

CONFERENCE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 973

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:

1 Section A. Sections 197.315, 376.1237, and 536.031, RSMo,
2 are repealed and seventeen new sections enacted in lieu thereof,
3 to be known as sections 197.065, 197.315, 334.1200, 334.1203,
4 334.1206, 334.1209, 334.1212, 334.1215, 334.1218, 334.1221,
5 334.1224, 334.1227, 334.1230, 334.1233, 338.202, 376.1237, and
6 536.031, to read as follows:

7 197.065. 1. The department of health and senior services
8 shall promulgate regulations for the construction and renovation
9 of hospitals that include life safety code standards for
10 hospitals that exclusively reflect the life safety code standards
11 imposed by the federal Medicare program under Title XVIII of the
12 Social Security Act and its conditions of participation in the
13 Code of Federal Regulations.

14 2. The department shall not require a hospital to meet the

1 standards contained in the Facility Guidelines Institute for the
2 Design and Construction of Health Care Facilities, but any
3 hospital that complies with the 2010 or later version of such
4 guidelines for the construction and renovation of hospitals shall
5 not be required to comply with any regulation that is
6 inconsistent or conflicts in any way with such guidelines.

7 3. The department may waive enforcement of the standards
8 for licensed hospitals imposed by this section if the department
9 determines that:

10 (1) Compliance with those specific standards would result
11 in unreasonable hardship for the facility and if the health and
12 safety of hospital patients would not be compromised by such
13 waiver or waivers; or

14 (2) The hospital has used other standards that provide for
15 equivalent design criteria.

16 4. Regulations promulgated by the department to establish
17 and enforce hospital licensure regulations under this chapter
18 that conflict with the standards established under subsections 1
19 and 3 of this section shall lapse on and after January 1, 2018.

20 5. Any rule or portion of a rule, as that term is defined
21 in section 536.010, that is created under the authority delegated
22 in this section shall become effective only if it complies with
23 and is subject to all of the provisions of chapter 536 and, if
24 applicable, section 536.028. This section and chapter 536 are
25 nonseverable, and if any of the powers vested with the general
26 assembly pursuant to chapter 536 to review, to delay the
27 effective date, or to disapprove and annul a rule are
28 subsequently held unconstitutional, then the grant of rulemaking

1 authority and any rule proposed or adopted after August 28, 2016,
2 shall be invalid and void.

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

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

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

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

26 5. After October 1, 1980, no agency of state government may
27 appropriate or grant funds to or make payment of any funds to any
28 person or health care facility which has not first obtained every

1 certificate of need required pursuant to sections 197.300 to
2 197.366.

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

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

10 8. Periodic reports to the committee shall be required of
11 any applicant who has been granted a certificate of need until
12 the project has been completed. The committee may order the
13 forfeiture of the certificate of need upon failure of the
14 applicant to file any such report.

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

20 10. Each application for a certificate of need must be
21 accompanied by an application fee. The time of filing commences
22 with the receipt of the application and the application fee. The
23 application fee is one thousand dollars, or one-tenth of one
24 percent of the total cost of the proposed project, whichever is
25 greater. All application fees shall be deposited in the state
26 treasury. Because of the loss of federal funds, the general
27 assembly will appropriate funds to the Missouri health facilities
28 review committee.

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

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

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

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

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

19 16. The provisions of this section shall not apply to
20 facilities operated by the state, and appropriation of funds to
21 such facilities by the general assembly shall be deemed in
22 compliance with this section, and such facilities shall be deemed
23 to have received an appropriate certificate of need without
24 payment of any fee or charge. The provisions of this subsection
25 shall not apply to hospitals operated by the state and licensed
26 under chapter 197, except for department of mental health state-
27 operated psychiatric hospitals.

28 17. Notwithstanding other provisions of this section, a

1 certificate of need may be issued after July 1, 1983, for an
2 intermediate care facility operated exclusively for the
3 intellectually disabled.

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

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

16 (2) Equipment that is to be used by an academic health
17 center operated by the state in furtherance of its research or
18 teaching missions.

