

By: Nichols, et al.

S.B. No. 317

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Executive Council of Physical Therapy and Occupational Therapy Examiners, the Texas Board of Physical Therapy Examiners, and the Texas Board of Occupational Therapy Examiners; authorizing a fee.

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

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

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

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

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

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

Sec. 452.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

(a) In this section, "Texas trade association" means a [nonprofit,] cooperative[7] and voluntarily joined statewide

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

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

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

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

~~[(c) A person who is the] spouse is [of] an officer, manager, or paid consultant of a Texas trade association in the field of health care [may not be a member of the executive council and may not be an employee of the executive council who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary 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. Sections 452.056(a) and (c), Occupations
9 Code, are amended to read as follows:

10 (a) It is a ground for removal from the executive council
11 that a member:

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

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

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

18 (4) cannot, because of illness or disability,
19 discharge the member's duties for a substantial part of the member's
20 term; or

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

25 (c) If the director has knowledge that a potential ground
26 for removal exists, the director shall notify the presiding officer
27 of the executive council of the potential ground. The presiding

officer shall then notify the governor and the attorney general
~~[authority that appointed the member]~~ that a potential ground for
removal exists. If the potential ground for removal involves the
presiding officer, the director shall notify the next highest
ranking officer of the executive council, who shall then notify the
governor and the attorney general that a potential ground for
removal exists.

SECTION 1.04. Subchapter B, Chapter 452, Occupations Code,
is amended by adding Section 452.059 to read as follows:

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

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

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

(2) the programs, functions, rules, and budgets of the
executive council, physical therapy board, and occupational
therapy board;

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

(4) the types of executive council, physical therapy
board, and occupational therapy board rules, interpretations, and
enforcement actions that may implicate federal antitrust law by

1 limiting competition or impacting prices charged by persons engaged
2 in a profession or business regulated by the executive council,
3 physical therapy board, or occupational therapy board, including
4 rules, interpretations, and enforcement actions that:

5 (A) regulate the scope of practice of persons
6 engaged in a profession or business regulated by the executive
7 council, physical therapy board, or occupational therapy board;

8 (B) restrict advertising by persons engaged in a
9 profession or business regulated by the executive council, physical
10 therapy board, or occupational therapy board;

11 (C) affect the price of goods or services
12 provided by persons engaged in a profession or business regulated
13 by the executive council, physical therapy board, or occupational
14 therapy board; or

15 (D) restrict participation in a profession or
16 business regulated by the executive council, physical therapy
17 board, or occupational therapy board;

18 (5) the results of the most recent formal audit of the
19 executive council, physical therapy board, and occupational
20 therapy board;

21 (6) the requirements of:

22 (A) laws relating to open meetings, public
23 information, administrative procedure, and disclosure of conflicts
24 of interest; and

25 (B) other laws applicable to members of the
26 executive council, physical therapy board, and occupational
27 therapy board in performing their duties; and

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

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

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

SECTION 1.05. Section [452.102](#), Occupations Code, is amended to read as follows:

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

SECTION 1.06. Section [452.152\(b\)](#), Occupations Code, is amended to read as follows:

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

~~[(1) the administration of written examinations and collection of fees, and~~

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

5 SECTION 1.07. Subchapter D, Chapter 452, Occupations Code,
6 is amended by adding Section 452.160 to read as follows:

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

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

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

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

22 (c) The executive council shall:

23 (1) coordinate the implementation of the policy
24 adopted under Subsection (a);

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

1 (3) collect data concerning the effectiveness of those
2 procedures.

3 SECTION 1.08. Section 452.153(b), Occupations Code, is
4 repealed.

5 SECTION 1.09. As soon as practicable after the effective
6 date of this article:

7 (1) the director of the Executive Council of Physical
8 Therapy and Occupational Therapy Examiners shall create the
9 training manual required by Section 452.059(d), Occupations Code,
10 as added by this article; and

11 (2) the executive council shall:

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

15 (B) develop the policy required by Section
16 452.160, Occupations Code, as added by this article.

17 SECTION 1.10. Notwithstanding Section 452.059(a),
18 Occupations Code, as added by this article, a member of the
19 Executive Council of Physical Therapy and Occupational Therapy
20 Examiners who has not completed the training required by Section
21 452.059, Occupations Code, as added by this article, may vote,
22 deliberate, and be counted as a member in attendance at a meeting of
23 the Executive Council of Physical Therapy and Occupational Therapy
24 Examiners until December 1, 2017.

