

By: Gonzales of Williamson

H.B. No. 3210

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the continuation and functions of the Executive Council  
3 of Physical Therapy and Occupational Therapy Examiners, the Texas  
4 Board of Physical Therapy Examiners, and the Texas Board of  
5 Occupational Therapy Examiners; authorizing a fee.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 ARTICLE 1. EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL  
8 THERAPY EXAMINERS

9 SECTION 1.01. Section 452.002, Occupations Code, is amended  
10 to read as follows:

11 Sec. 452.002. APPLICATION OF SUNSET ACT. The Executive  
12 Council of Physical Therapy and Occupational Therapy Examiners is  
13 subject to Chapter 325, Government Code (Texas Sunset Act). Unless  
14 continued in existence as provided by that chapter, the executive  
15 council is abolished and the following laws expire September 1,  
16 2029 [~~2017~~]:

- 17 (1) this chapter;  
18 (2) Chapter 453; and  
19 (3) Chapter 454.

20 SECTION 1.02. Section 452.053, Occupations Code, is amended  
21 to read as follows:

22 Sec. 452.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)  
23 In this section, "Texas trade association" means a [~~nonprofit,~~  
24 cooperative~~]~~ and voluntarily joined statewide association of

1 business or professional competitors in this state designed to  
2 assist its members and its industry or profession in dealing with  
3 mutual business or professional problems and in promoting their  
4 common interest.

5 (b) A person [~~An officer, employee, or paid consultant of a~~  
6 ~~Texas trade association in the field of health care~~] may not be a  
7 member of the executive council and may not be an employee of the  
8 executive council employed in a "bona fide executive,  
9 administrative, or professional capacity," as that phrase is used  
10 for purposes of establishing an exemption to the overtime  
11 provisions of the federal Fair Labor Standards Act of 1938 (29  
12 U.S.C. Section 201 et seq.) if:

13 (1) the person is an officer, employee, or paid  
14 consultant of a Texas trade association in the field of health care;  
15 or

16 (2) the person's [~~who is exempt from the state's~~  
17 ~~position classification plan or is compensated at or above the~~  
18 ~~amount prescribed by the General Appropriations Act for step 1,~~  
19 ~~salary group A17, of the position classification salary schedule.~~

20 [~~(c) A person who is the~~] spouse is [~~of~~] an officer,  
21 manager, or paid consultant of a Texas trade association in the  
22 field of health care [~~may not be a member of the executive council~~  
23 ~~and may not be an employee of the executive council who is exempt~~  
24 ~~from the state's position classification plan or is compensated at~~  
25 ~~or above the amount prescribed by the General Appropriations Act~~  
26 ~~for step 1, salary group A17, of the position classification salary~~  
27 ~~schedule].~~

1           (c) [~~(d)~~] A person may not serve as a member of the  
2 executive council or act as the general counsel to the executive  
3 council if the person is required to register as a lobbyist under  
4 Chapter 305, Government Code, because of the person's activities  
5 for compensation on behalf of a profession related to the operation  
6 of the executive council, the occupational therapy board, or the  
7 physical therapy board.

8           SECTION 1.03. Section 452.055, Occupations Code, is amended  
9 to read as follows:

10           Sec. 452.055. PRESIDING OFFICER. The [~~member appointed by~~  
11 ~~the~~] governor shall designate a member of the executive council as  
12 [~~is~~] the presiding officer of the executive council to serve in that  
13 capacity at the pleasure of the governor.

14           SECTION 1.04. Sections 452.056(a) and (c), Occupations  
15 Code, are amended to read as follows:

16           (a) It is a ground for removal from the executive council  
17 that a member:

18                   (1) does not have at the time of taking office  
19 [~~appointment~~] the qualifications required by Section 452.051;

20                   (2) does not maintain during service on the executive  
21 council the qualifications required by Section 452.051;

22                   (3) is ineligible for membership under [~~violates a~~  
23 ~~prohibition established by~~] Section 452.052 or 452.053;

24                   (4) cannot, because of illness or disability,  
25 discharge the member's duties for a substantial part of the member's  
26 term; or

27                   (5) is absent from more than half of the regularly

1 scheduled executive council meetings that the member is eligible to  
2 attend during a calendar year without an excuse approved [~~unless~~  
3 ~~the absence is excused~~] by a majority vote of the executive council.

4 (c) If the director has knowledge that a potential ground  
5 for removal exists, the director shall notify the presiding officer  
6 of the executive council of the potential ground. The presiding  
7 officer shall then notify the governor and the attorney general  
8 [~~authority that appointed the member~~] that a potential ground for  
9 removal exists. If the potential ground for removal involves the  
10 presiding officer, the director shall notify the next highest  
11 ranking officer of the executive council, who shall then notify the  
12 governor and the attorney general that a potential ground for  
13 removal exists.

14 SECTION 1.05. Subchapter B, Chapter 452, Occupations Code,  
15 is amended by adding Section 452.059 to read as follows:

16 Sec. 452.059. TRAINING. (a) A person who is appointed to  
17 and qualifies for office as a member of the executive council may  
18 not vote, deliberate, or be counted as a member in attendance at a  
19 meeting of the executive council until the person completes a  
20 training program that complies with this section.

21 (b) The training program required under this section must  
22 provide the person with information regarding:

23 (1) the law governing the operations of the executive  
24 council, physical therapy board, and occupational therapy board;

25 (2) the programs, functions, rules, and budget of the  
26 executive council, physical therapy board, and occupational  
27 therapy board;

1           (3) the scope of and limitations on the rulemaking  
2 authority of the executive council, physical therapy board, and  
3 occupational therapy board;

4           (4) the results of the most recent formal audit of the  
5 executive council, physical therapy board, and occupational  
6 therapy board;

7           (5) the requirements of:

8                   (A) laws relating to open meetings, public  
9 information, administrative procedure, and disclosing conflicts of  
10 interest; and

11                   (B) other laws applicable to members of the  
12 executive council, physical therapy board, and occupational  
13 therapy board in performing their duties; and

14           (6) any applicable ethics policies adopted by the  
15 executive council or the Texas Ethics Commission.

16           (c) A person appointed to the executive council is entitled  
17 to reimbursement, as provided by the General Appropriations Act,  
18 for the travel expenses incurred in attending the training program  
19 regardless of whether the person's attendance at the program occurs  
20 before or after the person qualifies for office.

21           (d) The director of the executive council shall create a  
22 training manual that includes the information required by  
23 Subsection (b). The director shall distribute a copy of the  
24 training manual annually to each member of the executive council.  
25 On receipt of the training manual, each member of the executive  
26 council shall sign and submit to the director a statement  
27 acknowledging receipt of the training manual.

1 SECTION 1.06. Section 452.102, Occupations Code, is amended  
2 to read as follows:

3 Sec. 452.102. DIVISION OF RESPONSIBILITIES. The executive  
4 council shall develop and implement policies that clearly separate  
5 ~~[define]~~ the policymaking ~~[respective]~~ responsibilities of the  
6 executive council and the management responsibilities of the  
7 director and the staff of the executive council.

8 SECTION 1.07. Section 452.152(b), Occupations Code, is  
9 amended to read as follows:

10 (b) The executive council shall perform the administrative  
11 functions relating to issuing and renewing licenses, including~~+~~

12 ~~[(1) the administration of written examinations and~~  
13 ~~collection of fees; and~~

14 ~~[(2)]~~ the ministerial functions of preparing and  
15 delivering licenses, obtaining material and information in  
16 connection with the renewal of a license, and receiving and  
17 forwarding complaints to the appropriate board.

18 SECTION 1.08. Subchapter D, Chapter 452, Occupations Code,  
19 is amended by adding Section 452.160 to read as follows:

20 Sec. 452.160. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE  
21 RESOLUTION. (a) The executive council shall develop a policy to  
22 encourage the use of:

23 (1) negotiated rulemaking under Chapter 2008,  
24 Government Code, for the adoption of rules by the executive council  
25 or the occupational therapy or physical therapy boards; and

26 (2) appropriate alternative dispute resolution  
27 procedures under Chapter 2009, Government Code, to assist in the

1 resolution of internal and external disputes under the executive  
2 council's jurisdiction.

3 (b) The executive council's procedures relating to  
4 alternative dispute resolution must conform, to the extent  
5 possible, to any model guidelines issued by the State Office of  
6 Administrative Hearings for the use of alternative dispute  
7 resolution by state agencies.

8 (c) The executive council shall:

9 (1) coordinate the implementation of the policy  
10 adopted under Subsection (a);

11 (2) provide training as needed to implement the  
12 procedures for negotiated rulemaking or alternative dispute  
13 resolution; and

14 (3) collect data concerning the effectiveness of those  
15 procedures.

16 SECTION 1.09. Section 452.153(b), Occupations Code, is  
17 repealed.

18 SECTION 1.10. As soon as practicable after the effective  
19 date of this article:

20 (1) the director of the Executive Council of Physical  
21 Therapy and Occupational Therapy Examiners shall create the  
22 training manual required by Section 452.059(d), Occupations Code,  
23 as added by this article; and

24 (2) the executive council shall:

25 (A) develop and implement the policies required  
26 by Section 452.102, Occupations Code, as amended by this article;

27 and

1 (B) develop the policy required by Section  
2 452.160, Occupations Code, as added by this article.

3 SECTION 1.11. Notwithstanding Section 452.059(a),  
4 Occupations Code, as added by this article, a member of the  
5 Executive Council of Physical Therapy and Occupational Therapy  
6 Examiners who has not completed the training required by Section  
7 452.059, Occupations Code, as added by this article, may vote,  
8 deliberate, and be counted as a member in attendance at a meeting of  
9 the Executive Council of Physical Therapy and Occupational Therapy  
10 Examiners until December 1, 2017.

11 ARTICLE 2. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

12 SECTION 2.01. Section 453.002, Occupations Code, is amended  
13 to read as follows:

14 Sec. 453.002. APPLICATION OF SUNSET ACT. The Texas Board of  
15 Physical Therapy Examiners is subject to Chapter 325, Government  
16 Code (Texas Sunset Act). Unless continued in existence as provided  
17 by that chapter, the board is abolished and this chapter expires  
18 September 1, 2029 [~~2017~~].

19 SECTION 2.02. Section 453.054, Occupations Code, is amended  
20 to read as follows:

21 Sec. 453.054. MEMBERSHIP RESTRICTIONS. (a) In this  
22 section, "Texas trade association" means a [~~nonprofit,~~  
23 cooperative[~~7~~] and voluntarily joined statewide association of  
24 business or professional competitors in this state designed to  
25 assist its members and its industry or profession in dealing with  
26 mutual business or professional problems and in promoting their  
27 common interest.



