

1-1 By: Clardy (Senate Sponsor - Taylor of Collin) H.B. No. 2765
 1-2 (In the Senate - Received from the House May 5, 2017;
 1-3 May 9, 2017, read first time and referred to Committee on Business
 1-4 & Commerce; May 17, 2017, reported favorably by the following vote:
 1-5 Yeas 7, Nays 0; May 17, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14			X	
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the Physical Therapy Licensure Compact; authorizing
 1-20 fees.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Chapter 453, Occupations Code, is amended by
 1-23 adding Subchapter K to read as follows:

1-24 SUBCHAPTER K. PHYSICAL THERAPY LICENSURE COMPACT

1-25 Sec. 453.501. PHYSICAL THERAPY LICENSURE COMPACT. The
 1-26 Physical Therapy Licensure Compact is enacted and entered into with
 1-27 all other jurisdictions that legally join in the compact, which
 1-28 reads as follows:

1-29 SECTION 1. PURPOSE

1-30 The purpose of this Compact is to facilitate interstate practice of
 1-31 physical therapy with the goal of improving public access to
 1-32 physical therapy services. The practice of physical therapy occurs
 1-33 in the state where the patient/client is located at the time of the
 1-34 patient/client encounter. The Compact preserves the regulatory
 1-35 authority of states to protect public health and safety through the
 1-36 current system of state licensure.

1-37 This Compact is designed to achieve the following objectives:

- 1-38 1. Increase public access to physical therapy services by
 1-39 providing for the mutual recognition of other member
 1-40 state licenses;
- 1-41 2. Enhance the states' ability to protect the public's
 1-42 health and safety;
- 1-43 3. Encourage the cooperation of member states in regulating
 1-44 multi-state physical therapy practice;
- 1-45 4. Support spouses of relocating military members;
- 1-46 5. Enhance the exchange of licensure, investigative, and
 1-47 disciplinary information between member states; and
- 1-48 6. Allow a remote state to hold a provider of services with a
 1-49 compact privilege in that state accountable to that
 1-50 state's practice standards.

1-51 SECTION 2. DEFINITIONS

1-52 As used in this Compact, and except as otherwise provided, the
 1-53 following definitions shall apply:

- 1-54 1. "Active Duty Military" means full-time duty status
 1-55 in the active uniformed service of the United
 1-56 States, including members of the National Guard and
 1-57 Reserve on active duty orders pursuant to 10 U.S.C.
 1-58 Section 1209 and 1211.
- 1-59 2. "Adverse Action" means disciplinary action taken by
 1-60 a physical therapy licensing board based upon
 1-61 misconduct, unacceptable performance, or a

- 2-1 combination of both.
- 2-2 3. "Alternative Program" means a non-disciplinary
- 2-3 monitoring or practice remediation process
- 2-4 approved by a physical therapy licensing board.
- 2-5 This includes, but is not limited to, substance
- 2-6 abuse issues.
- 2-7 4. "Compact privilege" means the authorization
- 2-8 granted by a remote state to allow a licensee from
- 2-9 another member state to practice as a physical
- 2-10 therapist or work as a physical therapist assistant
- 2-11 in the remote state under its laws and rules. The
- 2-12 practice of physical therapy occurs in the member
- 2-13 state where the patient/client is located at the
- 2-14 time of the patient/client encounter.
- 2-15 5. "Continuing competence" means a requirement, as a
- 2-16 condition of license renewal, to provide evidence
- 2-17 of participation in, and/or completion of,
- 2-18 educational and professional activities relevant
- 2-19 to practice or area of work.
- 2-20 6. "Data system" means a repository of information
- 2-21 about licensees, including examination, licensure,
- 2-22 investigative, compact privilege, and adverse
- 2-23 action.
- 2-24 7. "Encumbered license" means a license that a
- 2-25 physical therapy licensing board has limited in any
- 2-26 way.
- 2-27 8. "Executive Board" means a group of directors
- 2-28 elected or appointed to act on behalf of, and
- 2-29 within the powers granted to them by, the
- 2-30 Commission.
- 2-31 9. "Home state" means the member state that is the
- 2-32 licensee's primary state of residence.
- 2-33 10. "Investigative information" means information,
- 2-34 records, and documents received or generated by a
- 2-35 physical therapy licensing board pursuant to an
- 2-36 investigation.
- 2-37 11. "Jurisprudence Requirement" means the assessment
- 2-38 of an individual's knowledge of the laws and rules
- 2-39 governing the practice of physical therapy in a
- 2-40 state.
- 2-41 12. "Licensee" means an individual who currently holds
- 2-42 an authorization from the state to practice as a
- 2-43 physical therapist or to work as a physical
- 2-44 therapist assistant.
- 2-45 13. "Member state" means a state that has enacted the
- 2-46 Compact.
- 2-47 14. "Party state" means any member state in which a
- 2-48 licensee holds a current license or compact
- 2-49 privilege or is applying for a license or compact
- 2-50 privilege.
- 2-51 15. "Physical therapist" means an individual who is
- 2-52 licensed by a state to practice physical therapy.
- 2-53 16. "Physical therapist assistant" means an individual
- 2-54 who is licensed/certified by a state and who
- 2-55 assists the physical therapist in selected
- 2-56 components of physical therapy.
- 2-57 17. "Physical therapy," "physical therapy practice,"
- 2-58 and "the practice of physical therapy" mean the
- 2-59 care and services provided by or under the
- 2-60 direction and supervision of a licensed physical
- 2-61 therapist.
- 2-62 18. "Physical Therapy Compact Commission" or
- 2-63 "Commission" means the national administrative
- 2-64 body whose membership consists of all states that
- 2-65 have enacted the Compact.
- 2-66 19. "Physical therapy licensing board" or "licensing
- 2-67 board" means the agency of a state that is
- 2-68 responsible for the licensing and regulation of
- 2-69 physical therapists and physical therapist