19 334.1200. PURPOSE

20 The purpose of this compact is to facilitate interstate
21 practice of physical therapy with the goal of improving public
22 access to physical therapy services. The practice of physical
23 therapy occurs in the state where the patient/client is located
24 at the time of the patient/client encounter. The compact
25 preserves the regulatory authority of states to protect public
26 health and safety through the current system of state licensure.

27 This compact is designed to achieve the following
28 objectives:

1 1. Increase public access to physical therapy services by
2 providing for the mutual recognition of other member state
3 licenses;

4 2. Enhance the states' ability to protect the public's
5 health and safety;

6 3. Encourage the cooperation of member states in regulating
7 multistate physical therapy practice;

8 4. Support spouses of relocating military members;

9 5. Enhance the exchange of licensure, investigative, and
10 disciplinary information between member states; and

11 6. Allow a remote state to hold a provider of services with
12 a compact privilege in that state accountable to that state's
13 practice standards.

14 334.1203. DEFINITIONS

15 As used in this compact, and except as otherwise provided,
16 the following definitions shall apply:

17 1. "Active Duty Military" means full-time duty status in
18 the active uniformed service of the United States, including
19 members of the National Guard and Reserve on active duty orders
20 pursuant to 10 U.S.C. Section 1209 and 1211.

21 2. "Adverse Action" means disciplinary action taken by a
22 physical therapy licensing board based upon misconduct,
23 unacceptable performance, or a combination of both.

24 3. "Alternative Program" means a nondisciplinary monitoring
25 or practice remediation process approved by a physical therapy
26 licensing board. This includes, but is not limited to, substance
27 abuse issues.

28 4. "Compact privilege" means the authorization granted by a

1 remote state to allow a licensee from another member state to
2 practice as a physical therapist or work as a physical therapist
3 assistant in the remote state under its laws and rules. The
4 practice of physical therapy occurs in the member state where the
5 patient/client is located at the time of the patient/client
6 encounter.

7 5. "Continuing competence" means a requirement, as a
8 condition of license renewal, to provide evidence of
9 participation in, and/or completion of, educational and
10 professional activities relevant to practice or area of work.

11 6. "Data system" means a repository of information about
12 licensees, including examination, licensure, investigative,
13 compact privilege, and adverse action.

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

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

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

21 10. "Investigative information" means information, records,
22 and documents received or generated by a physical therapy
23 licensing board pursuant to an investigation.

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

27 12. "Licensee" means an individual who currently holds an
28 authorization from the state to practice as a physical therapist

1 or to work as a physical therapist assistant.

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

4 14. "Party state" means any member state in which a
5 licensee holds a current license or compact privilege or is
6 applying for a license or compact privilege.

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

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

12 17. "Physical therapy", "physical therapy practice", and
13 "the practice of physical therapy" mean the care and services
14 provided by or under the direction and supervision of a licensed
15 physical therapist.

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

19 19. "Physical therapy licensing board" or "licensing board"
20 means the agency of a state that is responsible for the licensing
21 and regulation of physical therapists and physical therapist
22 assistants.

23 20. "Remote state" means a member state other than the home
24 state, where a licensee is exercising or seeking to exercise the
25 compact privilege.

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

28 22. "State" means any state, commonwealth, district, or

1 territory of the United States of America that regulates the
2 practice of physical therapy.

3 334.1206. STATE PARTICIPATION IN THE COMPACT

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

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

8 2. Have a mechanism in place for receiving and
9 investigating complaints about licensees;

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

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

18 5. Comply with the rules of the commission;

19 6. Utilize a recognized national examination as a
20 requirement for licensure pursuant to the rules of the
21 commission; and

22 7. Have continuing competence requirements as a condition
23 for license renewal.