1 (b) A person [~~An officer, employee, or paid consultant of a~~  
2 ~~Texas trade association in the field of health care~~] may not be a  
3 member of the board if:

4 (1) the person is an officer, employee, or paid  
5 consultant of a Texas trade association in the field of health care;  
6 or

7 (2) the person's [~~—~~  
8 [~~(c) A person who is the~~] spouse is [~~of~~] an officer,  
9 manager, or paid consultant of a Texas trade association in the  
10 field of health care [~~may not be a member of the board~~].

11 (c) [~~(d)~~] A person may not be [~~serve as~~] a member of the  
12 board if the person is required to register as a lobbyist under  
13 Chapter 305, Government Code, because of the person's activities  
14 for compensation on behalf of a profession related to the operation  
15 of the board.

16 SECTION 2.03. Sections 453.056(a) and (c), Occupations  
17 Code, are amended to read as follows:

18 (a) It is a ground for removal from the board that a member:

19 (1) does not have at the time of taking office  
20 [~~appointment~~] the qualifications required by Section 453.051(a);

21 (2) does not maintain during service on the board the  
22 qualifications required by Section 453.051(a);

23 (3) is ineligible for membership under [~~violates a~~  
24 ~~prohibition established by~~] Section 453.053 or 453.054;

25 (4) cannot, because of illness or disability,  
26 discharge the member's duties for a substantial part of the member's  
27 term; or

1           (5) is absent from more than half of the regularly  
2 scheduled board meetings that the member is eligible to attend  
3 during a calendar year without an excuse approved [~~unless the~~  
4 ~~absence is excused~~] by a majority vote of the board.

5           (c) If the coordinator of physical therapy programs has  
6 knowledge that a potential ground for removal exists, the  
7 coordinator shall notify the presiding officer of the board of the  
8 potential ground. The presiding officer shall then notify the  
9 governor and the attorney general that a potential ground for  
10 removal exists. If the potential ground for removal involves the  
11 presiding officer, the coordinator shall notify the next highest  
12 ranking officer of the board, who shall then notify the governor and  
13 the attorney general that a potential ground for removal exists.

14           SECTION 2.04. Section 453.058, Occupations Code, is amended  
15 to read as follows:

16           Sec. 453.058. OFFICERS. (a) The governor shall designate a  
17 member of the board as the presiding officer of the board to serve  
18 in that capacity at the pleasure of the governor.

19           (b) After the appointment of members every two years, the  
20 members of the board shall elect from among its members a [~~presiding~~  
21 ~~officer~~~~7~~] secretary[~~7~~] and other officers required to conduct the  
22 business of the board.

23           SECTION 2.05. Section 453.060, Occupations Code, is amended  
24 to read as follows:

25           Sec. 453.060. TRAINING. (a) A person who is appointed to  
26 and qualifies for office as [~~Before~~] a member of the board may not  
27 vote, deliberate, or be counted as a member in attendance at a

1 meeting of ~~[assume the member's duties, the member must complete at~~  
2 ~~least a course of the training program established by]~~ the board  
3 until the person completes a training program that complies with  
4 ~~[under]~~ this section.

5 (b) The ~~[A]~~ training program must ~~[shall]~~ provide the person  
6 with information ~~[to a participant]~~ regarding:

7 (1) the law governing board and executive council  
8 operations ~~[this chapter];~~

9 (2) the programs, functions, rules, and budget of  
10 ~~[operated by]~~ the board and executive council;

11 (3) the scope of and limitations on the rulemaking  
12 authority ~~[the role and functions]~~ of the board and executive  
13 council;

14 (4) ~~[the rules of the board, with an emphasis on the~~  
15 ~~rules that relate to disciplinary and investigatory authority;~~

16 ~~[(5) the current budget for the board;~~

17 ~~[(6)]~~ the results of the most recent formal audit of  
18 the board and executive council;

19 (5) ~~[(7)]~~ the requirements of:

20 (A) laws relating to open meetings, public  
21 information, administrative procedure, and disclosing conflicts

22 ~~[Chapters 551, 552, 2001, and 2002, Government Code;~~

23 ~~[(8) the requirements of the conflict]~~ of interest;

24 and

25 (B) ~~[laws and]~~ other laws applicable to members  
26 of the board in performing their duties ~~[relating to public~~

27 ~~officials];~~ and

1           (6) [~~(9)~~] any applicable ethics policies adopted by  
2 the board or the Texas Ethics Commission.

3           (c) A person appointed to the board is entitled to  
4 reimbursement, as provided by the General Appropriations Act, for  
5 the travel expenses incurred in attending the training program  
6 regardless of whether the person's attendance at the program occurs  
7 before or after the person qualifies for office [~~In developing the~~  
8 ~~training requirements provided for by this section, the board shall~~  
9 ~~consult with the governor's office, the attorney general's office,~~  
10 ~~and the Texas Ethics Commission)].~~

11           (d) The director of the executive council shall create a  
12 training manual that includes the information required by  
13 Subsection (b). The director shall distribute a copy of the  
14 training manual annually to each board member. On receipt of the  
15 training manual, each board member shall sign and submit to the  
16 director a statement acknowledging receipt of the training manual  
17 [~~If another state agency or entity is given the authority to~~  
18 ~~establish the training requirements, the board shall allow that~~  
19 ~~training instead of developing its own program)].~~

20           SECTION 2.06. Section 453.105(b), Occupations Code, is  
21 amended to read as follows:

22           (b) The board shall develop and implement policies that  
23 clearly separate [~~define~~] the policymaking [~~respective~~]  
24 responsibilities of the board and the management responsibilities  
25 of the director and [~~the~~] staff of the executive council.

26           SECTION 2.07. Subchapter C, Chapter 453, Occupations Code,  
27 is amended by adding Sections 453.1061 and 453.109 to read as

1 follows:

2 Sec. 453.1061. PLACE OF EMPLOYMENT. The board may require  
3 that a license holder provide current information in a readily  
4 accessible and usable format regarding the license holder's place  
5 of employment as a physical therapist or physical therapist  
6 assistant.

7 Sec. 453.109. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE  
8 RESOLUTION. (a) The board shall develop a policy to encourage the  
9 use of:

10 (1) negotiated rulemaking under Chapter 2008,  
11 Government Code, for the adoption of board rules; and

12 (2) appropriate alternative dispute resolution  
13 procedures under Chapter 2009, Government Code, to assist in the  
14 resolution of internal and external disputes under the board's  
15 jurisdiction.

16 (b) The board's procedures relating to alternative dispute  
17 resolution must conform, to the extent possible, to any model  
18 guidelines issued by the State Office of Administrative Hearings  
19 for the use of alternative dispute resolution by state agencies.

20 (c) The board shall:

21 (1) coordinate the implementation of the policy  
22 adopted under Subsection (a);

23 (2) provide training as needed to implement the  
24 procedures for negotiated rulemaking or alternative dispute  
25 resolution; and

26 (3) collect data concerning the effectiveness of those  
27 procedures.

1 SECTION 2.08. Section 453.151(c), Occupations Code, is  
2 amended to read as follows:

3 (c) Information maintained by the executive council or the  
4 board under this chapter regarding the home address or personal  
5 telephone number of a person licensed under this chapter [~~or a~~  
6 ~~person who is an owner or manager of a physical therapy facility~~  
7 ~~registered under this chapter~~] is confidential and not subject to  
8 disclosure under Chapter 552, Government Code. A person licensed  
9 under this chapter [~~or a person who is an owner or manager of a~~  
10 ~~physical therapy facility registered under this chapter~~] must  
11 provide the board with a business address or address of record that  
12 will be subject to disclosure under Chapter 552, Government Code.

13 SECTION 2.09. Section 453.154(e), Occupations Code, is  
14 amended to read as follows:

15 (e) The staff of the executive council [~~coordinator of~~  
16 ~~physical therapy programs~~] shall notify the board of a complaint  
17 that is unresolved after the time prescribed by the board for  
18 resolving the complaint so that the board may take necessary action  
19 on the complaint.

20 SECTION 2.10. The heading to Subchapter E, Chapter 453,  
21 Occupations Code, is amended to read as follows:

22 SUBCHAPTER E. LICENSE REQUIREMENTS [~~, REGISTRATION OF FACILITIES~~]

23 SECTION 2.11. Section 453.202(b), Occupations Code, is  
24 amended to read as follows:

25 (b) The application must be accompanied by [+  
26 [~~(1) an examination fee prescribed by the board, and~~  
27 [~~(2)~~] a nonrefundable application fee prescribed by

1 the executive council [~~board~~].

2 SECTION 2.12. Section 453.203, Occupations Code, is amended  
3 to read as follows:

4 Sec. 453.203. QUALIFICATIONS FOR PHYSICAL THERAPIST OR  
5 PHYSICAL THERAPIST ASSISTANT LICENSE. (a) An applicant for a  
6 physical therapist license must, in addition to other requirements  
7 and qualifications established by the board, present:

8 (1) evidence satisfactory to the board that the  
9 applicant has completed an accredited physical therapy educational  
10 program; or

11 (2) official documentation from an educational  
12 credentials review agency approved by the board certifying that the  
13 applicant has completed[+]

14 [~~(A)~~] a program equivalent to a Commission on  
15 Accreditation in [~~of~~] Physical Therapy Education accredited  
16 program[~~, and~~

17 [~~(B) at least 60 academic semester credits or the~~  
18 ~~equivalent from an accredited institution of higher education]~~.

19 (b) An applicant for a physical therapist assistant license  
20 must, in addition to other requirements and qualifications  
21 established by the board, present evidence satisfactory to the  
22 board that the applicant has completed an accredited physical  
23 therapist assistant program or an accredited physical therapy  
24 educational program[~~, including courses in the anatomical,~~  
25 ~~biological, and physical sciences, and clinical procedures~~  
26 ~~prescribed and approved by the board]~~.

27 (c) A physical therapy educational program or physical

1 therapist assistant program is an accredited program if the program  
2 is[+]

3 [~~(1)~~] accredited by the Commission on Accreditation in  
4 Physical Therapy Education[+ and

5 [~~(2)~~ associated with an institution of higher  
6 education].

7 SECTION 2.13. Section 453.204(b), Occupations Code, is  
8 amended to read as follows:

9 (b) Before allowing a foreign-trained applicant to take the  
10 examination, the board shall require the applicant to furnish proof  
11 of[+]

12 [~~(1)~~ good moral character; and

13 [~~(2)~~] completion of requirements substantially equal  
14 to those under Section 453.203.