- 3-1 assistants.
- 3-2 20. "Remote State" means a member state other than the
- 3-3 home state, where a licensee is exercising or
- 3-4 seeking to exercise the compact privilege.
- 3-5 21. "Rule" means a regulation, principle, or directive
- 3-6 promulgated by the Commission that has the force of
- 3-7 law.
- 3-8 22. "State" means any state, commonwealth, district, or
- 3-9 territory of the United States of America that
- 3-10 regulates the practice of physical therapy.

SECTION 3. STATE PARTICIPATION IN THE COMPACT

A. To participate in the Compact, a state must:

- 3-11
- 3-12
- 3-13 1. Participate fully in the Commission's data system,
- 3-14 including using the Commission's unique identifier
- 3-15 as defined in rules;
- 3-16 2. Have a mechanism in place for receiving and
- 3-17 investigating complaints about licensees;
- 3-18 3. Notify the Commission, in compliance with the terms
- 3-19 of the Compact and rules, of any adverse action or
- 3-20 the availability of investigative information
- 3-21 regarding a licensee;
- 3-22 4. Fully implement a criminal background check
- 3-23 requirement, within a time frame established by
- 3-24 rule, by receiving the results of the Federal
- 3-25 Bureau of Investigation record search on criminal
- 3-26 background checks and use the results in making
- 3-27 licensure decisions in accordance with Section
- 3-28 3.B.;
- 3-29 5. Comply with the rules of the Commission;
- 3-30 6. Utilize a recognized national examination as a
- 3-31 requirement for licensure pursuant to the rules of
- 3-32 the Commission; and
- 3-33 7. Have continuing competence requirements as a
- 3-34 condition for license renewal.

3-35 B. Upon adoption of this statute, the member state shall

3-36 have the authority to obtain biometric-based information from each

3-37 physical therapy licensure applicant and submit this information to

3-38 the Federal Bureau of Investigation for a criminal background check

3-39 in accordance with 28 U.S.C. Section 534 and 42 U.S.C. Section

3-40 14616.

3-41 C. A member state shall grant the compact privilege to a

3-42 licensee holding a valid unencumbered license in another member

3-43 state in accordance with the terms of the Compact and rules.

3-44 D. Member states may charge a fee for granting a compact

3-45 privilege.

SECTION 4. COMPACT PRIVILEGE

3-46 A. To exercise the compact privilege under the terms and

3-47 provisions of the Compact, the licensee shall:

- 3-48
- 3-49 1. Hold a license in the home state;
- 3-50 2. Have no encumbrance on any state license;
- 3-51 3. Be eligible for a compact privilege in any member
- 3-52 state in accordance with Section 4D, G and H;
- 3-53 4. Have not had any adverse action against any license
- 3-54 or compact privilege within the previous 2 years;
- 3-55 5. Notify the Commission that the licensee is seeking
- 3-56 the compact privilege within a remote state(s);
- 3-57 6. Pay any applicable fees, including any state fee,
- 3-58 for the compact privilege;
- 3-59 7. Meet any jurisprudence requirements established by
- 3-60 the remote state(s) in which the licensee is
- 3-61 seeking a compact privilege; and
- 3-62 8. Report to the Commission adverse action taken by
- 3-63 any non-member state within 30 days from the date
- 3-64 the adverse action is taken.

3-65 B. The compact privilege is valid until the expiration date

3-66 of the home license. The licensee must comply with the requirements

3-67 of Section 4.A. to maintain the compact privilege in the remote

3-68 state.