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

1 Section 534 and 42 U.S.C. Section 14616.

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

5 D. Member states may charge a fee for granting a compact
6 privilege.

7 334.1209. COMPACT PRIVILEGE

8 A. To exercise the compact privilege under the terms and
9 provisions of the compact, the licensee shall:

10 1. Hold a license in the home state;

11 2. Have no encumbrance on any state license;

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

14 4. Have not had any adverse action against any license or
15 compact privilege within the previous 2 years;

16 5. Notify the commission that the licensee is seeking the
17 compact privilege within a remote state(s);

18 6. Pay any applicable fees, including any state fee, for
19 the compact privilege;

20 7. Meet any jurisprudence requirements established by the
21 remote state(s) in which the licensee is seeking a compact
22 privilege; and

23 8. Report to the commission adverse action taken by any
24 nonmember state within thirty days from the date the adverse
25 action is taken.

26 B. The compact privilege is valid until the expiration date
27 of the home license. The licensee must comply with the
28 requirements of section 334.1209.A. to maintain the compact

1 privilege in the remote state.

2 C. A licensee providing physical therapy in a remote state
3 under the compact privilege shall function within the laws and
4 regulations of the remote state.

5 D. A licensee providing physical therapy in a remote state
6 is subject to that state's regulatory authority. A remote state
7 may, in accordance with due process and that state's laws, remove
8 a licensee's compact privilege in the remote state for a specific
9 period of time, impose fines, and/or take any other necessary
10 actions to protect the health and safety of its citizens. The
11 licensee is not eligible for a compact privilege in any state
12 until the specific time for removal has passed and all fines are
13 paid.

14 E. If a home state license is encumbered, the licensee
15 shall lose the compact privilege in any remote state until the
16 following occur:

- 17 1. The home state license is no longer encumbered; and
18 2. Two years have elapsed from the date of the adverse
19 action.

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

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

- 27 1. The specific period of time for which the compact
28 privilege was removed has ended;

1 2. All fines have been paid; and

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

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

7 334.1212. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

8 A licensee who is active duty military or is the spouse of
9 an individual who is active duty military may designate one of
10 the following as the home state:

11 A. Home of record;

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

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

15 334.1215. ADVERSE ACTIONS

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

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

21 C. Nothing in this compact shall override a member state's
22 decision that participation in an alternative program may be used
23 in lieu of adverse action and that such participation shall
24 remain nonpublic if required by the member state's laws. Member
25 states must require licensees who enter any alternative programs
26 in lieu of discipline to agree not to practice in any other
27 member state during the term of the alternative program without
28 prior authorization from such other member state.

1 D. Any member state may investigate actual or alleged
2 violations of the statutes and rules authorizing the practice of
3 physical therapy in any other member state in which a physical
4 therapist or physical therapist assistant holds a license or
5 compact privilege.

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

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

9 2. Issue subpoenas for both hearings and investigations
10 that require the attendance and testimony of witnesses, and the
11 production of evidence. Subpoenas issued by a physical therapy
12 licensing board in a party state for the attendance and testimony
13 of witnesses, and/or the production of evidence from another
14 party state, shall be enforced in the latter state by any court
15 of competent jurisdiction, according to the practice and
16 procedure of that court applicable to subpoenas issued in
17 proceedings pending before it. The issuing authority shall pay
18 any witness fees, travel expenses, mileage, and other fees
19 required by the service statutes of the state where the witnesses
20 and/or evidence are located; and

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

24 F. Joint Investigations

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

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

4 334.1218. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT
5 COMMISSION.

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

9 1. The commission is an instrumentality of the compact
10 states.

11 2. Venue is proper and judicial proceedings by or against
12 the commission shall be brought solely and exclusively in a court
13 of competent jurisdiction where the principal office of the
14 commission is located. The commission may waive venue and
15 jurisdictional defenses to the extent it adopts or consents to
16 participate in alternative dispute resolution proceedings.

17 3. Nothing in this compact shall be construed to be a
18 waiver of sovereign immunity.

19 B. Membership, Voting, and Meetings

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

22 2. The delegate shall be a current member of the licensing
23 board, who is a physical therapist, physical therapist assistant,
24 public member, or the board administrator.

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

28 4. The member state board shall fill any vacancy occurring

1 in the commission.