15 SECTION 2.14. Section 453.205, Occupations Code, is amended  
16 to read as follows:

17 Sec. 453.205. LICENSE EXAMINATION. (a) The board by rule  
18 shall recognize a national testing entity to administer the  
19 examination required to obtain a physical therapist or physical  
20 therapist assistant license [~~shall examine applicants for licenses~~  
21 ~~at least once each year at a reasonable place and time designated by~~  
22 ~~the board~~].

23 (b) The physical therapist examination is a national  
24 examination that tests entry-level competence related to [~~must~~  
25 ~~cover the subjects generally taught by an accredited~~] physical  
26 therapy theory, examination [~~educational program or an accredited~~  
27 ~~physical therapist assistant program and may include clinical~~



1 ~~decision-making]~~ and evaluation, prognosis, treatment  
2 intervention, prevention [~~program planning and implementation, and~~  
3 ~~administration, education]~~, and consultation[~~, and research in~~  
4 ~~physical therapy]~~.

5 (c) The physical therapist assistant examination is a  
6 national examination that tests for required knowledge and skills  
7 in the technical application of physical therapy services [~~board by~~  
8 ~~rule may establish a procedure for administering the examination,~~  
9 ~~including the conditions under which and the number of times an~~  
10 ~~applicant may retake an examination]~~.

11 (d) An applicant for a license must agree to comply with the  
12 security and copyright provisions of the national examination. If  
13 the board has knowledge of a violation of the security or copyright  
14 provisions or a compromise or attempted compromise of the  
15 provisions, the board shall report the matter to the testing entity  
16 [~~The board shall have any written portion of the examination~~  
17 ~~validated by an independent testing entity]~~.

18 (e) The board may disqualify an applicant from taking or  
19 retaking an examination for a period specified by the board if the  
20 board determines that the applicant engaged or attempted to engage  
21 in conduct that compromises or undermines the integrity of the  
22 examination process, including a violation of security or copyright  
23 provisions related to the national examination.

24 (f) If the board enters into a contract with a national  
25 testing entity under Subsection (a), the contract must include a  
26 provision requiring the national testing entity to provide to the  
27 board an examination score report for each applicant for a license

1 under this chapter who took the examination.

2 (g) The board may require an applicant for a physical  
3 therapist or physical therapist assistant license to pass a  
4 jurisprudence examination.

5 SECTION 2.15. Section 453.207, Occupations Code, is amended  
6 to read as follows:

7 Sec. 453.207. REEXAMINATION. (a) An applicant who fails to  
8 pass an [~~a one-part~~] examination under Section 453.205 may retake  
9 the examination under the policies of the national testing entity  
10 [~~or a part of a divided examination may take another one-part~~  
11 ~~examination or the part of the divided examination that the~~  
12 ~~applicant failed on payment of an additional examination fee)].~~

13 (b) [~~If an applicant fails to pass a second or subsequent~~  
14 ~~examination, the board shall require the applicant to complete an~~  
15 ~~additional course of study designated by the board.] Before~~  
16 retaking an [~~taking a subsequent~~] examination, the applicant must:

17 (1) submit [~~present~~] to the board a reexamination  
18 application prescribed by the board [~~satisfactory evidence that the~~  
19 ~~applicant has completed the required course of study]; and~~

20 (2) pay a nonrefundable application [~~an additional~~]  
21 fee prescribed by the executive council [~~equal to the amount of the~~  
22 ~~fee required for filing the original application)].~~

23 SECTION 2.16. Subchapter E, Chapter 453, Occupations Code,  
24 is amended by adding Sections 453.214 and 453.215 to read as  
25 follows:

26 Sec. 453.214. LICENSE BY ENDORSEMENT. (a) The board shall  
27 issue a physical therapist license or a physical therapist

1 assistant license, as applicable, to an applicant who holds a  
2 current, unrestricted license in another jurisdiction that  
3 maintains licensing requirements that are substantially equivalent  
4 to the requirements under this chapter. An applicant for a license  
5 under this section must:

6 (1) present proof to the board that the applicant is  
7 licensed in good standing as a physical therapist or physical  
8 therapist assistant in that jurisdiction;

9 (2) provide to the board information regarding the  
10 status of any other professional license that the applicant holds  
11 or has held in this state or another jurisdiction;

12 (3) present proof to the board that the applicant has  
13 passed a jurisprudence examination required by the board;

14 (4) meet the qualifications required by Section  
15 453.203 or 453.204, as applicable;

16 (5) not have committed an act that is grounds for  
17 denial of a license under Section 453.351;

18 (6) submit to the board a current photograph that  
19 meets the requirements for a United States passport; and

20 (7) meet any additional requirements provided by board  
21 rule.

22 (b) The board shall adopt rules for issuing a provisional  
23 license under Section 453.209 to an applicant for a license by  
24 endorsement who encounters a delay that is outside the applicant's  
25 control in submitting to the board the documentation required by  
26 this section.

27 Sec. 453.215. CRIMINAL HISTORY RECORD INFORMATION FOR

1 LICENSE ISSUANCE. (a) The board shall require that an applicant  
2 for a license submit a complete and legible set of fingerprints, on  
3 a form prescribed by the board, to the board or to the Department of  
4 Public Safety for the purpose of obtaining criminal history record  
5 information from the Department of Public Safety and the Federal  
6 Bureau of Investigation.

7 (b) The board may not issue a license to a person who does  
8 not comply with the requirement of Subsection (a).

9 (c) The board shall conduct a criminal history record  
10 information check of each applicant for a license using  
11 information:

12 (1) provided by the individual under this section; and  
13 (2) made available to the board by the Department of  
14 Public Safety, the Federal Bureau of Investigation, and any other  
15 criminal justice agency under Chapter 411, Government Code.

16 (d) The board may:

17 (1) enter into an agreement with the Department of  
18 Public Safety to administer a criminal history record information  
19 check required under this section; and

20 (2) authorize the Department of Public Safety to  
21 collect from each applicant the costs incurred by the Department of  
22 Public Safety in conducting the criminal history record information  
23 check.

24 SECTION 2.17. Section 453.252(b), Occupations Code, is  
25 amended to read as follows:

26 (b) A person whose license has been expired for 90 days or  
27 less may renew the license by paying to the executive council the

1 renewal fee and a late fee set by the executive council in an amount  
2 that does not exceed one-half of the amount charged for renewal of  
3 ~~[examination for]~~ the license. If a person's license has been  
4 expired for more than 90 days but less than one year, the person may  
5 renew the license by paying to the executive council all unpaid  
6 renewal fees and a late fee set by the executive council in an  
7 amount that does not exceed the amount charged for renewal of  
8 ~~[examination for]~~ the license.

9 SECTION 2.18. Section 453.253(b), Occupations Code, is  
10 amended to read as follows:

11 (b) The person must pay to the executive council a renewal  
12 fee set by the executive council under this section in an amount  
13 that does not exceed the renewal ~~[examination]~~ fee for the license.

14 SECTION 2.19. Section 453.254, Occupations Code, is amended  
15 by adding Subsection (e) to read as follows:

16 (e) The board by rule shall establish a process for  
17 selecting an appropriate organization to approve continuing  
18 competence activities under Subsection (d). The selection process  
19 must include a request for proposal and bidding process. If the  
20 board authorizes an organization to approve continuing competence  
21 activities under Subsection (d), the board shall request bids and  
22 proposals from that organization and other organizations at least  
23 once every four years.

24 SECTION 2.20. Subchapter F, Chapter 453, Occupations Code,  
25 is amended by adding Section 453.255 to read as follows:

26 Sec. 453.255. CRIMINAL HISTORY RECORD INFORMATION  
27 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a

1 license issued under this chapter shall submit a complete and  
2 legible set of fingerprints for purposes of performing a criminal  
3 history record information check of the applicant as provided by  
4 Section 453.215.

5 (b) The board may administratively suspend or refuse to  
6 renew the license of a person who does not comply with the  
7 requirement of Subsection (a).

8 (c) A license holder is not required to submit fingerprints  
9 under this section for the renewal of the license if the license  
10 holder has previously submitted fingerprints under:

11 (1) Section 453.215 for the initial issuance of the  
12 license; or

13 (2) this section as part of a prior license renewal.

14 SECTION 2.21. Subchapter H, Chapter 453, Occupations Code,  
15 is amended by adding Sections 453.3525 and 453.357 to read as  
16 follows:

17 Sec. 453.3525. SCHEDULE OF SANCTIONS. (a) The board by  
18 rule shall adopt a schedule of administrative penalties and other  
19 sanctions that the board may impose under this chapter. In adopting  
20 the schedule of sanctions, the board shall ensure that the amount of  
21 the penalty or severity of the sanction imposed is appropriate to  
22 the type of violation or conduct that is the basis for disciplinary  
23 action. In determining the appropriate disciplinary action,  
24 including the amount of any administrative penalty to assess, the  
25 board shall consider:

26 (1) the seriousness of the violation, including:

27 (A) the nature, circumstances, extent, and

1 gravity of the violation; and

2 (B) the hazard or potential hazard created to the  
3 health, safety, or economic welfare of the public;

4 (2) the history of previous violations;

5 (3) the amount necessary to deter future violations;

6 (4) efforts to correct the violation;

7 (5) the economic harm to the public interest or public  
8 confidence caused by the violation;

9 (6) whether the violation was intentional; and

10 (7) any other matter that justice may require.

11 (b) The board shall make the schedule of sanctions adopted  
12 under Subsection (a) available to the public on request.

13 Sec. 453.357. RECORD OF DISCIPLINARY ACTION; EXPUNGEMENT.

14 (a) The board by rule shall establish a process to expunge any  
15 record of disciplinary action taken against a license holder before  
16 September 1, 2017, for practicing in a facility that failed to meet  
17 the registration requirements of Section 453.213, as that section  
18 existed on January 1, 2017. The rules must provide that the board  
19 may not expunge a record under this section after September 1, 2019.

20 (b) This section expires September 1, 2019.

21 SECTION 2.22. Section 453.401, Occupations Code, is amended  
22 to read as follows:

23 Sec. 453.401. IMPOSITION OF PENALTY. The board may impose  
24 an administrative penalty on a person licensed or regulated under  
25 this chapter [~~or a facility registered under this chapter~~] who  
26 violates this chapter or a rule or order adopted under this chapter.