3-69 C. A licensee providing physical therapy in a remote state

4-1 under the compact privilege shall function within the laws and
 4-2 regulations of the remote state.

4-3 D. A licensee providing physical therapy in a remote state
 4-4 is subject to that state's regulatory authority. A remote state
 4-5 may, in accordance with due process and that state's laws, remove a
 4-6 licensee's compact privilege in the remote state for a specific
 4-7 period of time, impose fines, and/or take any other necessary
 4-8 actions to protect the health and safety of its citizens. The
 4-9 licensee is not eligible for a compact privilege in any state until
 4-10 the specific time for removal has passed and all fines are paid.

4-11 E. If a home state license is encumbered, the licensee shall
 4-12 lose the compact privilege in any remote state until the following
 4-13 occur:

- 4-14 1. The home state license is no longer encumbered; and
- 4-15 2. Two years have elapsed from the date of the adverse
 4-16 action.

4-17 F. Once an encumbered license in the home state is restored
 4-18 to good standing, the licensee must meet the requirements of
 4-19 Section 4.A. to obtain a compact privilege in any remote state.

4-20 G. If a licensee's compact privilege in any remote state is
 4-21 removed, the individual shall lose the compact privilege in any
 4-22 remote state until the following occur:

- 4-23 1. The specific period of time for which the compact
 4-24 privilege was removed has ended;
- 4-25 2. All fines have been paid; and
- 4-26 3. Two years have elapsed from the date of the adverse
 4-27 action.

4-28 H. Once the requirements of Section 4G have been met, the
 4-29 license must meet the requirements in Section 4A to obtain a compact
 4-30 privilege in a remote state.

4-31 SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

4-32 A licensee who is active duty military or is the spouse of an
 4-33 individual who is active duty military may designate one of the
 4-34 following as the home state:

- 4-35 A. Home of record;
- 4-36 B. Permanent Change of Station (PCS); or
- 4-37 C. State of current residence if it is different than the
 4-38 PCS state or home of record.

4-39 SECTION 6. ADVERSE ACTIONS

4-40 A. A home state shall have exclusive power to impose adverse
 4-41 action against a license issued by the home state.

4-42 B. A home state may take adverse action based on the
 4-43 investigative information of a remote state, so long as the home
 4-44 state follows its own procedures for imposing adverse action.

4-45 C. Nothing in this Compact shall override a member state's
 4-46 decision that participation in an alternative program may be used
 4-47 in lieu of adverse action and that such participation shall remain
 4-48 non-public if required by the member state's laws. Member states
 4-49 must require licensees who enter any alternative programs in lieu
 4-50 of discipline to agree not to practice in any other member state
 4-51 during the term of the alternative program without prior
 4-52 authorization from such other member state.

4-53 D. Any member state may investigate actual or alleged
 4-54 violations of the statutes and rules authorizing the practice of
 4-55 physical therapy in any other member state in which a physical
 4-56 therapist or physical therapist assistant holds a license or
 4-57 compact privilege.

4-58 E. A remote state shall have the authority to:

- 4-59 1. Take adverse actions as set forth in Section 4.D.
 4-60 against a licensee's compact privilege in the
 4-61 state;
- 4-62 2. Issue subpoenas for both hearings and
 4-63 investigations that require the attendance and
 4-64 testimony of witnesses, and the production of
 4-65 evidence. Subpoenas issued by a physical therapy
 4-66 licensing board in a party state for the attendance
 4-67 and testimony of witnesses, and/or the production
 4-68 of evidence from another party state, shall be
 4-69 enforced in the latter state by any court of

competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

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

F. Joint Investigations

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

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

SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

A. The Compact member states hereby create and establish a joint public agency known as the Physical Therapy Compact Commission:

