressed. All documents**
149 **considered in connection with an action shall be identified in such**
150 **minutes. All minutes and documents of a closed meeting shall remain**
151 **under seal, subject to release by a majority vote of the commission or**
152 **order of a court of competent jurisdiction.**

153 **F. Financing of the Commission**

154 **1. The commission shall pay, or provide for the payment of, the**

155 reasonable expenses of its establishment, organization, and ongoing
156 activities.

157 2. The commission may accept any and all appropriate revenue
158 sources, donations, and grants of money, equipment, supplies,
159 materials, and services.

160 3. The commission may levy on and collect an annual assessment
161 from each member state or impose fees on other parties to cover the
162 cost of the operations and activities of the commission and its staff,
163 which must be in a total amount sufficient to cover its annual budget
164 as approved each year for which revenue is not provided by other
165 sources. The aggregate annual assessment amount shall be allocated
166 based upon a formula to be determined by the commission, which shall
167 promulgate a rule binding upon all member states.

168 4. The commission shall not incur obligations of any kind prior
169 to securing the funds adequate to meet the same; nor shall the
170 commission pledge the credit of any of the member states, except by
171 and with the authority of the member state.

172 5. The commission shall keep accurate accounts of all receipts
173 and disbursements. The receipts and disbursements of the commission
174 shall be subject to the audit and accounting procedures established
175 under its bylaws. However, all receipts and disbursements of funds
176 handled by the commission shall be audited yearly by a certified or
177 licensed public accountant, and the report of the audit shall be
178 included in and become part of the annual report of the commission.

179 **G. Qualified Immunity, Defense, and Indemnification**

180 1. The members, officers, executive director, employees and
181 representatives of the commission shall be immune from suit and
182 liability, either personally or in their official capacity, for any claim for
183 damage to or loss of property or personal injury or other civil liability
184 caused by or arising out of any actual or alleged act, error or omission
185 that occurred, or that the person against whom the claim is made had
186 a reasonable basis for believing occurred within the scope of
187 commission employment, duties or responsibilities; provided that
188 nothing in this paragraph shall be construed to protect any such person
189 from suit and/or liability for any damage, loss, injury, or liability
190 caused by the intentional or willful or wanton misconduct of that
191 person.

192 2. The commission shall defend any member, officer, executive
193 director, employee or representative of the commission in any civil
194 action seeking to impose liability arising out of any actual or alleged
195 act, error, or omission that occurred within the scope of commission
196 employment, duties, or responsibilities, or that the person against
197 whom the claim is made had a reasonable basis for believing occurred
198 within the scope of commission employment, duties, or responsibilities;
199 provided that nothing herein shall be construed to prohibit that person
200 from retaining his or her own counsel; and provided further, that the
201 actual or alleged act, error, or omission did not result from that
202 person's intentional or willful or wanton misconduct.

203 3. The commission shall indemnify and hold harmless any
204 member, officer, executive director, employee, or representative of the
205 commission for the amount of any settlement or judgment obtained
206 against that person arising out of any actual or alleged act, error or
207 omission that occurred within the scope of commission employment,
208 duties, or responsibilities, or that such person had a reasonable basis
209 for believing occurred within the scope of commission employment,
210 duties, or responsibilities, provided that the actual or alleged act,
211 error, or omission did not result from the intentional or willful or
212 wanton misconduct of that person.

334.1221. DATA SYSTEM

2 A. The commission shall provide for the development,
3 maintenance, and utilization of a coordinated database and reporting
4 system containing licensure, adverse action, and investigative
5 information on all licensed individuals in member states.