25 ARTICLE 2. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

26 SECTION 2.01. Section 453.002, Occupations Code, is amended
27 to read as follows:

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

6 SECTION 2.02. Section 453.054, Occupations Code, is amended
7 to read as follows:

8 Sec. 453.054. MEMBERSHIP RESTRICTIONS. (a) In this
9 section, "Texas trade association" means a [~~nonprofit,~~
10 cooperative~~[-]~~] and voluntarily joined statewide association of
11 business or professional competitors in this state designed to
12 assist its members and its industry or profession in dealing with
13 mutual business or professional problems and in promoting their
14 common interest.

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

18 (1) the person is an officer, employee, or paid
19 consultant of a Texas trade association in the field of health care;
20 or

21 (2) the person's~~[-]~~
22 [~~(c) A person who is the~~] spouse is [~~of~~] an officer,
23 manager, or paid consultant of a Texas trade association in the
24 field of health care [~~may not be a member of the board~~].

25 (c) [~~(d)~~] A person may not be [~~serve as~~] a member of the
26 board if the person is required to register as a lobbyist under
27 Chapter 305, Government Code, because of the person's activities

1 for compensation on behalf of a profession related to the operation
2 of the board.

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

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

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

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

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

12 (4) cannot, because of illness or disability,
13 discharge the member's duties for a substantial part of the member's
14 term; or

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

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

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

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

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

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

Sec. 453.060. TRAINING. (a) A person who is appointed to and qualifies for office as ~~[Before]~~ a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of ~~[assume the member's duties, the member must complete at least a course of the training program established by]~~ the board until the person completes a training program that complies with ~~[under]~~ this section.

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

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

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

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

1 (4) the types of board and executive council rules,
2 interpretations, and enforcement actions that may implicate
3 federal antitrust law by limiting competition or impacting prices
4 charged by persons engaged in a profession or business regulated by
5 the board, including rules, interpretations, and enforcement
6 actions that:

7 (A) regulate the scope of practice of persons
8 engaged in a profession or business regulated by the board;

9 (B) restrict advertising by persons engaged in a
10 profession or business regulated by the board;

11 (C) affect the price of goods or services
12 provided by persons engaged in a profession or business regulated
13 by the board; or

14 (D) restrict participation in a profession or
15 business regulated by the board ~~[the rules of the board, with an~~
16 ~~emphasis on the rules that relate to disciplinary and investigatory~~
17 ~~authority];~~

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

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

21 (6) ~~(7)]~~ the requirements of:

22 (A) laws relating to open meetings, public
23 information, administrative procedure, and disclosure of conflicts
24 ~~[Chapters 551, 552, 2001, and 2002, Government Code,~~

25 ~~(8) the requirements of the conflict]~~ of interest;
26 and

27 (B) [laws and] other laws applicable to members

1 of the board in performing their duties ~~[relating to public~~
2 ~~officials]~~; and

3 (7) ~~[(9)]~~ any applicable ethics policies adopted by
4 the board or the Texas Ethics Commission.

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

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

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

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

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

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

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

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

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

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

(c) The board shall:

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

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

1 (3) collect data concerning the effectiveness of those
2 procedures.

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

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

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

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

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

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

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

27 (b) The application must be accompanied by[+]

1 ~~[(1) an examination fee prescribed by the board, and~~
2 ~~[(2)]~~ a nonrefundable application fee prescribed by
3 the executive council ~~[board]~~.

4 SECTION 2.12. Section 453.203, Occupations Code, is amended
5 to read as follows:

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

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

13 (2) official documentation from an educational
14 credentials review agency approved by the board certifying that the
15 applicant has completed~~+~~

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

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

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

~~prescribed and approved by the board].~~

(c) A physical therapy educational program or physical therapist assistant program is an accredited program if the program is[+]

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

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

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

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

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

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

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

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

(b) The physical therapist examination is a national examination that tests entry-level competence related to ~~[must cover the subjects generally taught by an accredited]~~ physical

1 therapy theory, examination [~~educational program or an accredited~~
2 ~~physical therapist assistant program and may include clinical~~
3 ~~decision-making~~] and evaluation, prognosis, treatment
4 intervention, prevention [~~program planning and implementation, and~~
5 ~~administration, education~~], and consultation[, ~~and research in~~
6 ~~physical therapy~~].

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

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

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

26 (f) If the board enters into a contract with a national
27 testing entity under Subsection (a), the contract must include a

provision requiring the national testing entity to provide to the board an examination score report for each applicant for a license under this chapter who took the examination.