1. The Commission is an instrumentality of the Compact states.

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

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

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

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

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

4. The member state board shall fill any vacancy occurring in the Commission.

5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

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

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

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

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

- 6-1 4. Meet and take such actions as are consistent with
- 6-2 the provisions of this Compact and the bylaws;
- 6-3 5. Promulgate uniform rules to facilitate and
- 6-4 coordinate implementation and administration of
- 6-5 this Compact. The rules shall have the force and
- 6-6 effect of law and shall be binding in all member
- 6-7 states;
- 6-8 6. Bring and prosecute legal proceedings or actions in
- 6-9 the name of the Commission, provided that the
- 6-10 standing of any state physical therapy licensing
- 6-11 board to sue or be sued under applicable law shall
- 6-12 not be affected;
- 6-13 7. Purchase and maintain insurance and bonds;
- 6-14 8. Borrow, accept, or contract for services of
- 6-15 personnel, including, but not limited to,
- 6-16 employees of a member state;
- 6-17 9. Hire employees, elect or appoint officers, fix
- 6-18 compensation, define duties, grant such
- 6-19 individuals appropriate authority to carry out the
- 6-20 purposes of the Compact, and to establish the
- 6-21 Commission's personnel policies and programs
- 6-22 relating to conflicts of interest, qualifications
- 6-23 of personnel, and other related personnel matters;
- 6-24 10. Accept any and all appropriate donations and grants
- 6-25 of money, equipment, supplies, materials and
- 6-26 services, and to receive, utilize and dispose of
- 6-27 the same; provided that at all times the Commission
- 6-28 shall avoid any appearance of impropriety and/or
- 6-29 conflict of interest;
- 6-30 11. Lease, purchase, accept appropriate gifts or
- 6-31 donations of, or otherwise to own, hold, improve or
- 6-32 use, any property, real, personal or mixed;
- 6-33 provided that at all times the Commission shall
- 6-34 avoid any appearance of impropriety;
- 6-35 12. Sell convey, mortgage, pledge, lease, exchange,
- 6-36 abandon, or otherwise dispose of any property real,
- 6-37 personal, or mixed;
- 6-38 13. Establish a budget and make expenditures;
- 6-39 14. Borrow money;
- 6-40 15. Appoint committees, including standing committees
- 6-41 composed of members, state regulators, state
- 6-42 legislators or their representatives, and consumer
- 6-43 representatives, and such other interested persons
- 6-44 as may be designated in this Compact and the
- 6-45 bylaws;
- 6-46 16. Provide and receive information from, and cooperate
- 6-47 with, law enforcement agencies;
- 6-48 17. Establish and elect an Executive Board; and
- 6-49 18. Perform such other functions as may be necessary or
- 6-50 appropriate to achieve the purposes of this Compact
- 6-51 consistent with the state regulation of physical
- 6-52 therapy licensure and practice.

D. The Executive Board

The Executive Board shall have the power to act on behalf of the Commission according to the terms of this Compact.

- 6-55 1. The Executive Board shall be composed of nine
- 6-56 members:
- 6-57 a. Seven voting members who are elected by the
- 6-58 Commission from the current membership of the
- 6-59 Commission;
- 6-60 b. One ex-officio, nonvoting member from the
- 6-61 recognized national physical therapy
- 6-62 professional association; and
- 6-63 c. One ex-officio, nonvoting member from the
- 6-64 recognized membership organization of the
- 6-65 physical therapy licensing boards.
- 6-66 2. The ex-officio members will be selected by their
- 6-67 respective organizations.
- 6-68 3. The Commission may remove any member of the
- 6-69

Executive Board as provided in bylaws.

- 7-1 4. The Executive Board shall meet at least annually.
- 7-2
- 7-3 5. The Executive Board shall have the following Duties
- 7-4 and responsibilities:
- 7-5 a. Recommend to the entire Commission changes to
- 7-6 the rules or bylaws, changes to this Compact
- 7-7 legislation, fees paid by Compact member
- 7-8 states such as annual dues, and any
- 7-9 commission Compact fee charged to licensees
- 7-10 for the compact privilege;
- 7-11 b. Ensure Compact administration services are
- 7-12 appropriately provided, contractual or
- 7-13 otherwise;
- 7-14 c. Prepare and recommend the budget;
- 7-15 d. Maintain financial records on behalf of the
- 7-16 Commission;
- 7-17 e. Monitor Compact compliance of member states
- 7-18 and provide compliance reports to the
- 7-19 Commission;
- 7-20 f. Establish additional committees as necessary;
- 7-21 and
- 7-22 g. Other duties as provided in rules or bylaws.