6 B. Notwithstanding any other provision of state law to the
7 contrary, a member state shall submit a uniform data set to the data
8 system on all individuals to whom this compact is applicable as
9 required by the rules of the commission, including:

10 1. Identifying information;

11 2. Licensure data;

12 3. Adverse actions against a license or compact privilege;

13 4. Nonconfidential information related to alternative program
14 participation;

15 5. Any denial of application for licensure, and the reason(s) for
16 such denial; and

17 **6. Other information that may facilitate the administration of**
18 **this compact, as determined by the rules of the commission.**

19 **C. Investigative information pertaining to a licensee in any**
20 **member state will only be available to other party states.**

21 **D. The commission shall promptly notify all member states of**
22 **any adverse action taken against a licensee or an individual applying**
23 **for a license. Adverse action information pertaining to a licensee in**
24 **any member state will be available to any other member state.**

25 **E. Member states contributing information to the data system**
26 **may designate information that may not be shared with the public**
27 **without the express permission of the contributing state.**

28 **F. Any information submitted to the data system that is**
29 **subsequently required to be expunged by the laws of the member state**
30 **contributing the information shall be removed from the data system.**

334.1224. RULEMAKING

2 **A. The commission shall exercise its rulemaking powers**
3 **pursuant to the criteria set forth in this section and the rules adopted**
4 **thereunder. Rules and amendments shall become binding as of the date**
5 **specified in each rule or amendment.**

6 **B. If a majority of the legislatures of the member states rejects**
7 **a rule, by enactment of a statute or resolution in the same manner used**
8 **to adopt the compact within four years of the date of adoption of the**
9 **rule, then such rule shall have no further force and effect in any**
10 **member state.**

11 **C. Rules or amendments to the rules shall be adopted at a**
12 **regular or special meeting of the commission.**

13 **D. Prior to promulgation and adoption of a final rule or rules by**
14 **the commission, and at least thirty days in advance of the meeting at**
15 **which the rule will be considered and voted upon, the commission shall**
16 **file a notice of proposed rulemaking:**

17 **1. On the website of the commission or other publicly accessible**
18 **platform; and**

19 **2. On the website of each member state physical therapy**
20 **licensing board or other publicly accessible platform or the publication**
21 **in which each state would otherwise publish proposed rules.**

22 **E. The notice of proposed rulemaking shall include:**

23 **1. The proposed time, date, and location of the meeting in which**

24 the rule will be considered and voted upon;

25 2. The text of the proposed rule or amendment and the reason for
26 the proposed rule;

27 3. A request for comments on the proposed rule from any
28 interested person; and

29 4. The manner in which interested persons may submit notice to
30 the commission of their intention to attend the public hearing and any
31 written comments.

32 F. Prior to adoption of a proposed rule, the commission shall
33 allow persons to submit written data, facts, opinions, and arguments,
34 which shall be made available to the public.

35 G. The commission shall grant an opportunity for a public
36 hearing before it adopts a rule or amendment if a hearing is requested
37 by:

38 1. At least twenty-five persons;

39 2. A state or federal governmental subdivision or agency; or

40 3. An association having at least twenty-five members.

41 H. If a hearing is held on the proposed rule or amendment, the
42 commission shall publish the place, time, and date of the scheduled
43 public hearing. If the hearing is held via electronic means, the
44 commission shall publish the mechanism for access to the electronic
45 hearing.

46 1. All persons wishing to be heard at the hearing shall notify the
47 executive director of the commission or other designated member in
48 writing of their desire to appear and testify at the hearing not less than
49 five business days before the scheduled date of the hearing.

50 2. Hearings shall be conducted in a manner providing each
51 person who wishes to comment a fair and reasonable opportunity to
52 comment orally or in writing.

53 3. All hearings will be recorded. A copy of the recording will be
54 made available on request.

55 4. Nothing in this section shall be construed as requiring a
56 separate hearing on each rule. Rules may be grouped for the
57 convenience of the commission at hearings required by this section.

58 I. Following the scheduled hearing date, or by the close of
59 business on the scheduled hearing date if the hearing was not held, the
60 commission shall consider all written and oral comments received.