27 SECTION 2.23. Section 453.402(b), Occupations Code, is

1 amended to read as follows:

2 (b) The amount of the penalty shall be determined according  
3 to the sanctions schedule adopted under Section 453.3525 [~~based on:~~

4 [~~(1) the seriousness of the violation, including:~~

5 [~~(A) the nature, circumstances, extent, and~~  
6 ~~gravity of a prohibited act; and~~

7 [~~(B) the hazard or potential hazard created to~~  
8 ~~the health, safety, or economic welfare of the public;~~

9 [~~(2) the history of previous violations;~~

10 [~~(3) the amount necessary to deter future violations;~~

11 [~~(4) efforts to correct the violation; and~~

12 [~~(5) any other matter that justice may require].~~

13 SECTION 2.24. Section 453.403(a), Occupations Code, is  
14 amended to read as follows:

15 (a) The board shall adopt rules that establish procedures  
16 for assessing an administrative penalty and that provide for notice  
17 and a hearing for a license holder [~~or facility administrator~~] that  
18 may be subject to a penalty under this subchapter.

19 SECTION 2.25. The following provisions of the Occupations  
20 Code are repealed:

21 (1) Section 453.001(8);

22 (2) Section 453.202(c);

23 (3) Section 453.206; and

24 (4) Section 453.213.

25 SECTION 2.26. (a) Except as provided by Subsection (b) of  
26 this section, Section 453.060, Occupations Code, as amended by this  
27 article, applies to a member of the Texas Board of Physical Therapy



1 Examiners appointed before, on, or after the effective date of this  
2 article.

3 (b) A member of the Texas Board of Physical Therapy  
4 Examiners who, before the effective date of this article, completed  
5 the training program required by Section 453.060, Occupations Code,  
6 as that law existed before the effective date of this article, is  
7 required to complete additional training only on subjects added to  
8 the training program required by Section 453.060, Occupations Code,  
9 as amended by this article. A board member described by this  
10 subsection may not vote, deliberate, or be counted as a member in  
11 attendance at a meeting of the Texas Board of Physical Therapy  
12 Examiners held on or after December 1, 2017, until the member  
13 completes the additional training.

14 SECTION 2.27. As soon as practicable after the effective  
15 date of this article, the director of the Executive Council of  
16 Physical Therapy and Occupational Therapy Examiners shall create  
17 the training manual required by Section 453.060(d), Occupations  
18 Code, as amended by this article.

19 SECTION 2.28. As soon as practicable after the effective  
20 date of this article, the Texas Board of Physical Therapy Examiners  
21 shall:

- 22 (1) develop and implement the policies required by:
- 23 (A) Section 453.105(b), Occupations Code, as  
24 amended by this article; and
- 25 (B) Section 453.109, Occupations Code, as added  
26 by this article; and

27 (2) adopt any rules necessary to implement Chapter

1 453, Occupations Code, as amended by this article.

2 SECTION 2.29. Not later than September 1, 2018, the Texas  
3 Board of Physical Therapy Examiners shall establish the request for  
4 proposal and bidding process required by Section 453.254(e),  
5 Occupations Code, as added by this article.

6 SECTION 2.30. Sections 453.203, 453.204, 453.205, 453.207,  
7 453.252, and 453.253, Occupations Code, as amended by this article,  
8 and Sections 453.215 and 453.255, Occupations Code, as added by  
9 this article, apply only to an application for the issuance or  
10 renewal of a physical therapist or physical therapist assistant  
11 license submitted to the Texas Board of Physical Therapy Examiners  
12 on or after the effective date of this article. An application  
13 submitted before that date is governed by the law in effect on the  
14 date the application was submitted, and the former law is continued  
15 in effect for that purpose.

16 SECTION 2.31. A person who holds a physical therapist or  
17 physical therapist assistant license issued before the effective  
18 date of this article may continue to renew that license without  
19 complying with the changes in law made by this article to Section  
20 453.203, Occupations Code.

21 SECTION 2.32. (a) The Texas Board of Physical Therapy  
22 Examiners shall dismiss the portion of any complaint, penalty,  
23 disciplinary action, or contested case pending on the effective  
24 date of this article that is based on a violation of rules adopted  
25 under Section 453.213, Occupations Code, as repealed by this  
26 article.

27 (b) Section 453.357, Occupations Code, as added by this

1 article, applies only to records of disciplinary action for conduct  
2 that occurred before the effective date of this article.

3 SECTION 2.33. Section 453.3525, Occupations Code, as added  
4 by this article, and Section 453.402(b), Occupations Code, as  
5 amended by this article, apply only to conduct that occurs on or  
6 after the date that rules adopted under Section 453.3525 take  
7 effect. Conduct that occurs before that date is governed by the law  
8 in effect before the effective date of this article, and the former  
9 law is continued in effect for that purpose.

10 ARTICLE 3. PHYSICAL THERAPY LICENSURE COMPACT

11 SECTION 3.01. Chapter 453, Occupations Code, is amended by  
12 adding Subchapter K to read as follows:

13 SUBCHAPTER K. PHYSICAL THERAPY LICENSURE COMPACT

14 Sec. 453.501. PHYSICAL THERAPY LICENSURE COMPACT. The  
15 Physical Therapy Licensure Compact is enacted and entered into with  
16 all other jurisdictions that legally join in the compact, which  
17 reads as follows:

18 SECTION 1. PURPOSE

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

26 This Compact is designed to achieve the following objectives:

27 1. Increase public access to physical therapy services by

1 providing for the mutual recognition of other member  
2 state licenses;

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

5 3. Encourage the cooperation of member states in regulating  
6 multi-state physical therapy practice;

7 4. Support spouses of relocating military members;

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

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

13 SECTION 2. DEFINITIONS

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

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

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

25 3. "Alternative Program" means a non-disciplinary  
26 monitoring or practice remediation process  
27 approved by a physical therapy licensing board.

1           This includes, but is not limited to, substance  
2           abuse issues.

3           4. "Compact privilege" means the authorization  
4           granted by a remote state to allow a licensee from  
5           another member state to practice as a physical  
6           therapist or work as a physical therapist assistant  
7           in the remote state under its laws and rules. The  
8           practice of physical therapy occurs in the member  
9           state where the patient/client is located at the  
10           time of the patient/client encounter.

11           5. "Continuing competence" means a requirement, as a  
12           condition of license renewal, to provide evidence  
13           of participation in, and/or completion of,  
14           educational and professional activities relevant  
15           to practice or area of work.

16           6. "Data system" means a repository of information  
17           about licensees, including examination, licensure,  
18           investigative, compact privilege, and adverse  
19           action.

20           7. "Encumbered license" means a license that a  
21           physical therapy licensing board has limited in any  
22           way.

23           8. "Executive Board" means a group of directors  
24           elected or appointed to act on behalf of, and  
25           within the powers granted to them by, the  
26           Commission.

27           9. "Home state" means the member state that is the

- 1           licensee's primary state of residence.
- 2           10. "Investigative information" means information,  
3           records, and documents received or generated by a  
4           physical therapy licensing board pursuant to an  
5           investigation.
- 6           11. "Jurisprudence Requirement" means the assessment  
7           of an individual's knowledge of the laws and rules  
8           governing the practice of physical therapy in a  
9           state.
- 10          12. "Licensee" means an individual who currently holds  
11          an authorization from the state to practice as a  
12          physical therapist or to work as a physical  
13          therapist assistant.
- 14          13. "Member state" means a state that has enacted the  
15          Compact.
- 16          14. "Party state" means any member state in which a  
17          licensee holds a current license or compact  
18          privilege or is applying for a license or compact  
19          privilege.
- 20          15. "Physical therapist" means an individual who is  
21          licensed by a state to practice physical therapy.
- 22          16. "Physical therapist assistant" means an individual  
23          who is licensed/certified by a state and who  
24          assists the physical therapist in selected  
25          components of physical therapy.
- 26          17. "Physical therapy," "physical therapy practice,"  
27          and "the practice of physical therapy" mean the

1           care and services provided by or under the  
2           direction and supervision of a licensed physical  
3           therapist.

4           18. "Physical Therapy Compact Commission" or  
5           "Commission" means the national administrative  
6           body whose membership consists of all states that  
7           have enacted the Compact.

8           19. "Physical therapy licensing board" or "licensing  
9           board" means the agency of a state that is  
10           responsible for the licensing and regulation of  
11           physical therapists and physical therapist  
12           assistants.

13           20. "Remote State" means a member state other than the  
14           home state, where a licensee is exercising or  
15           seeking to exercise the compact privilege.

16           21. "Rule" means a regulation, principle, or directive  
17           promulgated by the Commission that has the force of  
18           law.

19           22. "State" means any state, commonwealth, district, or  
20           territory of the United States of America that  
21           regulates the practice of physical therapy.

22           SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

24           1. Participate fully in the Commission's data system,  
25           including using the Commission's unique identifier  
26           as defined in rules;

27           2. Have a mechanism in place for receiving and

- 1           investigating complaints about licensees;  
2           3. Notify the Commission, in compliance with the terms  
3           of the Compact and rules, of any adverse action or  
4           the availability of investigative information  
5           regarding a licensee;  
6           4. Fully implement a criminal background check  
7           requirement, within a time frame established by  
8           rule, by receiving the results of the Federal  
9           Bureau of Investigation record search on criminal  
10           background checks and use the results in making  
11           licensure decisions in accordance with Section  
12           3.B.;  
13           5. Comply with the rules of the Commission;  
14           6. Utilize a recognized national examination as a  
15           requirement for licensure pursuant to the rules of  
16           the Commission; and  
17           7. Have continuing competence requirements as a  
18           condition for license renewal.

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

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



1 D. Member states may charge a fee for granting a compact  
2 privilege.

3 SECTION 4. COMPACT PRIVILEGE

4 A. To exercise the compact privilege under the terms and  
5 provisions of the Compact, the licensee shall:

- 6 1. Hold a license in the home state;
- 7 2. Have no encumbrance on any state license;
- 8 3. Be eligible for a compact privilege in any member  
9 state in accordance with Section 4D, G and H;
- 10 4. Have not had any adverse action against any license  
11 or compact privilege within the previous 2 years;
- 12 5. Notify the Commission that the licensee is seeking  
13 the compact privilege within a remote state(s);
- 14 6. Pay any applicable fees, including any state fee,  
15 for the compact privilege;
- 16 7. Meet any jurisprudence requirements established by  
17 the remote state(s) in which the licensee is  
18 seeking a compact privilege; and
- 19 8. Report to the Commission adverse action taken by  
20 any non-member state within 30 days from the date  
21 the adverse action is taken.

22 B. The compact privilege is valid until the expiration date  
23 of the home license. The licensee must comply with the requirements  
24 of Section 4.A. to maintain the compact privilege in the remote  
25 state.

26 C. A licensee providing physical therapy in a remote state  
27 under the compact privilege shall function within the laws and

1 regulations of the remote state.

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

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

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

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

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

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

27 H. Once the requirements of Section 4G have been met, the

1 license must meet the requirements in Section 4A to obtain a compact  
2 privilege in a remote state.