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

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

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

13 C. The commission shall have the following powers and
14 duties:

15 1. Establish the fiscal year of the commission;

16 2. Establish bylaws;

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

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

21 5. Promulgate uniform rules to facilitate and coordinate
22 implementation and administration of this compact. The rules
23 shall have the force and effect of law and shall be binding in
24 all member states;

25 6. Bring and prosecute legal proceedings or actions in the
26 name of the commission, provided that the standing of any state
27 physical therapy licensing board to sue or be sued under
28 applicable law shall not be affected;

1 7. Purchase and maintain insurance and bonds;

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

4 9. Hire employees, elect or appoint officers, fix
5 compensation, define duties, grant such individuals appropriate
6 authority to carry out the purposes of the compact, and to
7 establish the commission's personnel policies and programs
8 relating to conflicts of interest, qualifications of personnel,
9 and other related personnel matters;

10 10. Accept any and all appropriate donations and grants of
11 money, equipment, supplies, materials and services, and to
12 receive, utilize and dispose of the same; provided that at all
13 times the commission shall avoid any appearance of impropriety
14 and/or conflict of interest;

15 11. Lease, purchase, accept appropriate gifts or donations
16 of, or otherwise to own, hold, improve or use, any property,
17 real, personal or mixed; provided that at all times the
18 commission shall avoid any appearance of impropriety;

19 12. Sell convey, mortgage, pledge, lease, exchange,
20 abandon, or otherwise dispose of any property real, personal, or
21 mixed;

22 13. Establish a budget and make expenditures;

23 14. Borrow money;

24 15. Appoint committees, including standing committees
25 comprised of members, state regulators, state legislators or
26 their representatives, and consumer representatives, and such
27 other interested persons as may be designated in this compact and
28 the bylaws;

1 16. Provide and receive information from, and cooperate
2 with, law enforcement agencies;

3 17. Establish and elect an executive board; and

4 18. Perform such other functions as may be necessary or
5 appropriate to achieve the purposes of this compact consistent
6 with the state regulation of physical therapy licensure and
7 practice.

8 D. The Executive Board

9 The executive board shall have the power to act on behalf of
10 the commission according to the terms of this compact.

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

12 a. Seven voting members who are elected by the commission
13 from the current membership of the commission;

14 b. One ex officio, nonvoting member from the recognized
15 national physical therapy professional association; and

16 c. One ex officio, nonvoting member from the recognized
17 membership organization of the physical therapy licensing boards.

18 2. The ex officio members will be selected by their
19 respective organizations.

20 3. The commission may remove any member of the executive
21 board as provided in bylaws.

22 4. The executive board shall meet at least annually.

23 5. The executive board shall have the following duties and
24 responsibilities:

25 a. Recommend to the entire commission changes to the rules
26 or bylaws, changes to this compact legislation, fees paid by
27 compact member states such as annual dues, and any commission
28 compact fee charged to licensees for the compact privilege;

1 b. Ensure compact administration services are appropriately
2 provided, contractual or otherwise;

3 c. Prepare and recommend the budget;

4 d. Maintain financial records on behalf of the commission;

5 e. Monitor compact compliance of member states and provide
6 compliance reports to the commission;

7 f. Establish additional committees as necessary; and

8 g. Other duties as provided in rules or bylaws.

9 E. Meetings of the Commission

10 1. All meetings shall be open to the public, and public
11 notice of meetings shall be given in the same manner as required
12 under the rulemaking provisions in section 334.1224.

13 2. The commission or the executive board or other
14 committees of the commission may convene in a closed, nonpublic
15 meeting if the commission or executive board or other committees
16 of the commission must discuss:

17 a. Noncompliance of a member state with its obligations
18 under the compact;

19 b. The employment, compensation, discipline or other
20 matters, practices or procedures related to specific employees or
21 other matters related to the commission's internal personnel
22 practices and procedures;

23 c. Current, threatened, or reasonably anticipated
24 litigation;

25 d. Negotiation of contracts for the purchase, lease, or
26 sale of goods, services, or real estate;

27 e. Accusing any person of a crime or formally censuring any
28 person;

1 f. Disclosure of trade secrets or commercial or financial
2 information that is privileged or confidential;

3 g. Disclosure of information of a personal nature where
4 disclosure would constitute a clearly unwarranted invasion of
5 personal privacy;

6 h. Disclosure of investigative records compiled for law
7 enforcement purposes;

8 i. Disclosure of information related to any investigative
9 reports prepared by or on behalf of or for use of the commission
10 or other committee charged with responsibility of investigation
11 or determination of compliance issues pursuant to the compact; or

12 j. Matters specifically exempted from disclosure by federal
13 or member state statute.