E. Meetings of the Commission

- 7-23
- 7-24 1. All meetings shall be open to the public, and public
- 7-25 notice of meetings shall be given in the same
- 7-26 manner as required under the rulemaking provisions
- 7-27 in Section 9.
- 7-28 2. The Commission or the Executive Board or other
- 7-29 committees of the Commission may convene in a
- 7-30 closed, non-public meeting if the Commission or
- 7-31 Executive Board or other committees of the
- 7-32 Commission must discuss:
- 7-33 a. Non-compliance of a member state with its
- 7-34 obligations under the Compact;
- 7-35 b. The employment, compensation, discipline or
- 7-36 other matters, practices or procedures
- 7-37 related to specific employees or other
- 7-38 matters related to the Commission's internal
- 7-39 personnel practices and procedures;
- 7-40 c. Current, threatened, or reasonably
- 7-41 anticipated litigation;
- 7-42 d. Negotiation of contracts for the purchase,
- 7-43 lease, or sale of goods, services, or real
- 7-44 estate;
- 7-45 e. Accusing any person of a crime or formally
- 7-46 censuring any person;
- 7-47 f. Disclosure of trade secrets or commercial or
- 7-48 financial information that is privileged or
- 7-49 confidential;
- 7-50 g. Disclosure of information of a personal nature
- 7-51 where disclosure would constitute a clearly
- 7-52 unwarranted invasion of personal privacy;
- 7-53 h. Disclosure of investigative records compiled
- 7-54 for law enforcement purposes;
- 7-55 i. Disclosure of information related to any
- 7-56 investigative reports prepared by or on
- 7-57 behalf of or for use of the Commission or
- 7-58 other committee charged with responsibility
- 7-59 of investigation or determination of
- 7-60 compliance issues pursuant to the Compact; or
- 7-61 j. Matters specifically exempted from disclosure
- 7-62 by federal or member state statute.
- 7-63 3. If a meeting, or portion of a meeting, is closed
- 7-64 pursuant to this provision, the Commission's legal
- 7-65 counsel or designee shall certify that the meeting
- 7-66 may be closed and shall reference each relevant
- 7-67 exempting provision.
- 7-68 4. The Commission shall keep minutes that fully and
- 7-69 clearly describe all matters discussed in a meeting

8-1 and shall provide a full and accurate summary of
8-2 actions taken, and the reasons therefore,
8-3 including a description of the views expressed. All
8-4 documents considered in connection with an action
8-5 shall be identified in such minutes. All minutes
8-6 and documents of a closed meeting shall remain
8-7 under seal, subject to release by a majority vote
8-8 of the Commission or order of a court of competent
8-9 jurisdiction.

8-10 F. Financing of the Commission

8-11 1. The Commission shall pay, or provide for the
8-12 payment of, the reasonable expenses of its
8-13 establishment, organization, and ongoing
8-14 activities.

8-15 2. The Commission may accept any and all appropriate
8-16 revenue sources, donations, and grants of money,
8-17 equipment, supplies, materials, and services.

8-18 3. The Commission may levy on and collect an annual
8-19 assessment from each member state or impose fees on
8-20 other parties to cover the cost of the operations
8-21 and activities of the Commission and its staff,
8-22 which must be in a total amount sufficient to cover
8-23 its annual budget as approved each year for which
8-24 revenue is not provided by other sources. The
8-25 aggregate annual assessment amount shall be
8-26 allocated based upon a formula to be determined by
8-27 the Commission, which shall promulgate a rule
8-28 binding upon all member states.

8-29 4. The Commission shall not incur obligations of any
8-30 kind prior to securing the funds adequate to meet
8-31 the same; nor shall the Commission pledge the
8-32 credit of any of the member states, except by and
8-33 with the authority of the member state.

8-34 5. The Commission shall keep accurate accounts of all
8-35 receipts and disbursements. The receipts and
8-36 disbursements of the Commission shall be subject to
8-37 the audit and accounting procedures established
8-38 under its bylaws. However, all receipts and
8-39 disbursements of funds handled by the Commission
8-40 shall be audited yearly by a certified or licensed
8-41 public accountant, and the report of the audit
8-42 shall be included in and become part of the annual
8-43 report of the Commission.

8-44 G. Qualified Immunity, Defense, and Indemnification

8-45 1. The members, officers, executive director,
8-46 employees and representatives of the Commission
8-47 shall be immune from suit and liability, either
8-48 personally or in their official capacity, for any
8-49 claim for damage to or loss of property or personal
8-50 injury or other civil liability caused by or
8-51 arising out of any actual or alleged act, error or
8-52 omission that occurred, or that the person against
8-53 whom the claim is made had a reasonable basis for
8-54 believing occurred within the scope of Commission
8-55 employment, duties or responsibilities; provided
8-56 that nothing in this paragraph shall be construed
8-57 to protect any such person from suit and/or
8-58 liability for any damage, loss, injury, or
8-59 liability caused by the intentional or willful or
8-60 wanton misconduct of that person.

8-61 2. The Commission shall defend any member, officer,
8-62 executive director, employee or representative of
8-63 the Commission in any civil action seeking to
8-64 impose liability arising out of any actual or
8-65 alleged act, error, or omission that occurred
8-66 within the scope of Commission employment, duties,
8-67 or responsibilities, or that the person against
8-68 whom the claim is made had a reasonable basis for
8-69 believing occurred within the scope of Commission

9-1 employment, duties, or responsibilities; provided
 9-2 that nothing herein shall be construed to prohibit
 9-3 that person from retaining his or her own counsel;
 9-4 and provided further, that the actual or alleged
 9-5 act, error, or omission did not result from that
 9-6 person's intentional or willful or wanton
 9-7 misconduct.