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

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

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

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

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

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

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

1 Sec. 453.214. LICENSE BY ENDORSEMENT. (a) The board shall
2 issue a physical therapist license or a physical therapist
3 assistant license, as applicable, to an applicant who holds a
4 current, unrestricted license in another jurisdiction that
5 maintains licensing requirements that are substantially equivalent
6 to the requirements under this chapter. An applicant for a license
7 under this section must:

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

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

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

16 (4) meet the qualifications required by Section
17 453.203 or 453.204, as applicable;

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

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

22 (7) meet any additional requirements provided by board
23 rule.

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

1 this section.

2 Sec. 453.215. CRIMINAL HISTORY RECORD INFORMATION FOR
3 LICENSE ISSUANCE. (a) The board shall require that an applicant
4 for a license submit a complete and legible set of fingerprints, on
5 a form prescribed by the board, to the board or to the Department of
6 Public Safety for the purpose of obtaining criminal history record
7 information from the Department of Public Safety and the Federal
8 Bureau of Investigation.

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

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

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

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

18 (d) The board may:

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

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

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

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

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

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

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

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

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

1 Sec. 453.255. CRIMINAL HISTORY RECORD INFORMATION
2 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a
3 license issued under this chapter shall submit a complete and
4 legible set of fingerprints for purposes of performing a criminal
5 history record information check of the applicant as provided by
6 Section 453.215.

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

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

13 (1) Section 453.215 for the initial issuance of the
14 license; or

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

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

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

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

2 (A) the nature, circumstances, extent, and
3 gravity of the violation; and

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

6 (2) the history of previous violations;

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

8 (4) efforts to correct the violation;

9 (5) the economic harm to the public interest or public
10 confidence caused by the violation;

11 (6) whether the violation was intentional; and

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

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

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

16 (a) The board by rule shall establish a process to expunge any
17 record of disciplinary action taken against a license holder before
18 September 1, 2019, for practicing in a facility that failed to meet
19 the registration requirements of Section 453.213, as that section
20 existed on January 1, 2019. The rules must provide that the board
21 may not expunge a record under this section after September 1, 2021.

22 (b) This section expires September 1, 2021.

23 SECTION 2.22. Section 453.401, Occupations Code, is amended
24 to read as follows:

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

violates this chapter or a rule or order adopted under this chapter.

SECTION 2.23. Section 453.402(b), Occupations Code, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

(1) Section 453.001(8);

(2) Section 453.202(c);

(3) Section 453.206; and

(4) Section 453.213.

SECTION 2.26. (a) Except as provided by Subsection (b) of

1 this section, Section 453.060, Occupations Code, as amended by this
2 article, applies to a member of the Texas Board of Physical Therapy
3 Examiners appointed before, on, or after the effective date of this
4 article.

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

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

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

24 (1) develop and implement the policies required by:

25 (A) Section 453.105(b), Occupations Code, as
26 amended by this article; and

27 (B) Section 453.109, Occupations Code, as added

1 by this article; and

2 (2) adopt any rules necessary to implement Chapter
3 453, Occupations Code, as amended by this article.

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

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

18 SECTION 2.31. A person who holds a physical therapist or
19 physical therapist assistant license issued before the effective
20 date of this article may continue to renew that license without
21 complying with the changes in law made by this article to Section
22 453.203, Occupations Code.

23 SECTION 2.32. (a) The Texas Board of Physical Therapy
24 Examiners shall dismiss the portion of any complaint, penalty,
25 disciplinary action, or contested case pending on September 1,
26 2019, that is based on a violation of rules adopted under Section
27 453.213, Occupations Code, as repealed by this article.

(b) Section 453.357, Occupations Code, as added by this article, applies only to records of disciplinary action for conduct that occurred before September 1, 2019.

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

ARTICLE 3. PHYSICAL THERAPY LICENSURE COMPACT

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

SUBCHAPTER K. PHYSICAL THERAPY LICENSURE COMPACT

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

SECTION 1. PURPOSE

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

This Compact is designed to achieve the following objectives:

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

14 SECTION 2. DEFINITIONS

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

- 17 1. "Active Duty Military" means full-time duty status
18 in the active uniformed service of the United
19 States, including members of the National Guard and
20 Reserve on active duty orders pursuant to 10 U.S.C.
21 Section 1209 and 1211.
- 22 2. "Adverse Action" means disciplinary action taken by
23 a physical therapy licensing board based upon
24 misconduct, unacceptable performance, or a
25 combination of both.
- 26 3. "Alternative Program" means a non-disciplinary
27 monitoring or practice remediation process

1 approved by a physical therapy licensing board.
2 This includes, but is not limited to, substance
3 abuse issues.