3 SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

7 A. Home of record;

8 B. Permanent Change of Station (PCS); or

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

11 SECTION 6. ADVERSE ACTIONS

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

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

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

25 D. Any member state may investigate actual or alleged  
26 violations of the statutes and rules authorizing the practice of  
27 physical therapy in any other member state in which a physical

1 therapist or physical therapist assistant holds a license or  
2 compact privilege.

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

4 1. Take adverse actions as set forth in Section 4.D.  
5 against a licensee's compact privilege in the  
6 state;

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

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

26 F. Joint Investigations

27 1. In addition to the authority granted to a member

1 state by its respective physical therapy practice  
2 act or other applicable state law, a member state  
3 may participate with other member states in joint  
4 investigations of licensees.

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

9 SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT

10 COMMISSION

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

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

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

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

26 B. Membership, Voting, and Meetings

27 1. Each member state shall have and be limited to one

- 1           (1) delegate selected by that member state's  
2           licensing board.
- 3           2. The delegate shall be a current member of the  
4           licensing board, who is a physical therapist,  
5           physical therapist assistant, public member, or  
6           the board administrator.
- 7           3. Any delegate may be removed or suspended from  
8           office as provided by the law of the state from  
9           which the delegate is appointed.
- 10          4. The member state board shall fill any vacancy  
11          occurring in the Commission.
- 12          5. Each delegate shall be entitled to one (1) vote with  
13          regard to the promulgation of rules and creation of  
14          bylaws and shall otherwise have an opportunity to  
15          participate in the business and affairs of the  
16          Commission.
- 17          6. A delegate shall vote in person or by such other  
18          means as provided in the bylaws. The bylaws may  
19          provide for delegates' participation in meetings by  
20          telephone or other means of communication.
- 21          7. The Commission shall meet at least once during each  
22          calendar year. Additional meetings shall be held as  
23          set forth in the bylaws.

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

- 26           1. Establish the fiscal year of the Commission;
- 27           2. Establish bylaws;

- 1           3. Maintain its financial records in accordance with  
2           the bylaws;
- 3           4. Meet and take such actions as are consistent with  
4           the provisions of this Compact and the bylaws;
- 5           5. Promulgate uniform rules to facilitate and  
6           coordinate implementation and administration of  
7           this Compact. The rules shall have the force and  
8           effect of law and shall be binding in all member  
9           states;
- 10          6. Bring and prosecute legal proceedings or actions in  
11          the name of the Commission, provided that the  
12          standing of any state physical therapy licensing  
13          board to sue or be sued under applicable law shall  
14          not be affected;
- 15          7. Purchase and maintain insurance and bonds;
- 16          8. Borrow, accept, or contract for services of  
17          personnel, including, but not limited to,  
18          employees of a member state;
- 19          9. Hire employees, elect or appoint officers, fix  
20          compensation, define duties, grant such  
21          individuals appropriate authority to carry out the  
22          purposes of the Compact, and to establish the  
23          Commission's personnel policies and programs  
24          relating to conflicts of interest, qualifications  
25          of personnel, and other related personnel matters;
- 26          10. Accept any and all appropriate donations and grants  
27          of money, equipment, supplies, materials and

- 1           services, and to receive, utilize and dispose of  
2           the same; provided that at all times the Commission  
3           shall avoid any appearance of impropriety and/or  
4           conflict of interest;
- 5           11. Lease, purchase, accept appropriate gifts or  
6           donations of, or otherwise to own, hold, improve or  
7           use, any property, real, personal or mixed;  
8           provided that at all times the Commission shall  
9           avoid any appearance of impropriety;
- 10          12. Sell convey, mortgage, pledge, lease, exchange,  
11          abandon, or otherwise dispose of any property real,  
12          personal, or mixed;
- 13          13. Establish a budget and make expenditures;
- 14          14. Borrow money;
- 15          15. Appoint committees, including standing committees  
16          composed of members, state regulators, state  
17          legislators or their representatives, and consumer  
18          representatives, and such other interested persons  
19          as may be designated in this Compact and the  
20          bylaws;
- 21          16. Provide and receive information from, and cooperate  
22          with, law enforcement agencies;
- 23          17. Establish and elect an Executive Board; and
- 24          18. Perform such other functions as may be necessary or  
25          appropriate to achieve the purposes of this Compact  
26          consistent with the state regulation of physical  
27          therapy licensure and practice.



1        D. The Executive Board

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

4            1. The Executive Board shall be composed of nine  
5            members:

6            a. Seven voting members who are elected by the  
7            Commission from the current membership of the  
8            Commission;

9            b. One ex-officio, nonvoting member from the  
10           recognized national physical therapy  
11           professional association; and

12           c. One ex-officio, nonvoting member from the  
13           recognized membership organization of the  
14           physical therapy licensing boards.

15           2. The ex-officio members will be selected by their  
16           respective organizations.

17           3. The Commission may remove any member of the  
18           Executive Board as provided in bylaws.

19           4. The Executive Board shall meet at least annually.

20           5. The Executive Board shall have the following Duties  
21           and responsibilities:

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

- 1           b. Ensure Compact administration services are  
2                   appropriately provided, contractual or  
3                   otherwise;
- 4           c. Prepare and recommend the budget;
- 5           d. Maintain financial records on behalf of the  
6                   Commission;
- 7           e. Monitor Compact compliance of member states  
8                   and provide compliance reports to the  
9                   Commission;
- 10          f. Establish additional committees as necessary;  
11                   and
- 12          g. Other duties as provided in rules or bylaws.

13   E. Meetings of the Commission

- 14           1. All meetings shall be open to the public, and public  
15                   notice of meetings shall be given in the same  
16                   manner as required under the rulemaking provisions  
17                   in Section 9.
- 18           2. The Commission or the Executive Board or other  
19                   committees of the Commission may convene in a  
20                   closed, non-public meeting if the Commission or  
21                   Executive Board or other committees of the  
22                   Commission must discuss:
  - 23                   a. Non-compliance of a member state with its  
24                           obligations under the Compact;
  - 25                   b. The employment, compensation, discipline or  
26                           other matters, practices or procedures  
27                           related to specific employees or other

1 matters related to the Commission's internal  
2 personnel practices and procedures;

3 c. Current, threatened, or reasonably  
4 anticipated litigation;

5 d. Negotiation of contracts for the purchase,  
6 lease, or sale of goods, services, or real  
7 estate;

8 e. Accusing any person of a crime or formally  
9 censuring any person;

10 f. Disclosure of trade secrets or commercial or  
11 financial information that is privileged or  
12 confidential;

13 g. Disclosure of information of a personal nature  
14 where disclosure would constitute a clearly  
15 unwarranted invasion of personal privacy;

16 h. Disclosure of investigative records compiled  
17 for law enforcement purposes;

18 i. Disclosure of information related to any  
19 investigative reports prepared by or on  
20 behalf of or for use of the Commission or  
21 other committee charged with responsibility  
22 of investigation or determination of  
23 compliance issues pursuant to the Compact; or

24 j. Matters specifically exempted from disclosure  
25 by federal or member state statute.

26 3. If a meeting, or portion of a meeting, is closed  
27 pursuant to this provision, the Commission's legal

1 counsel or designee shall certify that the meeting  
2 may be closed and shall reference each relevant  
3 exempting provision.

4 4. The Commission shall keep minutes that fully and  
5 clearly describe all matters discussed in a meeting  
6 and shall provide a full and accurate summary of  
7 actions taken, and the reasons therefore,  
8 including a description of the views expressed. All  
9 documents considered in connection with an action  
10 shall be identified in such minutes. All minutes  
11 and documents of a closed meeting shall remain  
12 under seal, subject to release by a majority vote  
13 of the Commission or order of a court of competent  
14 jurisdiction.

15 F. Financing of the Commission

16 1. The Commission shall pay, or provide for the  
17 payment of, the reasonable expenses of its  
18 establishment, organization, and ongoing  
19 activities.

20 2. The Commission may accept any and all appropriate  
21 revenue sources, donations, and grants of money,  
22 equipment, supplies, materials, and services.

23 3. The Commission may levy on and collect an annual  
24 assessment from each member state or impose fees on  
25 other parties to cover the cost of the operations  
26 and activities of the Commission and its staff,  
27 which must be in a total amount sufficient to cover

1 its annual budget as approved each year for which  
2 revenue is not provided by other sources. The  
3 aggregate annual assessment amount shall be  
4 allocated based upon a formula to be determined by  
5 the Commission, which shall promulgate a rule  
6 binding upon all member states.

7 4. The Commission shall not incur obligations of any  
8 kind prior to securing the funds adequate to meet  
9 the same; nor shall the Commission pledge the  
10 credit of any of the member states, except by and  
11 with the authority of the member state.

12 5. The Commission shall keep accurate accounts of all  
13 receipts and disbursements. The receipts and  
14 disbursements of the Commission shall be subject to  
15 the audit and accounting procedures established  
16 under its bylaws. However, all receipts and  
17 disbursements of funds handled by the Commission  
18 shall be audited yearly by a certified or licensed  
19 public accountant, and the report of the audit  
20 shall be included in and become part of the annual  
21 report of the Commission.

22 G. Qualified Immunity, Defense, and Indemnification

23 1. The members, officers, executive director,  
24 employees and representatives of the Commission  
25 shall be immune from suit and liability, either  
26 personally or in their official capacity, for any  
27 claim for damage to or loss of property or personal

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

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

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

15           SECTION 8. DATA SYSTEM

16           A. The Commission shall provide for the development,  
17           maintenance, and utilization of a coordinated database and  
18           reporting system containing licensure, adverse action, and  
19           investigative information on all licensed individuals in member  
20           states.

21           B. Notwithstanding any other provision of state law to the  
22           contrary, a member state shall submit a uniform data set to the data  
23           system on all individuals to whom this Compact is applicable as  
24           required by the rules of the Commission, including:

- 25           1. Identifying information;
- 26           2. Licensure data;
- 27           3. Adverse actions against a license or compact

1           privilege;

2           4. Non-confidential information related to  
3           alternative program participation;

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

6           6. Other information that may facilitate the  
7           administration of this Compact, as determined by  
8           the rules of the Commission.

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

11          D. The Commission shall promptly notify all member states of  
12          any adverse action taken against a licensee or an individual  
13          applying for a license. Adverse action information pertaining to a  
14          licensee in any member state will be available to any other member  
15          state.

16          E. Member states contributing information to the data  
17          system may designate information that may not be shared with the  
18          public without the express permission of the contributing state.

19          F. Any information submitted to the data system that is  
20          subsequently required to be expunged by the laws of the member state  
21          contributing the information shall be removed from the data system.