9-8 3. The Commission shall indemnify and hold harmless
 9-9 any member, officer, executive director, employee,
 9-10 or representative of the Commission for the amount
 9-11 of any settlement or judgment obtained against that
 9-12 person arising out of any actual or alleged act,
 9-13 error or omission that occurred within the scope of
 9-14 Commission employment, duties, or
 9-15 responsibilities, or that such person had a
 9-16 reasonable basis for believing occurred within the
 9-17 scope of Commission employment, duties, or
 9-18 responsibilities, provided that the actual or
 9-19 alleged act, error, or omission did not result from
 9-20 the intentional or willful or wanton misconduct of
 9-21 that person.

9-22 SECTION 8. DATA SYSTEM

9-23 A. The Commission shall provide for the development,
 9-24 maintenance, and utilization of a coordinated database and
 9-25 reporting system containing licensure, adverse action, and
 9-26 investigative information on all licensed individuals in member
 9-27 states.

9-28 B. Notwithstanding any other provision of state law to the
 9-29 contrary, a member state shall submit a uniform data set to the data
 9-30 system on all individuals to whom this Compact is applicable as
 9-31 required by the rules of the Commission, including:

- 9-32 1. Identifying information;
- 9-33 2. Licensure data;
- 9-34 3. Adverse actions against a license or compact
 9-35 privilege;
- 9-36 4. Non-confidential information related to
 9-37 alternative program participation;
- 9-38 5. Any denial of application for licensure, and the
 9-39 reason(s) for such denial; and
- 9-40 6. Other information that may facilitate the
 9-41 administration of this Compact, as determined by
 9-42 the rules of the Commission.

9-43 C. Investigative information pertaining to a licensee in
 9-44 any member state will only be available to other party states.

9-45 D. The Commission shall promptly notify all member states of
 9-46 any adverse action taken against a licensee or an individual
 9-47 applying for a license. Adverse action information pertaining to a
 9-48 licensee in any member state will be available to any other member
 9-49 state.

9-50 E. Member states contributing information to the data
 9-51 system may designate information that may not be shared with the
 9-52 public without the express permission of the contributing state.

9-53 F. Any information submitted to the data system that is
 9-54 subsequently required to be expunged by the laws of the member state
 9-55 contributing the information shall be removed from the data system.

9-56 SECTION 9. RULEMAKING

9-57 A. The Commission shall exercise its rulemaking powers
 9-58 pursuant to the criteria set forth in this Section and the rules
 9-59 adopted thereunder. Rules and amendments shall become binding as of
 9-60 the date specified in each rule or amendment.

9-61 B. If a majority of the legislatures of the member states
 9-62 rejects a rule, by enactment of a statute or resolution in the same
 9-63 manner used to adopt the Compact within 4 years of the date of
 9-64 adoption of the rule, then such rule shall have no further force and
 9-65 effect in any member state.

9-66 C. Rules or amendments to the rules shall be adopted at a
 9-67 regular or special meeting of the Commission.

9-68 D. Prior to promulgation and adoption of a final rule or
 9-69 rules by the Commission, and at least thirty (30) days in advance of

10-1 the meeting at which the rule will be considered and voted upon, the
 10-2 Commission shall file a Notice of Proposed Rulemaking:

- 10-3 1. On the website of the Commission or other publicly
 10-4 accessible platform; and
- 10-5 2. On the website of each member state physical
 10-6 therapy licensing board or other publicly
 10-7 accessible platform or the publication in which
 10-8 each state would otherwise publish proposed rules.

10-9 E. The Notice of Proposed Rulemaking shall include:

- 10-10 1. The proposed time, date, and location of the
 10-11 meeting in which the rule will be considered and
 10-12 voted upon;
- 10-13 2. The text of the proposed rule or amendment and the
 10-14 reason for the proposed rule;
- 10-15 3. A request for comments on the proposed rule from any
 10-16 interested person; and
- 10-17 4. The manner in which interested persons may submit
 10-18 notice to the Commission of their intention to
 10-19 attend the public hearing and any written comments.

10-20 F. Prior to adoption of a proposed rule, the Commission
 10-21 shall allow persons to submit written data, facts, opinions, and
 10-22 arguments, which shall be made available to the public.

10-23 G. The Commission shall grant an opportunity for a public
 10-24 hearing before it adopts a rule or amendment if a hearing is
 10-25 requested by:

- 10-26 1. At least twenty-five (25) persons;
- 10-27 2. A state or federal governmental subdivision or
 10-28 agency; or
- 10-29 3. An association having at least twenty-five (25)
 10-30 members.