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

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

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

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

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

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

1 and "the practice of physical therapy" mean the
2 care and services provided by or under the
3 direction and supervision of a licensed physical
4 therapist.

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

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

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

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

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

23 SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

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

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

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

26 C. A member state shall grant the compact privilege to a
27 licensee holding a valid unencumbered license in another member

1 state in accordance with the terms of the Compact and rules.

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

4 SECTION 4. COMPACT PRIVILEGE

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

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

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

27 C. A licensee providing physical therapy in a remote state

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

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

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

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

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

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

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

1 H. Once the requirements of Section 4G have been met, the
2 license must meet the requirements in Section 4A to obtain a compact
3 privilege in a remote state.

4 SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

8 A. Home of record;

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

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

12 SECTION 6. ADVERSE ACTIONS

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

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

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

26 D. Any member state may investigate actual or alleged
27 violations of the statutes and rules authorizing the practice of

1 physical therapy in any other member state in which a physical
2 therapist or physical therapist assistant holds a license or
3 compact privilege.

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

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

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

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

27 F. Joint Investigations

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

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

10 SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT
11 COMMISSION

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

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

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

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

27 B. Membership, Voting, and Meetings

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

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

- 27 1. Establish the fiscal year of the Commission;

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

1 of money, equipment, supplies, materials and
2 services, and to receive, utilize and dispose of
3 the same; provided that at all times the Commission
4 shall avoid any appearance of impropriety and/or
5 conflict of interest;

6 11. Lease, purchase, accept appropriate gifts or
7 donations of, or otherwise to own, hold, improve or
8 use, any property, real, personal or mixed;
9 provided that at all times the Commission shall
10 avoid any appearance of impropriety;

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

14 13. Establish a budget and make expenditures;

15 14. Borrow money;

16 15. Appoint committees, including standing committees
17 composed of members, state regulators, state
18 legislators or their representatives, and consumer
19 representatives, and such other interested persons
20 as may be designated in this Compact and the
21 bylaws;

22 16. Provide and receive information from, and cooperate
23 with, law enforcement agencies;

24 17. Establish and elect an Executive Board; and

25 18. Perform such other functions as may be necessary or
26 appropriate to achieve the purposes of this Compact
27 consistent with the state regulation of physical

1 therapy licensure and practice.

2 D. The Executive Board

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

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

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

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

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

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

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

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

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

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

1 for the compact privilege;

2 b. Ensure Compact administration services are
3 appropriately provided, contractual or
4 otherwise;

5 c. Prepare and recommend the budget;

6 d. Maintain financial records on behalf of the
7 Commission;

8 e. Monitor Compact compliance of member states
9 and provide compliance reports to the
10 Commission;

11 f. Establish additional committees as necessary;
12 and

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

14 E. Meetings of the Commission

15 1. All meetings shall be open to the public, and public
16 notice of meetings shall be given in the same
17 manner as required under the rulemaking provisions
18 in Section 9.

19 2. The Commission or the Executive Board or other
20 committees of the Commission may convene in a
21 closed, non-public meeting if the Commission or
22 Executive Board or other committees of the
23 Commission must discuss:

24 a. Non-compliance of a member state with its
25 obligations under the Compact;

26 b. The employment, compensation, discipline or
27 other matters, practices or procedures

1 related to specific employees or other
2 matters related to the Commission's internal
3 personnel practices and procedures;

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

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

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

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

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

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

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

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

27 3. If a meeting, or portion of a meeting, is closed

1 pursuant to this provision, the Commission's legal
2 counsel or designee shall certify that the meeting
3 may be closed and shall reference each relevant
4 exempting provision.

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

16 F. Financing of the Commission

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

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

24 3. The Commission may levy on and collect an annual
25 assessment from each member state or impose fees on
26 other parties to cover the cost of the operations
27 and activities of the Commission and its staff,

which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

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

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

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any

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

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

1 misconduct.

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

16 SECTION 8. DATA SYSTEM

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

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

26 1. Identifying information;

27 2. Licensure data;

1 3. Adverse actions against a license or compact
2 privilege;

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

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

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

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

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

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

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

23 SECTION 9. RULEMAKING

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

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

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

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

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

18 E. The Notice of Proposed Rulemaking shall include:

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

1 attend the public hearing and any written comments.

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

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

8 1. At least twenty-five (25) persons;

9 2. A state or federal governmental subdivision or
10 agency; or

11 3. An association having at least twenty-five (25)
12 members.