14 3. If a meeting, or portion of a meeting, is closed
15 pursuant to this provision, the commission's legal counsel or
16 designee shall certify that the meeting may be closed and shall
17 reference each relevant exempting provision.

18 4. The commission shall keep minutes that fully and clearly
19 describe all matters discussed in a meeting and shall provide a
20 full and accurate summary of actions taken, and the reasons
21 therefore, including a description of the views expressed. All
22 documents considered in connection with an action shall be
23 identified in such minutes. All minutes and documents of a
24 closed meeting shall remain under seal, subject to release by a
25 majority vote of the commission or order of a court of competent
26 jurisdiction.

27 F. Financing of the Commission

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

1 the reasonable expenses of its establishment, organization, and
2 ongoing activities.

3 2. The commission may accept any and all appropriate
4 revenue sources, donations, and grants of money, equipment,
5 supplies, materials, and services.

6 3. The commission may levy on and collect an annual
7 assessment from each member state or impose fees on other parties
8 to cover the cost of the operations and activities of the
9 commission and its staff, which must be in a total amount
10 sufficient to cover its annual budget as approved each year for
11 which revenue is not provided by other sources. The aggregate
12 annual assessment amount shall be allocated based upon a formula
13 to be determined by the commission, which shall promulgate a rule
14 binding upon all member states.

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

19 5. The commission shall keep accurate accounts of all
20 receipts and disbursements. The receipts and disbursements of
21 the commission shall be subject to the audit and accounting
22 procedures established under its bylaws. However, all receipts
23 and disbursements of funds handled by the commission shall be
24 audited yearly by a certified or licensed public accountant, and
25 the report of the audit shall be included in and become part of
26 the annual report of the commission.

27 G. Qualified Immunity, Defense, and Indemnification

28 1. The members, officers, executive director, employees and

1 representatives of the commission shall be immune from suit and
2 liability, either personally or in their official capacity, for
3 any claim for damage to or loss of property or personal injury or
4 other civil liability caused by or arising out of any actual or
5 alleged act, error or omission that occurred, or that the person
6 against whom the claim is made had a reasonable basis for
7 believing occurred within the scope of commission employment,
8 duties or responsibilities; provided that nothing in this
9 paragraph shall be construed to protect any such person from suit
10 and/or liability for any damage, loss, injury, or liability
11 caused by the intentional or willful or wanton misconduct of that
12 person.

13 2. The commission shall defend any member, officer,
14 executive director, employee or representative of the commission
15 in any civil action seeking to impose liability arising out of
16 any actual or alleged act, error, or omission that occurred
17 within the scope of commission employment, duties, or
18 responsibilities, or that the person against whom the claim is
19 made had a reasonable basis for believing occurred within the
20 scope of commission employment, duties, or responsibilities;
21 provided that nothing herein shall be construed to prohibit that
22 person from retaining his or her own counsel; and provided
23 further, that the actual or alleged act, error, or omission did
24 not result from that person's intentional or willful or wanton
25 misconduct.

26 3. The commission shall indemnify and hold harmless any
27 member, officer, executive director, employee, or representative
28 of the commission for the amount of any settlement or judgment

1 obtained against that person arising out of any actual or alleged
2 act, error or omission that occurred within the scope of
3 commission employment, duties, or responsibilities, or that such
4 person had a reasonable basis for believing occurred within the
5 scope of commission employment, duties, or responsibilities,
6 provided that the actual or alleged act, error, or omission did
7 not result from the intentional or willful or wanton misconduct
8 of that person.

9 334.1221. DATA SYSTEM

10 A. The commission shall provide for the development,
11 maintenance, and utilization of a coordinated database and
12 reporting system containing licensure, adverse action, and
13 investigative information on all licensed individuals in member
14 states.