10-31 H. If a hearing is held on the proposed rule or amendment,
 10-32 the Commission shall publish the place, time, and date of the
 10-33 scheduled public hearing. If the hearing is held via electronic
 10-34 means, the Commission shall publish the mechanism for access to the
 10-35 electronic hearing.

- 10-36 1. All persons wishing to be heard at the hearing shall
 10-37 notify the executive director of the Commission or
 10-38 other designated member in writing of their desire
 10-39 to appear and testify at the hearing not less than
 10-40 five (5) business days before the scheduled date of
 10-41 the hearing.
- 10-42 2. Hearings shall be conducted in a manner providing
 10-43 each person who wishes to comment a fair and
 10-44 reasonable opportunity to comment orally or in
 10-45 writing.
- 10-46 3. All hearings will be recorded. A copy of the
 10-47 recording will be made available on request.
- 10-48 4. Nothing in this section shall be construed as
 10-49 requiring a separate hearing on each rule. Rules
 10-50 may be grouped for the convenience of the
 10-51 Commission at hearings required by this section.

10-52 I. Following the scheduled hearing date, or by the close of
 10-53 business on the scheduled hearing date if the hearing was not held,
 10-54 the Commission shall consider all written and oral comments
 10-55 received.

10-56 J. If no written notice of intent to attend the public
 10-57 hearing by interested parties is received, the Commission may
 10-58 proceed with promulgation of the proposed rule without a public
 10-59 hearing.

10-60 K. The Commission shall, by majority vote of all members,
 10-61 take final action on the proposed rule and shall determine the
 10-62 effective date of the rule, if any, based on the rulemaking record
 10-63 and the full text of the rule.

10-64 L. Upon determination that an emergency exists, the
 10-65 Commission may consider and adopt an emergency rule without prior
 10-66 notice, opportunity for comment, or hearing, provided that the
 10-67 usual rulemaking procedures provided in the Compact and in this
 10-68 section shall be retroactively applied to the rule as soon as
 10-69 reasonably possible, in no event later than ninety (90) days after

11-1 the effective date of the rule. For the purposes of this provision,
 11-2 an emergency rule is one that must be adopted immediately in order
 11-3 to:

- 11-4 1. Meet an imminent threat to public health, safety,
 11-5 or welfare;
- 11-6 2. Prevent a loss of Commission or member state funds;
- 11-7 3. Meet a deadline for the promulgation of an
 11-8 administrative rule that is established by federal
 11-9 law or rule; or
- 11-10 4. Protect public health and safety.

11-11 M. The Commission or an authorized committee of the
 11-12 Commission may direct revisions to a previously adopted rule or
 11-13 amendment for purposes of correcting typographical errors, errors
 11-14 in format, errors in consistency, or grammatical errors. Public
 11-15 notice of any revisions shall be posted on the website of the
 11-16 Commission. The revision shall be subject to challenge by any
 11-17 person for a period of thirty (30) days after posting. The revision
 11-18 may be challenged only on grounds that the revision results in a
 11-19 material change to a rule. A challenge shall be made in writing, and
 11-20 delivered to the chair of the Commission prior to the end of the
 11-21 notice period. If no challenge is made, the revision will take
 11-22 effect without further action. If the revision is challenged, the
 11-23 revision may not take effect without the approval of the
 11-24 Commission.

11-25 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

11-26 A. Oversight

- 11-27 1. The executive, legislative, and judicial branches
 11-28 of state government in each member state shall
 11-29 enforce this Compact and take all actions necessary
 11-30 and appropriate to effectuate the Compact's
 11-31 purposes and intent. The provisions of this Compact
 11-32 and the rules promulgated hereunder shall have
 11-33 standing as statutory law.
- 11-34 2. All courts shall take judicial notice of the
 11-35 Compact and the rules in any judicial or
 11-36 administrative proceeding in a member state
 11-37 pertaining to the subject matter of this Compact
 11-38 which may affect the powers, responsibilities or
 11-39 actions of the Commission.
- 11-40 3. The Commission shall be entitled to receive service
 11-41 of process in any such proceeding, and shall have
 11-42 standing to intervene in such a proceeding for all
 11-43 purposes. Failure to provide service of process to
 11-44 the Commission shall render a judgment or order
 11-45 void as to the Commission, this Compact, or
 11-46 promulgated rules.