61 **J. If no written notice of intent to attend the public hearing by**
62 **interested parties is received, the commission may proceed with**
63 **promulgation of the proposed rule without a public hearing.**

64 **K. The commission shall, by majority vote of all members, take**
65 **final action on the proposed rule and shall determine the effective date**
66 **of the rule, if any, based on the rulemaking record and the full text of**
67 **the rule.**

68 **L. Upon determination that an emergency exists, the commission**
69 **may consider and adopt an emergency rule without prior notice,**
70 **opportunity for comment, or hearing, provided that the usual**
71 **rulemaking procedures provided in the compact and in this section**
72 **shall be retroactively applied to the rule as soon as reasonably possible,**
73 **in no event later than ninety days after the effective date of the**
74 **rule. For the purposes of this provision, an emergency rule is one that**
75 **must be adopted immediately in order to:**

- 76 **1. Meet an imminent threat to public health, safety, or welfare;**
77 **2. Prevent a loss of commission or member state funds;**
78 **3. Meet a deadline for the promulgation of an administrative rule**
79 **that is established by federal law or rule; or**
80 **4. Protect public health and safety.**

81 **M. The commission or an authorized committee of the**
82 **commission may direct revisions to a previously adopted rule or**
83 **amendment for purposes of correcting typographical errors, errors in**
84 **format, errors in consistency, or grammatical errors. Public notice of**
85 **any revisions shall be posted on the website of the commission. The**
86 **revision shall be subject to challenge by any person for a period of**
87 **thirty days after posting. The revision may be challenged only on**
88 **grounds that the revision results in a material change to a rule. A**
89 **challenge shall be made in writing, and delivered to the chair of the**
90 **commission prior to the end of the notice period. If no challenge is**
91 **made, the revision will take effect without further action. If the**
92 **revision is challenged, the revision may not take effect without the**
93 **approval of the commission.**

334.1227. OVERSIGHT, DISPUTE RESOLUTION, AND **2 ENFORCEMENT**

3 A. Oversight

- 4 **1. The executive, legislative, and judicial branches of state**

5 government in each member state shall enforce this compact and take
6 all actions necessary and appropriate to effectuate the compact's
7 purposes and intent. The provisions of this compact and the rules
8 promulgated hereunder shall have standing as statutory law.

9 2. All courts shall take judicial notice of the compact and the
10 rules in any judicial or administrative proceeding in a member state
11 pertaining to the subject matter of this compact which may affect the
12 powers, responsibilities or actions of the commission.

13 3. The commission shall be entitled to receive service of process
14 in any such proceeding, and shall have standing to intervene in such
15 a proceeding for all purposes. Failure to provide service of process to
16 the commission shall render a judgment or order void as to the
17 commission, this compact, or promulgated rules.

18 B. Default, Technical Assistance, and Termination

19 1. If the commission determines that a member state has
20 defaulted in the performance of its obligations or responsibilities under
21 this compact or the promulgated rules, the commission shall:

22 a. Provide written notice to the defaulting state and other
23 member states of the nature of the default, the proposed means of
24 curing the default and/or any other action to be taken by the
25 commission; and

26 b. Provide remedial training and specific technical assistance
27 regarding the default.

28 2. If a state in default fails to cure the default, the defaulting
29 state may be terminated from the compact upon an affirmative vote of
30 a majority of the member states, and all rights, privileges and benefits
31 conferred by this compact may be terminated on the effective date of
32 termination. A cure of the default does not relieve the offending state
33 of obligations or liabilities incurred during the period of default.

34 3. Termination of membership in the compact shall be imposed
35 only after all other means of securing compliance have been
36 exhausted. Notice of intent to suspend or terminate shall be given by
37 the commission to the governor, the majority and minority leaders of
38 the defaulting state's legislature, and each of the member states.

39 4. A state that has been terminated is responsible for all
40 assessments, obligations, and liabilities incurred through the effective
41 date of termination, including obligations that extend beyond the

42 effective date of termination.

43 5. The commission shall not bear any costs related to a state that
44 is found to be in default or that has been terminated from the compact,
45 unless agreed upon in writing between the commission and the
46 defaulting state.

47 6. The defaulting state may appeal the action of the commission
48 by petitioning the United States District Court for the District of
49 Columbia or the federal district where the commission has its principal
50 offices. The prevailing member shall be awarded all costs of such
51 litigation, including reasonable attorney's fees.