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

- 19 1. Identifying information;
- 20 2. Licensure data;
- 21 3. Adverse actions against a license or compact privilege;
- 22 4. Nonconfidential information related to alternative
23 program participation;
- 24 5. Any denial of application for licensure, and the
25 reason(s) for such denial; and
- 26 6. Other information that may facilitate the administration
27 of this compact, as determined by the rules of the commission.

28 C. Investigative information pertaining to a licensee in

1 any member state will only be available to other party states.

2 D. The commission shall promptly notify all member states
3 of any adverse action taken against a licensee or an individual
4 applying for a license. Adverse action information pertaining to
5 a licensee in any member state will be available to any other
6 member state.

7 E. Member states contributing information to the data
8 system may designate information that may not be shared with the
9 public without the express permission of the contributing state.

10 F. Any information submitted to the data system that is
11 subsequently required to be expunged by the laws of the member
12 state contributing the information shall be removed from the data
13 system.

14 334.1224. RULEMAKING

15 A. The commission shall exercise its rulemaking powers
16 pursuant to the criteria set forth in this section and the rules
17 adopted thereunder. Rules and amendments shall become binding as
18 of the date specified in each rule or amendment.

19 B. If a majority of the legislatures of the member states
20 rejects a rule, by enactment of a statute or resolution in the
21 same manner used to adopt the compact within four years of the
22 date of adoption of the rule, then such rule shall have no
23 further force and effect in any member state.

24 C. Rules or amendments to the rules shall be adopted at a
25 regular or special meeting of the commission.

26 D. Prior to promulgation and adoption of a final rule or
27 rules by the commission, and at least thirty days in advance of
28 the meeting at which the rule will be considered and voted upon,

1 the commission shall file a notice of proposed rulemaking:

2 1. On the website of the commission or other publicly
3 accessible platform; and

4 2. On the website of each member state physical therapy
5 licensing board or other publicly accessible platform or the
6 publication in which each state would otherwise publish proposed
7 rules.

8 E. The notice of proposed rulemaking shall include:

9 1. The proposed time, date, and location of the meeting in
10 which the rule will be considered and voted upon;

11 2. The text of the proposed rule or amendment and the
12 reason for the proposed rule;

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

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

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

21 G. The commission shall grant an opportunity for a public
22 hearing before it adopts a rule or amendment if a hearing is
23 requested by:

24 1. At least twenty-five persons;

25 2. A state or federal governmental subdivision or agency;
26 or

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

28 H. If a hearing is held on the proposed rule or amendment,

1 the commission shall publish the place, time, and date of the
2 scheduled public hearing. If the hearing is held via electronic
3 means, the commission shall publish the mechanism for access to
4 the electronic hearing.

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

10 2. Hearings shall be conducted in a manner providing each
11 person who wishes to comment a fair and reasonable opportunity to
12 comment orally or in writing.

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

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

19 I. Following the scheduled hearing date, or by the close of
20 business on the scheduled hearing date if the hearing was not
21 held, the commission shall consider all written and oral comments
22 received.

23 J. If no written notice of intent to attend the public
24 hearing by interested parties is received, the commission may
25 proceed with promulgation of the proposed rule without a public
26 hearing.

27 K. The commission shall, by majority vote of all members,
28 take final action on the proposed rule and shall determine the

1 effective date of the rule, if any, based on the rulemaking
2 record and the full text of the rule.

3 L. Upon determination that an emergency exists, the
4 commission may consider and adopt an emergency rule without prior
5 notice, opportunity for comment, or hearing, provided that the
6 usual rulemaking procedures provided in the compact and in this
7 section shall be retroactively applied to the rule as soon as
8 reasonably possible, in no event later than ninety days after the
9 effective date of the rule. For the purposes of this provision,
10 an emergency rule is one that must be adopted immediately in
11 order to:

12 1. Meet an imminent threat to public health, safety, or
13 welfare;

14 2. Prevent a loss of commission or member state funds;

15 3. Meet a deadline for the promulgation of an
16 administrative rule that is established by federal law or rule;

17 or

18 4. Protect public health and safety.