22          SECTION 9. RULEMAKING

23          A. The Commission shall exercise its rulemaking powers  
24          pursuant to the criteria set forth in this Section and the rules  
25          adopted thereunder. Rules and amendments shall become binding as of  
26          the date specified in each rule or amendment.

27          B. If a majority of the legislatures of the member states



1 rejects a rule, by enactment of a statute or resolution in the same  
2 manner used to adopt the Compact within 4 years of the date of  
3 adoption of the rule, then such rule shall have no further force and  
4 effect in any member state.

5 C. Rules or amendments to the rules shall be adopted at a  
6 regular or special meeting of the Commission.

7 D. Prior to promulgation and adoption of a final rule or  
8 rules by the Commission, and at least thirty (30) days in advance of  
9 the meeting at which the rule will be considered and voted upon, the  
10 Commission shall file a Notice of Proposed Rulemaking:

- 11 1. On the website of the Commission or other publicly  
12 accessible platform; and
- 13 2. On the website of each member state physical  
14 therapy licensing board or other publicly  
15 accessible platform or the publication in which  
16 each state would otherwise publish proposed rules.

17 E. The Notice of Proposed Rulemaking shall include:

- 18 1. The proposed time, date, and location of the  
19 meeting in which the rule will be considered and  
20 voted upon;
- 21 2. The text of the proposed rule or amendment and the  
22 reason for the proposed rule;
- 23 3. A request for comments on the proposed rule from any  
24 interested person; and
- 25 4. The manner in which interested persons may submit  
26 notice to the Commission of their intention to  
27 attend the public hearing and any written comments.

1 F. Prior to adoption of a proposed rule, the Commission  
2 shall allow persons to submit written data, facts, opinions, and  
3 arguments, which shall be made available to the public.

4 G. The Commission shall grant an opportunity for a public  
5 hearing before it adopts a rule or amendment if a hearing is  
6 requested by:

- 7 1. At least twenty-five (25) persons;
- 8 2. A state or federal governmental subdivision or  
9 agency; or
- 10 3. An association having at least twenty-five (25)  
11 members.

12 H. If a hearing is held on the proposed rule or amendment,  
13 the Commission shall publish the place, time, and date of the  
14 scheduled public hearing. If the hearing is held via electronic  
15 means, the Commission shall publish the mechanism for access to the  
16 electronic hearing.

- 17 1. All persons wishing to be heard at the hearing shall  
18 notify the executive director of the Commission or  
19 other designated member in writing of their desire  
20 to appear and testify at the hearing not less than  
21 five (5) business days before the scheduled date of  
22 the hearing.
- 23 2. Hearings shall be conducted in a manner providing  
24 each person who wishes to comment a fair and  
25 reasonable opportunity to comment orally or in  
26 writing.
- 27 3. All hearings will be recorded. A copy of the

1           recording will be made available on request.

2           4. Nothing in this section shall be construed as  
3           requiring a separate hearing on each rule. Rules  
4           may be grouped for the convenience of the  
5           Commission at hearings required by this section.

6           I. Following the scheduled hearing date, or by the close of  
7           business on the scheduled hearing date if the hearing was not held,  
8           the Commission shall consider all written and oral comments  
9           received.

10          J. If no written notice of intent to attend the public  
11          hearing by interested parties is received, the Commission may  
12          proceed with promulgation of the proposed rule without a public  
13          hearing.

14          K. The Commission shall, by majority vote of all members,  
15          take final action on the proposed rule and shall determine the  
16          effective date of the rule, if any, based on the rulemaking record  
17          and the full text of the rule.

18          L. Upon determination that an emergency exists, the  
19          Commission may consider and adopt an emergency rule without prior  
20          notice, opportunity for comment, or hearing, provided that the  
21          usual rulemaking procedures provided in the Compact and in this  
22          section shall be retroactively applied to the rule as soon as  
23          reasonably possible, in no event later than ninety (90) days after  
24          the effective date of the rule. For the purposes of this provision,  
25          an emergency rule is one that must be adopted immediately in order  
26          to:

27                 1. Meet an imminent threat to public health, safety,

1           or welfare;

2           2. Prevent a loss of Commission or member state funds;

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

6           4. Protect public health and safety.

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

21           SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

22           A. Oversight

23           1. The executive, legislative, and judicial branches  
24           of state government in each member state shall  
25           enforce this Compact and take all actions necessary  
26           and appropriate to effectuate the Compact's  
27           purposes and intent. The provisions of this Compact

1 and the rules promulgated hereunder shall have  
2 standing as statutory law.

3 2. All courts shall take judicial notice of the  
4 Compact and the rules in any judicial or  
5 administrative proceeding in a member state  
6 pertaining to the subject matter of this Compact  
7 which may affect the powers, responsibilities or  
8 actions of the Commission.

9 3. The Commission shall be entitled to receive service  
10 of process in any such proceeding, and shall have  
11 standing to intervene in such a proceeding for all  
12 purposes. Failure to provide service of process to  
13 the Commission shall render a judgment or order  
14 void as to the Commission, this Compact, or  
15 promulgated rules.

16 B. Default, Technical Assistance, and Termination

17 1. If the Commission determines that a member state  
18 has defaulted in the performance of its obligations  
19 or responsibilities under this Compact or the  
20 promulgated rules, the Commission shall:

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

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

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

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

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

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

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

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

7           C. Dispute Resolution

8           1. Upon request by a member state, the Commission  
9           shall attempt to resolve disputes related to the  
10           Compact that arise among member states and between  
11           member and non-member states.

12           2. The Commission shall promulgate a rule providing  
13           for both mediation and binding dispute resolution  
14           for disputes as appropriate.

15           D. Enforcement

16           1. The Commission, in the reasonable exercise of its  
17           discretion, shall enforce the provisions and rules  
18           of this Compact.

19           2. By majority vote, the Commission may initiate legal  
20           action in the United States District Court for the  
21           District of Columbia or the federal district where  
22           the Commission has its principal offices against a  
23           member state in default to enforce compliance with  
24           the provisions of the Compact and its promulgated  
25           rules and bylaws. The relief sought may include  
26           both injunctive relief and damages. In the event  
27           judicial enforcement is necessary, the prevailing

1           member shall be awarded all costs of such  
2           litigation, including reasonable attorney's fees.

3           3. The remedies herein shall not be the exclusive  
4           remedies of the Commission. The Commission may  
5           pursue any other remedies available under federal or  
6           state law.

7           SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE  
8           COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES,  
9           WITHDRAWAL, AND AMENDMENT

10           A. The Compact shall come into effect on the date on which  
11           the Compact statute is enacted into law in the tenth member state.  
12           The provisions, which become effective at that time, shall be  
13           limited to the powers granted to the Commission relating to  
14           assembly and the promulgation of rules. Thereafter, the Commission  
15           shall meet and exercise rulemaking powers necessary to the  
16           implementation and administration of the Compact.

17           B. Any state that joins the Compact subsequent to the  
18           Commission's initial adoption of the rules shall be subject to the  
19           rules as they exist on the date on which the Compact becomes law in  
20           that state. Any rule that has been previously adopted by the  
21           Commission shall have the full force and effect of law on the day  
22           the Compact becomes law in that state.

23           C. Any member state may withdraw from this Compact by  
24           enacting a statute repealing the same.

25           1. A member state's withdrawal shall not take effect  
26           until six (6) months after enactment of the  
27           repealing statute.



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

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

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

16           SECTION 12. CONSTRUCTION AND SEVERABILITY

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

1 and effect as to the party state affected as to all severable  
2 matters.

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

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

7 Sec. 453.504. PHYSICAL THERAPY LICENSURE COMPACT;  
8 DISCLOSURE OF PERSONAL INFORMATION. (a) In reporting information  
9 to the coordinated database and reporting system under Section 8 of  
10 the Physical Therapy Licensure Compact, the board may disclose  
11 personally identifiable information about a physical therapist or a  
12 physical therapist assistant, including the person's social  
13 security number.

14 (b) The coordinated database and reporting system may not  
15 share personally identifiable information with a state that is not  
16 a party to the compact unless the state agrees to not disclose that  
17 information to any other person.

18 ARTICLE 4. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

19 SECTION 4.01. Section 454.003, Occupations Code, is amended  
20 to read as follows:

21 Sec. 454.003. APPLICATION OF SUNSET ACT. The Texas Board of  
22 Occupational Therapy Examiners is subject to Chapter 325,  
23 Government Code (Texas Sunset Act). Unless continued in existence  
24 as provided by that chapter, the board is abolished and this chapter  
25 expires September 1, 2029 [~~2017~~].

26 SECTION 4.02. Section 454.005(b), Occupations Code, is  
27 amended to read as follows:

1 (b) The licensing provisions of this chapter do not apply  
2 to:

3 (1) an occupational therapy aide assisting a license  
4 holder under this chapter;

5 (2) a person engaged in a course of study leading to a  
6 degree or certificate in occupational therapy at an accredited or  
7 approved educational program if:

8 (A) the activities and services constitute a part  
9 of a supervised course of study; and

10 (B) the person is designated by a title that  
11 clearly indicates the person's status as a student or trainee;

12 (3) a person fulfilling the supervised field work  
13 experience requirements of Section 454.203, if those activities and  
14 services constitute a part of the experience necessary to meet the  
15 requirement of that section;

16 (4) an occupational therapist performing a special  
17 project in patient care while working toward an advanced degree  
18 from an accredited college or university;

19 (5) an occupational therapist or occupational therapy  
20 assistant who does not live in this state and who:

21 (A) is licensed by another state or who meets the  
22 requirements for certification established by the National Board  
23 for Certification in Occupational Therapy [~~American Occupational~~  
24 ~~Therapy Association~~] as an occupational therapist registered (OTR)  
25 or a certified occupational therapy assistant (COTA); and

26 (B) comes into this state for not more than four  
27 consecutive months to:

1 (i) provide or attend an educational  
2 activity;

3 (ii) assist in a case of medical emergency;  
4 or

5 (iii) engage in a special occupational  
6 therapy project; or

7 (6) a qualified and properly trained person acting  
8 under a physician's supervision under Section 157.001.

9 SECTION 4.03. Section 454.053, Occupations Code, is amended  
10 to read as follows:

11 Sec. 454.053. MEMBERSHIP RESTRICTIONS. (a) In this  
12 section, "Texas trade association" means a [~~nonprofit,~~  
13 cooperative~~]~~ and voluntarily joined statewide association of  
14 business or professional competitors in this state designed to  
15 assist its members and its industry or profession in dealing with  
16 mutual business or professional problems and in promoting their  
17 common interest.