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

18 1. All persons wishing to be heard at the hearing shall
19 notify the executive director of the Commission or
20 other designated member in writing of their desire
21 to appear and testify at the hearing not less than
22 five (5) business days before the scheduled date of
23 the hearing.

24 2. Hearings shall be conducted in a manner providing
25 each person who wishes to comment a fair and
26 reasonable opportunity to comment orally or in
27 writing.

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

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

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

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

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

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

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

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

22 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

23 A. Oversight

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

1 purposes and intent. The provisions of this Compact
2 and the rules promulgated hereunder shall have
3 standing as statutory law.

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

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

17 B. Default, Technical Assistance, and Termination

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

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

27 b. Provide remedial training and specific

1 technical assistance regarding the default.

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

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

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

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

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

8 C. Dispute Resolution

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

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

16 D. Enforcement

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

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

1 judicial enforcement is necessary, the prevailing
2 member shall be awarded all costs of such
3 litigation, including reasonable attorney's fees.

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

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

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

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

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

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

1 repealing statute.

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

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

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

17 SECTION 12. CONSTRUCTION AND SEVERABILITY

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

1 force and effect as to the remaining party states and in full force
2 and effect as to the party state affected as to all severable
3 matters.

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

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

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

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

19 ARTICLE 4. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

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

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

27 SECTION 4.02. Section 454.005(b), Occupations Code, is

amended to read as follows:

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

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

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

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

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

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

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

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

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

(B) comes into this state for not more than four

consecutive months to:

(i) provide or attend an educational activity;

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

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

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

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

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

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

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

(2) the person's~~[-~~

~~[(c) A person who is the]~~ spouse is ~~[of]~~ an officer, manager, or paid consultant of a Texas trade association in the

1 field of health care [~~may not be a member of the board~~].

2 (c) [~~(d)~~] A person may not be [~~serve as~~] a member of the
3 board 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 or the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) the programs, functions, rules, and budgets of

1 ~~[operated by]~~ the board and executive council;

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

4 (4) the types of board and executive council rules,
5 interpretations, and enforcement actions that may implicate
6 federal antitrust law by limiting competition or impacting prices
7 charged by persons engaged in a profession or business regulated by
8 the board, including rules, interpretations, and enforcement
9 actions that:

10 (A) regulate the scope of practice of persons
11 engaged in a profession or business regulated by the board;

12 (B) restrict advertising by persons engaged in a
13 profession or business regulated by the board;

14 (C) affect the price of goods or services
15 provided by persons engaged in a profession or business regulated
16 by the board; or

17 (D) restrict participation in a profession or
18 business regulated by the board ~~[the rules of the board, with an~~
19 ~~emphasis on the rules that relate to disciplinary and investigatory~~
20 ~~authority]~~;

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

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

24 (6) ~~(7)]~~ the requirements of:

25 (A) laws relating to open meetings, public
26 information, administrative procedure, and disclosure of conflicts
27 of interest; and

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

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

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

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

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

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

(b) The board shall develop and implement policies that

clearly separate ~~[define]~~ the policymaking ~~[respective]~~ responsibilities of the board and the management responsibilities of the director and ~~[the]~~ staff of the executive council.

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

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

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

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

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

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

(c) The board shall:

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

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

4 (3) collect data concerning the effectiveness of those
5 procedures.

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

8 (e) The staff of the executive council ~~[coordinator of~~
9 ~~occupational therapy programs]~~ shall notify the board of a
10 complaint that extends beyond the time prescribed by the board for
11 resolving the complaint so that the board may take necessary action
12 on the complaint.

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

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

16 SECTION 4.11. Section 454.203, Occupations Code, is amended
17 to read as follows:

18 Sec. 454.203. QUALIFICATIONS FOR OCCUPATIONAL THERAPIST OR
19 OCCUPATIONAL THERAPY ASSISTANT LICENSE. ~~[(a)]~~ An applicant for an
20 occupational therapist license or an occupational therapy
21 assistant license must present evidence satisfactory to the board
22 that the applicant has:

23 (1) successfully completed the academic and
24 supervised field work experience requirements of an educational
25 program in occupational therapy recognized by the board, as
26 provided by Section 454.204; and

27 (2) ~~[successfully completed a period of supervised~~

~~field work experience arranged by the recognized educational institution at which the applicant met the academic requirements, and~~

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

~~[(b) To satisfy the supervised field work experience required by Subsection (a)(2):~~

~~[(1) an occupational therapist must have completed a period of at least six months; and~~

~~[(2) an occupational therapy assistant must have completed a period of at least two months.]~~