11-47 B. Default, Technical Assistance, and Termination

- 11-48 1. If the Commission determines that a member state
 11-49 has defaulted in the performance of its obligations
 11-50 or responsibilities under this Compact or the
 11-51 promulgated rules, the Commission shall:
 - 11-52 a. Provide written notice to the defaulting state
 11-53 and other member states of the nature of the
 11-54 default, the proposed means of curing the
 11-55 default and/or any other action to be taken by
 11-56 the Commission; and
 - 11-57 b. Provide remedial training and specific
 11-58 technical assistance regarding the default.
- 11-59 2. If a state in default fails to cure the default, the
 11-60 defaulting state may be terminated from the Compact
 11-61 upon an affirmative vote of a majority of the
 11-62 member states, and all rights, privileges and
 11-63 benefits conferred by this Compact may be
 11-64 terminated on the effective date of termination. A
 11-65 cure of the default does not relieve the offending
 11-66 state of obligations or liabilities incurred
 11-67 during the period of default.
- 11-68 3. Termination of membership in the Compact shall be
 11-69 imposed only after all other means of securing

12-1 compliance have been exhausted. Notice of intent to
 12-2 suspend or terminate shall be given by the
 12-3 Commission to the governor, the majority and
 12-4 minority leaders of the defaulting state's
 12-5 legislature, and each of the member states.

12-6 4. A state that has been terminated is responsible for
 12-7 all assessments, obligations, and liabilities
 12-8 incurred through the effective date of
 12-9 termination, including obligations that extend
 12-10 beyond the effective date of termination.

12-11 5. The Commission shall not bear any costs related to a
 12-12 state that is found to be in default or that has
 12-13 been terminated from the Compact, unless agreed
 12-14 upon in writing between the Commission and the
 12-15 defaulting state.

12-16 6. The defaulting state may appeal the action of the
 12-17 Commission by petitioning the U.S. District Court
 12-18 for the District of Columbia or the federal
 12-19 district where the Commission has its principal
 12-20 offices. The prevailing member shall be awarded all
 12-21 costs of such litigation, including reasonable
 12-22 attorney's fees.

12-23 C. Dispute Resolution

12-24 1. Upon request by a member state, the Commission
 12-25 shall attempt to resolve disputes related to the
 12-26 Compact that arise among member states and between
 12-27 member and non-member states.

12-28 2. The Commission shall promulgate a rule providing
 12-29 for both mediation and binding dispute resolution
 12-30 for disputes as appropriate.

12-31 D. Enforcement

12-32 1. The Commission, in the reasonable exercise of its
 12-33 discretion, shall enforce the provisions and rules
 12-34 of this Compact.

12-35 2. By majority vote, the Commission may initiate legal
 12-36 action in the United States District Court for the
 12-37 District of Columbia or the federal district where
 12-38 the Commission has its principal offices against a
 12-39 member state in default to enforce compliance with
 12-40 the provisions of the Compact and its promulgated
 12-41 rules and bylaws. The relief sought may include
 12-42 both injunctive relief and damages. In the event
 12-43 judicial enforcement is necessary, the prevailing
 12-44 member shall be awarded all costs of such
 12-45 litigation, including reasonable attorney's fees.

12-46 3. The remedies herein shall not be the exclusive
 12-47 remedies of the Commission. The Commission may
 12-48 pursue any other remedies available under federal or
 12-49 state law.

12-50 SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE
 12-51 COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES,
 12-52 WITHDRAWAL, AND AMENDMENT

12-53 A. The Compact shall come into effect on the date on which
 12-54 the Compact statute is enacted into law in the tenth member state.
 12-55 The provisions, which become effective at that time, shall be
 12-56 limited to the powers granted to the Commission relating to
 12-57 assembly and the promulgation of rules. Thereafter, the Commission
 12-58 shall meet and exercise rulemaking powers necessary to the
 12-59 implementation and administration of the Compact.

12-60 B. Any state that joins the Compact subsequent to the
 12-61 Commission's initial adoption of the rules shall be subject to the
 12-62 rules as they exist on the date on which the Compact becomes law in
 12-63 that state. Any rule that has been previously adopted by the
 12-64 Commission shall have the full force and effect of law on the day
 12-65 the Compact becomes law in that state.

12-66 C. Any member state may withdraw from this Compact by
 12-67 enacting a statute repealing the same.

12-68 1. A member state's withdrawal shall not take effect
 12-69 until six (6) months after enactment of the

repealing statute.

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

D. Nothing contained in this Compact shall be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

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

SECTION 12. CONSTRUCTION AND SEVERABILITY

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

Sec. 453.502. ADMINISTRATION OF COMPACT. The board is the Physical Therapy Licensure Compact administrator for this state.

Sec. 453.503. RULES. The board may adopt rules necessary to implement this subchapter.

SECTION 2. This Act takes effect September 1, 2017.

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