18 (b) A person [~~An officer, employee, or paid consultant of a~~  
19 ~~Texas trade association in the field of health care]~~ may not be a  
20 member of the board if:

21 (1) the person is an officer, employee, or paid  
22 consultant of a Texas trade association in the field of health care;  
23 or

24 (2) the person's [~~]~~

25 [~~(c) A person who is the]~~ spouse is [~~of]~~ an officer,  
26 manager, or paid consultant of a Texas trade association in the  
27 field of health care [~~may not be a member of the board]~~.

1           (c) [~~(d)~~] A person may not be [~~serve as~~] a member of the  
2 board if the person is required to register as a lobbyist under  
3 Chapter 305, Government Code, because of the person's activities  
4 for compensation on behalf of a profession related to the operation  
5 of the executive council or the board.

6           SECTION 4.04. Sections 454.055(a) and (c), Occupations  
7 Code, are amended to read as follows:

8           (a) It is a ground for removal from the board that a member:

9                   (1) does not have at the time of taking office  
10 [~~appointment~~] the qualifications required by Section 454.051(a);

11                   (2) does not maintain during service on the board the  
12 qualifications required by Section 454.051(a);

13                   (3) is ineligible for membership under [~~violates a~~  
14 ~~prohibition established by~~] Section 454.052 or 454.053;

15                   (4) cannot, because of illness or disability,  
16 discharge the member's duties for a substantial part of the member's  
17 term; or

18                   (5) is absent from more than half of the regularly  
19 scheduled board meetings that the member is eligible to attend  
20 during a calendar year without an excuse approved [~~unless the~~  
21 ~~absence is excused~~] by a majority vote of the board.

22           (c) If the coordinator of occupational therapy programs has  
23 knowledge that a potential ground for removal exists, the  
24 coordinator shall notify the presiding officer of the board of the  
25 potential ground. The presiding officer shall then notify the  
26 governor and the attorney general that a potential ground for  
27 removal exists. If the potential ground for removal involves the

1 presiding officer, the coordinator shall notify the next highest  
2 ranking officer of the board, who shall then notify the governor and  
3 the attorney general that a potential ground for removal exists.

4 SECTION 4.05. Section 454.057, Occupations Code, is amended  
5 to read as follows:

6 Sec. 454.057. OFFICERS. (a) The governor shall designate a  
7 member of the board as the presiding officer of the board to serve  
8 in that capacity at the pleasure of the governor.

9 (b) After the appointment of members every two years, the  
10 members of the board shall elect from among its members [a presiding  
11 officer,] a secretary[.] and other officers required to conduct the  
12 business of the board.

13 SECTION 4.06. Section 454.059, Occupations Code, is amended  
14 to read as follows:

15 Sec. 454.059. TRAINING. (a) A person who is appointed to  
16 and qualifies for office as [Before] a member of the board may not  
17 vote, deliberate, or be counted as a member in attendance at a  
18 meeting of the board until the person completes [assume the  
19 member's duties, the member must complete at least] a [course of  
20 the] training program that complies with [established by the board  
21 under] this section.

22 (b) The training program must [shall] provide the person  
23 with information [to a participant] regarding:

24 (1) the law governing board and executive council  
25 operations [this chapter];

26 (2) the programs, functions, rules, and budget of  
27 [operated by] the board and executive council;

1           (3) the scope of and limitations on the rulemaking  
2 authority [~~role and functions~~] of the board and executive council;

3           (4) [~~the rules of the board, with an emphasis on the~~  
4 ~~rules that relate to disciplinary and investigatory authority,~~

5           ~~[(5) the current budget for the board,~~

6           ~~[(6)]~~ the results of the most recent formal audit of  
7 the board and executive council;

8           (5) [(7)] the requirements of:

9           (A) laws relating to open meetings, public  
10 information, administrative procedure, and disclosing conflicts of  
11 interest; and

12           (B) other laws applicable to members of the board  
13 in performing their duties [~~Chapters 551, 552, 2001, and 2002,~~  
14 ~~Government Code,~~

15           ~~[(8) the requirements of the conflict of interest laws~~  
16 ~~and other laws relating to public officials]; and~~

17           (6) [(9)] any applicable ethics policies adopted by  
18 the board or the Texas Ethics Commission.

19           (c) A person appointed to the board is entitled to  
20 reimbursement, as provided by the General Appropriations Act, for  
21 the travel expenses incurred in attending the training program  
22 regardless of whether the person's attendance at the program occurs  
23 before or after the person qualifies for office [~~In developing the~~  
24 ~~training requirements provided for by this section, the board shall~~  
25 ~~consult with the governor's office, the attorney general's office,~~  
26 ~~and the Texas Ethics Commission].~~

27           (d) The director of the executive council shall create a

1 training manual that includes the information required by  
2 Subsection (b). The director shall distribute a copy of the  
3 training manual annually to each board member. On receipt of the  
4 training manual, each board member shall sign and submit to the  
5 director a statement acknowledging receipt of the training manual  
6 ~~[If another state agency or entity is given the authority to~~  
7 ~~establish the training requirements, the board shall allow that~~  
8 ~~training instead of developing its own program].~~

9 SECTION 4.07. Section 454.105(b), Occupations Code, is  
10 amended to read as follows:

11 (b) The board shall develop and implement policies that  
12 clearly separate ~~[define]~~ the policymaking ~~[respective]~~  
13 responsibilities of the board and the management responsibilities  
14 of the director and ~~[the]~~ staff of the executive council.

15 SECTION 4.08. Subchapter C, Chapter 454, Occupations Code,  
16 is amended by adding Sections 454.1061 and 454.108 to read as  
17 follows:

18 Sec. 454.1061. PLACE OF EMPLOYMENT. The board may require  
19 that a license holder provide current information in a readily  
20 accessible and usable format regarding the license holder's current  
21 place of employment as an occupational therapist or occupational  
22 therapy assistant.

23 Sec. 454.108. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE  
24 RESOLUTION. (a) The board shall develop a policy to encourage the  
25 use of:

26 (1) negotiated rulemaking under Chapter 2008,  
27 Government Code, for the adoption of board rules; and



1           (2) appropriate alternative dispute resolution  
2 procedures under Chapter 2009, Government Code, to assist in the  
3 resolution of internal and external disputes under the board's  
4 jurisdiction.

5           (b) The board's procedures relating to alternative dispute  
6 resolution must conform, to the extent possible, to any model  
7 guidelines issued by the State Office of Administrative Hearings  
8 for the use of alternative dispute resolution by state agencies.

9           (c) The board shall:

10           (1) coordinate the implementation of the policy  
11 adopted under Subsection (a);

12           (2) provide training as needed to implement the  
13 procedures for negotiated rulemaking or alternative dispute  
14 resolution; and

15           (3) collect data concerning the effectiveness of those  
16 procedures.

17           SECTION 4.09. Section 454.153(e), Occupations Code, is  
18 amended to read as follows:

19           (e) The staff of the executive council [~~coordinator of~~  
20 ~~occupational therapy programs~~] shall notify the board of a  
21 complaint that extends beyond the time prescribed by the board for  
22 resolving the complaint so that the board may take necessary action  
23 on the complaint.

24           SECTION 4.10. The heading to Subchapter E, Chapter 454,  
25 Occupations Code, is amended to read as follows:

26           SUBCHAPTER E. LICENSE REQUIREMENTS [~~, REGISTRATION OF FACILITIES~~]

27           SECTION 4.11. Section 454.203(a), Occupations Code, is

1 amended to read as follows:

2 (a) An applicant for an occupational therapist license or an  
3 occupational therapy assistant license must present evidence  
4 satisfactory to the board that the applicant has:

5 (1) successfully completed the academic and  
6 supervised field work experience requirements of an educational  
7 program in occupational therapy recognized by the board, as  
8 provided by Section 454.204; and

9 (2) [~~successfully completed a period of supervised~~  
10 ~~field work experience arranged by the recognized educational~~  
11 ~~institution at which the applicant met the academic requirements,~~  
12 ~~and~~

13 [~~(3)~~] passed an examination as provided by Section  
14 454.207.

15 SECTION 4.12. Section 454.207, Occupations Code, is amended  
16 to read as follows:

17 Sec. 454.207. LICENSE EXAMINATION. (a) The board by rule  
18 shall recognize a national testing entity to administer the  
19 examinations required to obtain an occupational therapist or  
20 occupational therapy assistant license.

21 (b) The [~~examine each applicant for a license by written~~]  
22 examination must [~~to~~] test the applicant's knowledge of the basic  
23 and clinical sciences relating to occupational therapy,  
24 occupational therapy techniques and methods, and other subjects the  
25 board may require to determine the applicant's fitness to practice.

26 [~~(b) The board shall examine applicants for licenses at~~  
27 ~~least twice each year at the board's regular meetings and under the~~

1 ~~supervision required by the board.]~~

2 (c) The national testing entity recognized by the board  
3 shall be responsible for overseeing the examination process,  
4 including responsibility for:

5 (1) specifying application requirements for the  
6 examination;

7 (2) specifying reexamination requirements for the  
8 examination;

9 (3) verifying that an applicant meets the educational  
10 and supervised field experience requirements established by the  
11 board; and

12 (4) notifying an applicant and the board of the  
13 applicant's examination results [~~board shall:~~

14 [~~(1) approve an examination for:~~

15 [~~(A) occupational therapists; and~~

16 [~~(B) occupational therapy assistants;~~

17 [~~(2) establish standards for acceptable performance;~~

18 ~~and~~

19 [~~(3) have the written portion of the examination~~  
20 ~~validated by an independent testing entity].~~

21 (d) The rules adopted under this section may require that an  
22 applicant authorize the national testing entity to directly provide  
23 to the board the applicant's examination results [~~board shall give~~  
24 ~~reasonable public notice of the examination in accordance with its~~  
25 ~~rules].~~

26 (e) The board may require an applicant for an occupational  
27 therapist or occupational therapy assistant license to pass a

1 jurisprudence examination.

2 SECTION 4.13. Subchapter E, Chapter 454, Occupations Code,  
3 is amended by adding Sections 454.216 and 454.217 to read as  
4 follows:

5 Sec. 454.216. LICENSE BY ENDORSEMENT. (a) The board shall  
6 issue an occupational therapist license or an occupational therapy  
7 assistant license, as applicable, to an applicant who holds a  
8 current, unrestricted license in another jurisdiction that  
9 maintains licensing requirements that are substantially equivalent  
10 to the requirements under this chapter. An applicant for a license  
11 under this section must:

12 (1) present proof to the board that the applicant is  
13 licensed in good standing as an occupational therapist or  
14 occupational therapy assistant in that jurisdiction;

15 (2) provide to the board information regarding the  
16 status of any other professional license that the applicant holds  
17 or has held in this state or another jurisdiction;

18 (3) present proof to the board that the applicant has  
19 passed a jurisprudence examination required by the board;

20 (4) meet the qualifications required by Section  
21 454.203 or 454.205, as applicable;

22 (5) not have committed an act that is grounds for  
23 denial of a license under Section 454.301;

24 (6) submit to the board a current photograph that  
25 meets the requirements for a United States passport; and

26 (7) meet any additional requirements provided by board  
27 rule.