SECTION 4.12. Section 454.204, Occupations Code, is amended to read as follows:

Sec. 454.204. EDUCATIONAL REQUIREMENTS. To satisfy Section 454.203(1) ~~[454.203(a)(1)]~~:

(1) an applicant applying for an occupational therapist license must have, from an educational ~~[a]~~ program approved by the Accreditation Council for Occupational Therapy Education, its predecessor organization, or another national credentialing agency approved by the board:

(A) an entry-level degree in occupational therapy, or a degree that exceeds the requirements for an entry-level degree in occupational therapy, from an educational program that prepares a person for entry into the field as an occupational therapist ~~[a baccalaureate degree in occupational therapy, if the applicant graduated before January 1, 2007]; or~~

(B) a certificate evidencing successful

1 completion of required undergraduate occupational therapy course
2 work awarded to persons with a baccalaureate degree that is not in
3 occupational therapy, if the applicant graduated before January 1,
4 2007; ~~or~~

5 ~~[(C) a postbaccalaureate degree in occupational~~
6 ~~therapy,]~~ and

7 (2) an applicant applying for an occupational therapy
8 assistant license must have, from an educational program approved
9 by the Accreditation Council for Occupational Therapy Education,
10 its predecessor organization, or another national credentialing
11 agency approved by the board:

12 (A) an entry-level degree in occupational
13 therapy, or a degree that exceeds the requirements for an
14 entry-level degree in occupational therapy, from an educational
15 program that prepares a person for entry into the field as an
16 ~~[associate degree in]~~ occupational therapy assistant; or

17 (B) an entry-level certificate in occupational
18 therapy, or a certificate that exceeds the requirements for an
19 entry-level certificate in occupational therapy, from an
20 educational program that prepares a person for entry into the field
21 as an occupational therapy assistant ~~[certificate]~~.

22 SECTION 4.13. Section [454.205](#)(a), Occupations Code, is
23 amended to read as follows:

24 (a) To obtain a license under this chapter, an applicant who
25 is foreign-trained must satisfy the examination requirements and
26 complete academic and supervised field work requirements
27 substantially equivalent to those under ~~[of]~~ Section [454.203](#)

1 ~~[454.203(a)(3)]~~.

2 SECTION 4.14. Section 454.207, Occupations Code, is amended
3 to read as follows:

4 Sec. 454.207. LICENSE EXAMINATION. (a) The board by rule
5 shall recognize a national testing entity to administer the
6 examinations required to obtain an occupational therapist or
7 occupational therapy assistant license.

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

13 ~~[(b) The board shall examine applicants for licenses at~~
14 ~~least twice each year at the board's regular meetings and under the~~
15 ~~supervision required by the board.]~~

16 (c) If the board enters into a contract with a national
17 testing entity under Subsection (a), the contract must include a
18 provision requiring that the national testing entity be responsible
19 for overseeing the examination process, including responsibility
20 for:

21 (1) specifying application requirements for the
22 examination;

23 (2) specifying reexamination requirements for the
24 examination;

25 (3) verifying that an applicant meets the educational
26 and supervised field work experience requirements established by
27 the board; and

1 (4) notifying an applicant and the board of the
2 applicant's examination results ~~[The board shall:~~

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

4 ~~[(A) occupational therapists, and~~

5 ~~[(B) occupational therapy assistants,~~

6 ~~[(2) establish standards for acceptable performance,~~

7 ~~and~~

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

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

15 (e) The board may require an applicant for an occupational
16 therapist or occupational therapy assistant license to pass a
17 jurisprudence examination.

18 SECTION 4.15. Subchapter E, Chapter 454, Occupations Code,
19 is amended by adding Sections 454.216 and 454.217 to read as
20 follows:

21 Sec. 454.216. LICENSE BY ENDORSEMENT. (a) The board shall
22 issue an occupational therapist license or an occupational therapy
23 assistant license, as applicable, to an applicant who holds a
24 current, unrestricted license in another jurisdiction that
25 maintains licensing requirements that are substantially equivalent
26 to the requirements under this chapter. An applicant for a license
27 under this section must:

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

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

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

9 (4) meet the qualifications required by Section
10 454.203 or 454.205, as applicable;

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

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

15 (7) meet any additional requirements provided by board
16 rule.

17 (b) The board shall adopt rules for issuing a provisional
18 license under Section 454.210 to an applicant for a license by
19 endorsement who encounters a delay that is outside the applicant's
20 control in submitting to the board the documentation required by
21 this section.