52 **C. Dispute Resolution**

53 1. Upon request by a member state, the commission shall attempt
54 to resolve disputes related to the compact that arise among member
55 states and between member and nonmember states.

56 2. The commission shall promulgate a rule providing for both
57 mediation and binding dispute resolution for disputes as appropriate.

58 **D. Enforcement**

59 1. The commission, in the reasonable exercise of its discretion,
60 shall enforce the provisions and rules of this compact.

61 2. By majority vote, the commission may initiate legal action in
62 the United States District Court for the District of Columbia or the
63 federal district where the commission has its principal offices against
64 a member state in default to enforce compliance with the provisions of
65 the compact and its promulgated rules and bylaws. The relief sought
66 may include both injunctive relief and damages. In the event judicial
67 enforcement is necessary, the prevailing member shall be awarded all
68 costs of such litigation, including reasonable attorney's fees.

69 3. The remedies herein shall not be the exclusive remedies of the
70 commission. The commission may pursue any other remedies available
71 under federal or state law.

**334.1230. DATE OF IMPLEMENTATION OF THE INTERSTATE
2 COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED
3 RULES, WITHDRAWAL, AND AMENDMENT**

4 A. The compact shall come into effect on the date on which the
5 compact statute is enacted into law in the tenth member state. The
6 provisions, which become effective at that time, shall be limited to the
7 powers granted to the commission relating to assembly and the

8 promulgation of rules. Thereafter, the commission shall meet and
9 exercise rulemaking powers necessary to the implementation and
10 administration of the compact.

11 B. Any state that joins the compact subsequent to the
12 commission's initial adoption of the rules shall be subject to the rules
13 as they exist on the date on which the compact becomes law in that
14 state. Any rule that has been previously adopted by the commission
15 shall have the full force and effect of law on the day the compact
16 becomes law in that state.

17 C. Any member state may withdraw from this compact by
18 enacting a statute repealing the same.

19 1. A member state's withdrawal shall not take effect until six
20 months after enactment of the repealing statute.

21 2. Withdrawal shall not affect the continuing requirement of the
22 withdrawing state's physical therapy licensing board to comply with
23 the investigative and adverse action reporting requirements of this act
24 prior to the effective date of withdrawal.

25 D. Nothing contained in this compact shall be construed to
26 invalidate or prevent any physical therapy licensure agreement or
27 other cooperative arrangement between a member state and a
28 nonmember state that does not conflict with the provisions of this
29 compact.

30 E. This compact may be amended by the member states. No
31 amendment to this compact shall become effective and binding upon
32 any member state until it is enacted into the laws of all member states.

334.1233. CONSTRUCTION AND SEVERABILITY

2 This compact shall be liberally construed so as to effectuate the
3 purposes thereof. The provisions of this compact shall be severable and
4 if any phrase, clause, sentence or provision of this compact is declared
5 to be contrary to the constitution of any party state or of the United
6 States or the applicability thereof to any government, agency, person
7 or circumstance is held invalid, the validity of the remainder of this
8 compact and the applicability thereof to any government, agency,
9 person or circumstance shall not be affected thereby. If this compact
10 shall be held contrary to the constitution of any party state, the
11 compact shall remain in full force and effect as to the remaining party
12 states and in full force and effect as to the party state affected as to all

13 severable matters.

338.202. 1. Notwithstanding any other provision of law to the
2 contrary, unless the prescriber has specified on the prescription that
3 dispensing a prescription for a maintenance medication in an initial
4 amount followed by periodic refills is medically necessary, a
5 pharmacist may exercise his or her professional judgment to dispense
6 varying quantities of maintenance medication per fill up to the total
7 number of dosage units as authorized by the prescriber on the original
8 prescription, including any refills. Dispensing of the maintenance
9 medication based on refills authorized by the prescriber on the
10 prescription shall be limited to no more than a ninety-day supply of the
11 medication, and the maintenance medication shall have been previously
12 prescribed to the patient for at least a three-month period.