1        (b) The board shall adopt rules for issuing a provisional  
2 license under Section 454.210 to an applicant for a license by  
3 endorsement who encounters a delay that is outside the applicant's  
4 control in submitting to the board the documentation required by  
5 this section.

6        Sec. 454.217. CRIMINAL HISTORY RECORD INFORMATION FOR  
7 LICENSE ISSUANCE. (a) The board shall require that an applicant  
8 for a license submit a complete and legible set of fingerprints, on  
9 a form prescribed by the board, to the board or to the Department of  
10 Public Safety for the purpose of obtaining criminal history record  
11 information from the Department of Public Safety and the Federal  
12 Bureau of Investigation.

13        (b) The board may not issue a license to a person who does  
14 not comply with the requirement of Subsection (a).

15        (c) The board shall conduct a criminal history record  
16 information check of each applicant for a license using  
17 information:

18                (1) provided by the individual under this section; and

19                (2) made available to the board by the Department of  
20 Public Safety, the Federal Bureau of Investigation, and any other  
21 criminal justice agency under Chapter 411, Government Code.

22        (d) The board may:

23                (1) enter into an agreement with the Department of  
24 Public Safety to administer a criminal history record information  
25 check required under this section; and

26                (2) authorize the Department of Public Safety to  
27 collect from each applicant the costs incurred by the Department of

1 Public Safety in conducting the criminal history record information  
2 check.

3 SECTION 4.14. Section 454.252(b), Occupations Code, is  
4 amended to read as follows:

5 (b) A person whose license has been expired for 90 days or  
6 less may renew the license by paying to the executive council the  
7 renewal fee and a late fee set by the executive council that may not  
8 exceed one-half of the renewal ~~[examination]~~ fee for the license.  
9 If a person's license has been expired for more than 90 days but  
10 less than one year, the person may renew the license by paying to  
11 the executive council all unpaid renewal fees and a late fee set by  
12 the executive council that may not exceed the amount of the renewal  
13 fee ~~[charged for examination for the license]~~.

14 SECTION 4.15. Section 454.253(b), Occupations Code, is  
15 amended to read as follows:

16 (b) The person must pay to the executive council a renewal  
17 fee set by the executive council under this section in an amount  
18 that may not exceed the renewal ~~[examination]~~ fee for the license.

19 SECTION 4.16. Section 454.254, Occupations Code, is amended  
20 by adding Subsection (e) to read as follows:

21 (e) The board by rule shall establish a process for  
22 selecting a license holder peer organization in this state to  
23 evaluate and approve continuing education courses under Subsection  
24 (d). The selection process must include a request for proposal and  
25 bidding process. If the board authorizes a peer organization to  
26 evaluate and approve continuing education courses under Subsection  
27 (d), the board shall request bids and proposals from that

1 organization and other organizations at least once every four  
2 years.

3 SECTION 4.17. Subchapter F, Chapter 454, Occupations Code,  
4 is amended by adding Section 454.255 to read as follows:

5 Sec. 454.255. CRIMINAL HISTORY RECORD INFORMATION  
6 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a  
7 license issued under this chapter shall submit a complete and  
8 legible set of fingerprints for purposes of performing a criminal  
9 history record information check of the applicant as provided by  
10 Section 454.217.

11 (b) The board may administratively suspend or refuse to  
12 renew the license of a person who does not comply with the  
13 requirement of Subsection (a).

14 (c) A license holder is not required to submit fingerprints  
15 under this section for the renewal of the license if the license  
16 holder has previously submitted fingerprints under:

17 (1) Section 454.217 for the initial issuance of the  
18 license; or

19 (2) this section as part of a prior license renewal.

20 SECTION 4.18. Subchapter G, Chapter 454, Occupations Code,  
21 is amended by adding Sections 454.3025 and 454.307 to read as  
22 follows:

23 Sec. 454.3025. SCHEDULE OF SANCTIONS. (a) The board by  
24 rule shall adopt a schedule of administrative penalties and other  
25 sanctions that the board may impose under this chapter. In adopting  
26 the schedule of sanctions, the board shall ensure that the amount of  
27 the penalty or severity of the sanction imposed is appropriate to

1 the type of violation or conduct that is the basis for disciplinary  
2 action. In determining the appropriate disciplinary action,  
3 including the amount of any administrative penalty to assess, the  
4 board shall consider:

5 (1) the seriousness of the violation, including:

6 (A) the nature, circumstances, extent, and  
7 gravity of the violation; and

8 (B) the hazard or potential hazard created to the  
9 health, safety, or economic welfare of the public;

10 (2) the history of previous violations;

11 (3) the amount necessary to deter future violations;

12 (4) efforts to correct the violation;

13 (5) the economic harm to the public interest or public  
14 confidence caused by the violation;

15 (6) whether the violation was intentional; and

16 (7) any other matter that justice requires.

17 (b) The board shall make the schedule of sanctions adopted  
18 under Subsection (a) available to the public on request.

19 Sec. 454.307. RECORD OF DISCIPLINARY ACTION; EXPUNGEMENT.

20 (a) The board by rule shall establish a process to expunge any  
21 record of disciplinary action taken against a license holder before  
22 September 1, 2017, for practicing in a facility that failed to meet  
23 the registration requirements of Section 454.215, as that section  
24 existed on January 1, 2017. The rules must provide that the board  
25 may not expunge a record under this section after September 1, 2019.

26 (b) This section expires September 1, 2019.

27 SECTION 4.19. Sections 454.3521(a) and (b), Occupations



1 Code, are amended to read as follows:

2 (a) The board may impose an administrative penalty against a  
3 person licensed [~~or facility registered~~] under this chapter who  
4 violates this chapter or a rule or order adopted under this chapter.

5 (b) The penalty may not exceed \$200, and each day a  
6 violation continues or occurs is a separate violation for the  
7 purpose of imposing a penalty. The amount of the penalty shall be  
8 determined according to the sanctions schedule under Section  
9 454.3025 [~~based on:~~

10 [~~(1) the seriousness of the violation, including the~~  
11 ~~nature, circumstances, extent, and gravity of any prohibited acts,~~  
12 ~~and the hazard or potential hazard created to the health, safety, or~~  
13 ~~economic welfare of the public;~~

14 [~~(2) the history of previous violations;~~

15 [~~(3) the amount necessary to deter a future violation;~~

16 [~~(4) efforts to correct the violation; and~~

17 [~~(5) any other matter that justice requires~~].

18 SECTION 4.20. The following provisions of the Occupations  
19 Code are repealed:

20 (1) Section 454.203(b);

21 (2) Section 454.205(b);

22 (3) Section 454.206;

23 (4) Section 454.208;

24 (5) Section 454.209; and

25 (6) Section 454.215.

26 SECTION 4.21. (a) Except as provided by Subsection (b) of  
27 this section, Section 454.059, Occupations Code, as amended by this

1 article, applies to a member of the Texas Board of Occupational  
2 Therapy Examiners appointed before, on, or after the effective date  
3 of this article.

4 (b) A member of the Texas Board of Occupational Therapy  
5 Examiners who, before the effective date of this article, completed  
6 the training program required by Section 454.059, Occupations Code,  
7 as that law existed before the effective date of this article, is  
8 required to complete additional training only on subjects added to  
9 the training program required by Section 454.059, Occupations Code,  
10 as amended by this article. A board member described by this  
11 subsection may not vote, deliberate, or be counted as a member in  
12 attendance at a meeting of the Texas Board of Occupational Therapy  
13 Examiners held on or after December 1, 2017, until the member  
14 completes the additional training.

15 SECTION 4.22. As soon as practicable after the effective  
16 date of this article, the director of the Executive Council of  
17 Physical Therapy and Occupational Therapy Examiners shall create  
18 the training manual required by Section 454.059(d), Occupations  
19 Code, as amended by this article.

20 SECTION 4.23. As soon as practicable after the effective  
21 date of this article, the Texas Board of Occupational Therapy  
22 Examiners shall:

- 23 (1) develop and implement the policies required by:
- 24 (A) Section 454.105(b), Occupations Code, as  
25 amended by this article; and
- 26 (B) Section 454.108, Occupations Code, as added  
27 by this article; and

1           (2) adopt any rules necessary to implement Chapter  
2 454, Occupations Code, as amended by this article.

3           SECTION 4.24. Not later than September 1, 2018, the Texas  
4 Board of Occupational Therapy Examiners shall establish the request  
5 for proposal and bidding process required by Section 454.254(e),  
6 Occupations Code, as added by this article.

7           SECTION 4.25. Sections 454.203, 454.205, 454.252, and  
8 454.253, Occupations Code, as amended by this article, and Sections  
9 454.217 and 454.255, Occupations Code, as added by this article,  
10 apply only to an application for the issuance or renewal of an  
11 occupational therapist or occupational therapy assistant license  
12 submitted to the Texas Board of Occupational Therapy Examiners on  
13 or after the effective date of this article. An application  
14 submitted before that date is governed by the law in effect on the  
15 date the application was submitted, and the former law is continued  
16 in effect for that purpose.

17           SECTION 4.26. A person who holds an occupational therapist  
18 or occupational therapy assistant license issued before the  
19 effective date of this article may continue to renew that license  
20 without complying with the changes in law made by this article to  
21 Section 454.203, Occupations Code.

22           SECTION 4.27. (a) The Texas Board of Occupational Therapy  
23 Examiners shall dismiss the portion of any complaint, penalty,  
24 disciplinary action, or contested case pending on the effective  
25 date of this article that is based on a violation of rules adopted  
26 under Section 454.215, Occupations Code, as repealed by this  
27 article.

1           (b) Section 454.307, Occupations Code, as added by this  
2 article, applies only to records of disciplinary action for conduct  
3 that occurred before the effective date of this article.

4           SECTION 4.28. Section 454.3025, Occupations Code, as added  
5 by this article, and Section 454.3521(b), Occupations Code, as  
6 amended by this article, apply only to conduct that occurs on or  
7 after the date that rules adopted under Section 454.3025 take  
8 effect. Conduct that occurs before that date is governed by the law  
9 in effect before the effective date of this article, and the former  
10 law is continued in effect for that purpose.

11   ARTICLE 5. EFFECTIVE DATE

12           SECTION 5.01. This Act takes effect September 1, 2017.