22 Sec. 454.217. CRIMINAL HISTORY RECORD INFORMATION FOR
23 LICENSE ISSUANCE. (a) The board shall require that an applicant
24 for a license submit a complete and legible set of fingerprints, on
25 a form prescribed by the board, to the board or to the Department of
26 Public Safety for the purpose of obtaining criminal history record
27 information from the Department of Public Safety and the Federal

1 Bureau of Investigation.

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

4 (c) The board shall conduct a criminal history record
5 information check of each applicant for a license using
6 information:

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

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

11 (d) The board may:

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

15 (2) authorize the Department of Public Safety to
16 collect from each applicant the costs incurred by the Department of
17 Public Safety in conducting the criminal history record information
18 check.

19 SECTION 4.16. Section 454.252(b), Occupations Code, is
20 amended to read as follows:

21 (b) A person whose license has been expired for 90 days or
22 less may renew the license by paying to the executive council the
23 renewal fee and a late fee set by the executive council that may not
24 exceed one-half of the renewal ~~[examination]~~ fee for the license.
25 If a person's license has been expired for more than 90 days but
26 less than one year, the person may renew the license by paying to
27 the executive council all unpaid renewal fees and a late fee set by

1 the executive council that may not exceed the amount of the renewal
2 fee [~~charged for examination for the license~~].

3 SECTION 4.17. Section 454.253(b), Occupations Code, is
4 amended to read as follows:

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

8 SECTION 4.18. Section 454.254, Occupations Code, is amended
9 by adding Subsection (e) to read as follows:

10 (e) The board by rule shall establish a process for
11 selecting a license holder peer organization in this state to
12 evaluate and approve continuing education courses under Subsection
13 (d). The selection process must include a request for proposal and
14 bidding process. If the board authorizes a peer organization to
15 evaluate and approve continuing education courses under Subsection
16 (d), the board shall request bids and proposals from that
17 organization and other organizations at least once every four
18 years.

19 SECTION 4.19. Subchapter F, Chapter 454, Occupations Code,
20 is amended by adding Section 454.255 to read as follows:

21 Sec. 454.255. CRIMINAL HISTORY RECORD INFORMATION
22 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a
23 license issued under this chapter shall submit a complete and
24 legible set of fingerprints for purposes of performing a criminal
25 history record information check of the applicant as provided by
26 Section 454.217.

27 (b) The board may administratively suspend or refuse to

1 renew the license of a person who does not comply with the
2 requirement of Subsection (a).

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

6 (1) Section 454.217 for the initial issuance of the
7 license; or

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

9 SECTION 4.20. Subchapter G, Chapter 454, Occupations Code,
10 is amended by adding Sections 454.3025 and 454.307 to read as
11 follows:

12 Sec. 454.3025. SCHEDULE OF SANCTIONS. (a) The board by
13 rule shall adopt a schedule of administrative penalties and other
14 sanctions that the board may impose under this chapter. In adopting
15 the schedule of sanctions, the board shall ensure that the amount of
16 the penalty or severity of the sanction imposed is appropriate to
17 the type of violation or conduct that is the basis for disciplinary
18 action. In determining the appropriate disciplinary action,
19 including the amount of any administrative penalty to assess, the
20 board shall consider:

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

22 (A) the nature, circumstances, extent, and
23 gravity of the violation; and

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

26 (2) the history of previous violations;

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

1 (4) efforts to correct the violation;

2 (5) the economic harm to the public interest or public
3 confidence caused by the violation;

4 (6) whether the violation was intentional; and

5 (7) any other matter that justice requires.

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

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

9 (a) The board by rule shall establish a process to expunge any
10 record of disciplinary action taken against a license holder before
11 September 1, 2019, for practicing in a facility that failed to meet
12 the registration requirements of Section 454.215, as that section
13 existed on January 1, 2019. The rules must provide that the board
14 may not expunge a record under this section after September 1, 2021.

15 (b) This section expires September 1, 2021.

16 SECTION 4.21. Sections 454.3521(a) and (b), Occupations
17 Code, are amended to read as follows:

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

21 (b) The penalty may not exceed \$200, and each day a
22 violation continues or occurs is a separate violation for the
23 purpose of imposing a penalty. The amount of the penalty shall be
24 determined according to the sanctions schedule under Section
25 454.3025 [~~based on:~~

26 ~~[(1) the seriousness of the violation, including the~~
27 ~~nature, circumstances, extent, and gravity of any prohibited acts,~~

~~and the hazard or potential hazard created to the health, safety, or economic welfare of the public;~~

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

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

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

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

SECTION 4.22. The following provisions of the Occupations Code are repealed:

(1) Section 454.205(b);

(2) Section 454.206;

(3) Section 454.208;

(4) Section 454.209; and

(5) Section 454.215.