19 M. The commission or an authorized committee of the
20 commission may direct revisions to a previously adopted rule or
21 amendment for purposes of correcting typographical errors, errors
22 in format, errors in consistency, or grammatical errors. Public
23 notice of any revisions shall be posted on the website of the
24 commission. The revision shall be subject to challenge by any
25 person for a period of thirty days after posting. The revision
26 may be challenged only on grounds that the revision results in a
27 material change to a rule. A challenge shall be made in writing,
28 and delivered to the chair of the commission prior to the end of

1 the notice period. If no challenge is made, the revision will
2 take effect without further action. If the revision is
3 challenged, the revision may not take effect without the approval
4 of the commission.

5 334.1227. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

6 A. Oversight

7 1. The executive, legislative, and judicial branches of
8 state government in each member state shall enforce this compact
9 and take all actions necessary and appropriate to effectuate the
10 compact's purposes and intent. The provisions of this compact
11 and the rules promulgated hereunder shall have standing as
12 statutory law.

13 2. All courts shall take judicial notice of the compact and
14 the rules in any judicial or administrative proceeding in a
15 member state pertaining to the subject matter of this compact
16 which may affect the powers, responsibilities or actions of the
17 commission.

18 3. The commission shall be entitled to receive service of
19 process in any such proceeding, and shall have standing to
20 intervene in such a proceeding for all purposes. Failure to
21 provide service of process to the commission shall render a
22 judgment or order void as to the commission, this compact, or
23 promulgated rules.

24 B. Default, Technical Assistance, and Termination

25 1. If the commission determines that a member state has
26 defaulted in the performance of its obligations or
27 responsibilities under this compact or the promulgated rules, the
28 commission shall:

1 a. Provide written notice to the defaulting state and other
2 member states of the nature of the default, the proposed means of
3 curing the default and/or any other action to be taken by the
4 commission; and

5 b. Provide remedial training and specific technical
6 assistance regarding the default.

7 2. If a state in default fails to cure the default, the
8 defaulting state may be terminated from the compact upon an
9 affirmative vote of a majority of the member states, and all
10 rights, privileges and benefits conferred by this compact may be
11 terminated on the effective date of termination. A cure of the
12 default does not relieve the offending state of obligations or
13 liabilities incurred during the period of default.

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

20 4. A state that has been terminated is responsible for all
21 assessments, obligations, and liabilities incurred through the
22 effective date of termination, including obligations that extend
23 beyond the effective date of termination.

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

28 6. The defaulting state may appeal the action of the

1 commission by petitioning the United States District Court for
2 the District of Columbia or the federal district where the
3 commission has its principal offices. The prevailing member shall
4 be awarded all costs of such litigation, including reasonable
5 attorney's fees.

6 C. Dispute Resolution

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

10 2. The commission shall promulgate a rule providing for
11 both mediation and binding dispute resolution for disputes as
12 appropriate.

13 D. Enforcement

14 1. The commission, in the reasonable exercise of its
15 discretion, shall enforce the provisions and rules of this
16 compact.

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

26 3. The remedies herein shall not be the exclusive remedies
27 of the commission. The commission may pursue any other remedies
28 available under federal or state law.

1 334.1230. DATE OF IMPLEMENTATION OF THE INTERSTATE
2 COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES,
3 WITHDRAWAL, AND AMENDMENT

4 A. The compact shall come into effect on the date on which
5 the compact statute is enacted into law in the tenth member
6 state. The provisions, which become effective at that time,
7 shall be limited to the powers granted to the commission relating
8 to assembly and the promulgation of rules. Thereafter, the
9 commission shall meet and exercise rulemaking powers necessary to
10 the implementation and 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
13 the rules as they exist on the date on which the compact becomes
14 law in that state. Any rule that has been previously adopted by
15 the commission shall have the full force and effect of law on the
16 day the compact 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
20 six months after enactment of the repealing statute.

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

26 D. Nothing contained in this compact shall be construed to
27 invalidate or prevent any physical therapy licensure agreement or
28 other cooperative arrangement between a member state and a

1 nonmember state that does not conflict with the provisions of
2 this compact.