13 2. For the purposes of this section "maintenance medication" is
14 a medication prescribed for chronic, long-term conditions and is taken
15 on a regular, recurring basis, except that it shall not include controlled
16 substances as defined in section 195.010.

376.1237. 1. Each health carrier or health benefit plan that offers or
2 issues health benefit plans which are delivered, issued for delivery, continued, or
3 renewed in this state on or after January 1, 2014, and that provides coverage for
4 prescription eye drops shall provide coverage for the refilling of an eye drop
5 prescription prior to the last day of the prescribed dosage period without regard
6 to a coverage restriction for early refill of prescription renewals as long as the
7 prescribing health care provider authorizes such early refill, and the health
8 carrier or the health benefit plan is notified.

9 2. For the purposes of this section, health carrier and health benefit plan
10 shall have the same meaning as defined in section 376.1350.

11 3. The coverage required by this section shall not be subject to any greater
12 deductible or co-payment than other similar health care services provided by the
13 health benefit plan.

14 4. The provisions of this section shall not apply to a supplemental
15 insurance policy, including a life care contract, accident-only policy, specified
16 disease policy, hospital policy providing a fixed daily benefit only, Medicare
17 supplement policy, long-term care policy, short-term major medical policies of six
18 months' or less duration, or any other supplemental policy as determined by the
19 director of the department of insurance, financial institutions and professional

20 registration.

21 5. The provisions of this section shall terminate on January 1, [2017]
22 **2020**.

536.031. 1. There is established a publication to be known as the "Code
2 of State Regulations", which shall be published in a format and medium as
3 prescribed and in writing upon request by the secretary of state as soon as
4 practicable after ninety days following January 1, 1976, and may be republished
5 from time to time thereafter as determined by the secretary of state.

6 2. The code of state regulations shall contain the full text of all rules of
7 state agencies in force and effect upon the effective date of the first publication
8 thereof, and effective September 1, 1990, it shall be revised no less frequently
9 than monthly thereafter so as to include all rules of state agencies subsequently
10 made, amended or rescinded. The code may also include citations, references, or
11 annotations, prepared by the state agency adopting the rule or by the secretary
12 of state, to any intraagency ruling, attorney general's opinion, determination,
13 decisions, order, or other action of the administrative hearing commission, or any
14 determination, decision, order, or other action of a court interpreting, applying,
15 discussing, distinguishing, or otherwise affecting any rule published in the code.

16 3. The code of state regulations shall be published in looseleaf form in one
17 or more volumes upon request and a format and medium as prescribed by the
18 secretary of state with an appropriate index, and revisions in the text and index
19 may be made by the secretary of state as necessary and provided in written
20 format upon request.

21 4. An agency may incorporate by reference rules, regulations, standards,
22 and guidelines of an agency of the United States or a nationally or state-
23 recognized organization or association without publishing the material in
24 full. The reference in the agency rules shall fully identify the incorporated
25 material by publisher, address, and date in order to specify how a copy of the
26 material may be obtained, and shall state that the referenced rule, regulation,
27 standard, or guideline does not include any later amendments or additions;
28 **except that, hospital licensure regulations governing life safety code**
29 **standards promulgated under this chapter and chapter 197 to**
30 **implement section 197.065 may incorporate, by reference, later**
31 **additions or amendments to such rules, regulations, standards, or**
32 **guidelines as needed to consistently apply current standards of safety**
33 **and practice.** The agency adopting a rule, regulation, standard, or guideline

34 under this section shall maintain a copy of the referenced rule, regulation,
35 standard, or guideline at the headquarters of the agency and shall make it
36 available to the public for inspection and copying at no more than the actual cost
37 of reproduction. The secretary of state may omit from the code of state
38 regulations such material incorporated by reference in any rule the publication
39 of which would be unduly cumbersome or expensive.

40 5. The courts of this state shall take judicial notice, without proof, of the
41 contents of the code of state regulations.

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