SECTION 4.23. (a) Except as provided by Subsection (b) of this section, Section 454.059, Occupations Code, as amended by this article, applies to a member of the Texas Board of Occupational Therapy Examiners appointed before, on, or after the effective date of this article.

(b) A member of the Texas Board of Occupational Therapy Examiners who, before the effective date of this article, completed the training program required by Section 454.059, Occupations Code, as that law existed before the effective date of this article, is required to complete additional training only on subjects added to the training program required by Section 454.059, Occupations Code, as amended by this article. A board member described by this subsection may not vote, deliberate, or be counted as a member in attendance at a meeting of the Texas Board of Occupational Therapy

1 Examiners held on or after December 1, 2017, until the member
2 completes the additional training.

3 SECTION 4.24. As soon as practicable after the effective
4 date of this article, the director of the Executive Council of
5 Physical Therapy and Occupational Therapy Examiners shall create
6 the training manual required by Section 454.059(d), Occupations
7 Code, as amended by this article.

8 SECTION 4.25. As soon as practicable after the effective
9 date of this article, the Texas Board of Occupational Therapy
10 Examiners shall:

11 (1) develop and implement the policies required by:

12 (A) Section 454.105(b), Occupations Code, as
13 amended by this article; and

14 (B) Section 454.108, Occupations Code, as added
15 by this article; and

16 (2) adopt any rules necessary to implement Chapter
17 454, Occupations Code, as amended by this article.

18 SECTION 4.26. Not later than September 1, 2018, the Texas
19 Board of Occupational Therapy Examiners shall establish the request
20 for proposal and bidding process required by Section 454.254(e),
21 Occupations Code, as added by this article.

22 SECTION 4.27. Sections 454.203, 454.205, 454.252, and
23 454.253, Occupations Code, as amended by this article, and Sections
24 454.217 and 454.255, Occupations Code, as added by this article,
25 apply only to an application for the issuance or renewal of an
26 occupational therapist or occupational therapy assistant license
27 submitted to the Texas Board of Occupational Therapy Examiners on

1 or after the effective date of this article. An application
2 submitted before that date is governed by the law in effect on the
3 date the application was submitted, and the former law is continued
4 in effect for that purpose.

5 SECTION 4.28. A person who holds an occupational therapist
6 or occupational therapy assistant license issued before the
7 effective date of this article may continue to renew that license
8 without complying with the changes in law made by this article to
9 Section 454.203, Occupations Code.

10 SECTION 4.29. (a) The Texas Board of Occupational Therapy
11 Examiners shall dismiss the portion of any complaint, penalty,
12 disciplinary action, or contested case pending on September 1,
13 2019, that is based on a violation of rules adopted under Section
14 454.215, Occupations Code, as repealed by this article.

15 (b) Section 454.307, Occupations Code, as added by this
16 article, applies only to records of disciplinary action for conduct
17 that occurred before September 1, 2019.

18 SECTION 4.30. Section 454.3025, Occupations Code, as added
19 by this article, and Section 454.3521(b), Occupations Code, as
20 amended by this article, apply only to conduct that occurs on or
21 after the date that rules adopted under Section 454.3025 take
22 effect. Conduct that occurs before that date is governed by the law
23 in effect before the effective date of this article, and the former
24 law is continued in effect for that purpose.

25 ARTICLE 5. EFFECTIVE DATE

26 SECTION 5.01. (a) Except as provided by Subsection (b) of
27 this section, this Act takes effect September 1, 2017.

(b) The following changes in law take effect September 1, 2019:

(1) the repeal by Article 2 of this Act of Sections 453.001(8) and 453.213, Occupations Code;

(2) Sections 453.1061 and 453.357, Occupations Code, as added by Article 2 of this Act;

(3) Sections 453.151(c), 453.401, and 453.403(a), Occupations Code, as amended by Article 2 of this Act;

(4) the heading to Subchapter E, Chapter 453, Occupations Code, as amended by Article 2 of this Act;

(5) Sections 454.1061 and 454.307, Occupations Code, as added by Article 4 of this Act;

(6) the heading to Subchapter E, Chapter 454, Occupations Code, as amended by Article 4 of this Act;

(7) the repeal by Article 4 of this Act of Section 454.215, Occupations Code; and

(8) Section 454.3521(a), Occupations Code, as amended by Article 4 of this Act.