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

7 334.1233. CONSTRUCTION AND SEVERABILITY

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

21 338.202. 1. Notwithstanding any other provision of law to
22 the contrary, unless the prescriber has specified on the
23 prescription that dispensing a prescription for a maintenance
24 medication in an initial amount followed by periodic refills is
25 medically necessary, a pharmacist may exercise his or her
26 professional judgment to dispense varying quantities of
27 maintenance medication per fill up to the total number of dosage
28 units as authorized by the prescriber on the original

1 prescription, including any refills. Dispensing of the
2 maintenance medication based on refills authorized by the
3 prescriber on the prescription shall be limited to no more than a
4 ninety-day supply of the medication, and the maintenance
5 medication shall have been previously prescribed to the patient
6 for at least a three-month period.

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

12 376.1237. 1. Each health carrier or health benefit plan
13 that offers or issues health benefit plans which are delivered,
14 issued for delivery, continued, or renewed in this state on or
15 after January 1, 2014, and that provides coverage for
16 prescription eye drops shall provide coverage for the refilling
17 of an eye drop prescription prior to the last day of the
18 prescribed dosage period without regard to a coverage restriction
19 for early refill of prescription renewals as long as the
20 prescribing health care provider authorizes such early refill,
21 and the health carrier or the health benefit plan is notified.

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

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

28 4. The provisions of this section shall not apply to a

1 supplemental insurance policy, including a life care contract,
2 accident-only policy, specified disease policy, hospital policy
3 providing a fixed daily benefit only, Medicare supplement policy,
4 long-term care policy, short-term major medical policies of six
5 months' or less duration, or any other supplemental policy as
6 determined by the director of the department of insurance,
7 financial institutions and professional registration.

8 5. The provisions of this section shall terminate on
9 January 1, [~~2017~~] 2020.

10 536.031. 1. There is established a publication to be known
11 as the "Code of State Regulations", which shall be published in a
12 format and medium as prescribed and in writing upon request by
13 the secretary of state as soon as practicable after ninety days
14 following January 1, 1976, and may be republished from time to
15 time thereafter as determined by the secretary of state.

16 2. The code of state regulations shall contain the full
17 text of all rules of state agencies in force and effect upon the
18 effective date of the first publication thereof, and effective
19 September 1, 1990, it shall be revised no less frequently than
20 monthly thereafter so as to include all rules of state agencies
21 subsequently made, amended or rescinded. The code may also
22 include citations, references, or annotations, prepared by the
23 state agency adopting the rule or by the secretary of state, to
24 any intraagency ruling, attorney general's opinion,
25 determination, decisions, order, or other action of the
26 administrative hearing commission, or any determination,
27 decision, order, or other action of a court interpreting,
28 applying, discussing, distinguishing, or otherwise affecting any

1 rule published in the code.

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

8 4. An agency may incorporate by reference rules,
9 regulations, standards, and guidelines of an agency of the United
10 States or a nationally or state-recognized organization or
11 association without publishing the material in full. The
12 reference in the agency rules shall fully identify the
13 incorporated material by publisher, address, and date in order to
14 specify how a copy of the material may be obtained, and shall
15 state that the referenced rule, regulation, standard, or
16 guideline does not include any later amendments or additions;
17 except that, hospital licensure regulations governing life safety
18 code standards promulgated under this chapter and chapter 197 to
19 implement section 197.065 may incorporate, by reference, later
20 additions or amendments to such rules, regulations, standards, or
21 guidelines as needed to consistently apply current standards of
22 safety and practice. The agency adopting a rule, regulation,
23 standard, or guideline under this section shall maintain a copy
24 of the referenced rule, regulation, standard, or guideline at the
25 headquarters of the agency and shall make it available to the
26 public for inspection and copying at no more than the actual cost
27 of reproduction. The secretary of state may omit from the code
28 of state regulations such material incorporated by reference in

1 any rule the publication of which would be unduly cumbersome or
2 expensive.

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

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Jay Wasson

Caleb Jones