

1-1 By: Nichols, et al. S.B. No. 317  
1-2 (In the Senate - Filed March 7, 2017; March 14, 2017, read  
1-3 first time and referred to Committee on State Affairs;  
1-4 March 14, 2017, rereferred to Committee on Health & Human Services;  
1-5 April 3, 2017, reported adversely, with favorable Committee  
1-6 Substitute by the following vote: Yeas 9, Nays 0; April 3, 2017,  
1-7 sent to printer.)

1-8 COMMITTEE VOTE

1-9		Yea	Nay	Absent	PNV
1-10	Schwertner	X			
1-11	Uresti	X			
1-12	Buckingham	X			
1-13	Burton	X			
1-14	Kolkhorst	X			
1-15	Miles	X			
1-16	Perry	X			
1-17	Taylor of Collin	X			
1-18	Watson	X			

1-19 COMMITTEE SUBSTITUTE FOR S.B. No. 317 By: Buckingham

1-20 A BILL TO BE ENTITLED  
1-21 AN ACT

1-22 relating to the continuation and functions of the Executive Council  
1-23 of Physical Therapy and Occupational Therapy Examiners, the Texas  
1-24 Board of Physical Therapy Examiners, and the Texas Board of  
1-25 Occupational Therapy Examiners; authorizing a fee.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 ARTICLE 1. EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL  
1-28 THERAPY EXAMINERS

1-29 SECTION 1.01. Section 452.002, Occupations Code, is amended  
1-30 to read as follows:

1-31 Sec. 452.002. APPLICATION OF SUNSET ACT. The Executive  
1-32 Council of Physical Therapy and Occupational Therapy Examiners is  
1-33 subject to Chapter 325, Government Code (Texas Sunset Act). Unless  
1-34 continued in existence as provided by that chapter, the executive  
1-35 council is abolished and the following laws expire September 1,  
1-36 2029 [~~2017~~]:

- 1-37 (1) this chapter;
- 1-38 (2) Chapter 453; and
- 1-39 (3) Chapter 454.

1-40 SECTION 1.02. Section 452.053, Occupations Code, is amended  
1-41 to read as follows:

1-42 Sec. 452.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.  
1-43 (a) In this section, "Texas trade association" means a  
1-44 [~~nonprofit,~~] cooperative[~~r~~] and voluntarily joined statewide  
1-45 association of business or professional competitors in this state  
1-46 designed to assist its members and its industry or profession in  
1-47 dealing with mutual business or professional problems and in  
1-48 promoting their common interest.

1-49 (b) A person [~~An officer, employee, or paid consultant of a~~  
1-50 ~~Texas trade association in the field of health care~~] may not be a  
1-51 member of the executive council and may not be an employee of the  
1-52 executive council employed in a "bona fide executive,  
1-53 administrative, or professional capacity," as that phrase is used  
1-54 for purposes of establishing an exemption to the overtime  
1-55 provisions of the federal Fair Labor Standards Act of 1938 (29  
1-56 U.S.C. Section 201 et seq.), if:

- 1-57 (1) the person is an officer, employee, or paid  
1-58 consultant of a Texas trade association in the field of health care;  
1-59 or  
1-60 (2) the person's [~~who is exempt from the state's~~

2-1 ~~position classification plan or is compensated at or above the~~  
 2-2 ~~amount prescribed by the General Appropriations Act for step 1,~~  
 2-3 ~~salary group A17, of the position classification salary schedule.~~

2-4 ~~[(c) A person who is the] spouse is [of] an officer,~~  
 2-5 ~~manager, or paid consultant of a Texas trade association in the~~  
 2-6 ~~field of health care [may not be a member of the executive council~~  
 2-7 ~~and may not be an employee of the executive council who is exempt~~  
 2-8 ~~from the state's position classification plan or is compensated at~~  
 2-9 ~~or above the amount prescribed by the General Appropriations Act~~  
 2-10 ~~for step 1, salary group A17, of the position classification salary~~  
 2-11 ~~schedule].~~

2-12 (c) ~~[(d)]~~ A person may not serve as a member of the  
 2-13 executive council or act as the general counsel to the executive  
 2-14 council if the person is required to register as a lobbyist under  
 2-15 Chapter 305, Government Code, because of the person's activities  
 2-16 for compensation on behalf of a profession related to the operation  
 2-17 of the executive council, the occupational therapy board, or the  
 2-18 physical therapy board.

2-19 SECTION 1.03. Sections 452.056(a) and (c), Occupations  
 2-20 Code, are amended to read as follows:

2-21 (a) It is a ground for removal from the executive council  
 2-22 that a member:

2-23 (1) does not have at the time of taking office  
 2-24 ~~[appointment]~~ the qualifications required by Section 452.051;

2-25 (2) does not maintain during service on the executive  
 2-26 council the qualifications required by Section 452.051;

2-27 (3) is ineligible for membership under ~~[violates a~~  
 2-28 ~~prohibition established by]~~ Section 452.052 or 452.053;

2-29 (4) cannot, because of illness or disability,  
 2-30 discharge the member's duties for a substantial part of the member's  
 2-31 term; or

2-32 (5) is absent from more than half of the regularly  
 2-33 scheduled executive council meetings that the member is eligible to  
 2-34 attend during a calendar year without an excuse approved ~~[unless~~  
 2-35 ~~the absence is excused]~~ by a majority vote of the executive council.

2-36 (c) If the director has knowledge that a potential ground  
 2-37 for removal exists, the director shall notify the presiding officer  
 2-38 of the executive council of the potential ground. The presiding  
 2-39 officer shall then notify the governor and the attorney general  
 2-40 ~~[authority that appointed the member]~~ that a potential ground for  
 2-41 removal exists. If the potential ground for removal involves the  
 2-42 presiding officer, the director shall notify the next highest  
 2-43 ranking officer of the executive council, who shall then notify the  
 2-44 governor and the attorney general that a potential ground for  
 2-45 removal exists.

2-46 SECTION 1.04. Subchapter B, Chapter 452, Occupations Code,  
 2-47 is amended by adding Section 452.059 to read as follows:

2-48 Sec. 452.059. TRAINING. (a) A person who is appointed to  
 2-49 and qualifies for office as a member of the executive council may  
 2-50 not vote, deliberate, or be counted as a member in attendance at a  
 2-51 meeting of the executive council until the person completes a  
 2-52 training program that complies with this section.

2-53 (b) The training program required under this section must  
 2-54 provide the person with information regarding:

2-55 (1) the law governing the operations of the executive  
 2-56 council, physical therapy board, and occupational therapy board;

2-57 (2) the programs, functions, rules, and budget of the  
 2-58 executive council, physical therapy board, and occupational  
 2-59 therapy board;

2-60 (3) the scope of and limitations on the rulemaking  
 2-61 authority of the executive council, physical therapy board, and  
 2-62 occupational therapy board;

2-63 (4) the results of the most recent formal audit of the  
 2-64 executive council, physical therapy board, and occupational  
 2-65 therapy board;

2-66 (5) the requirements of:

2-67 (A) laws relating to open meetings, public  
 2-68 information, administrative procedure, and disclosing conflicts of  
 2-69 interest; and

3-1 (B) other laws applicable to members of the  
 3-2 executive council, physical therapy board, and occupational  
 3-3 therapy board in performing their duties; and

3-4 (6) any applicable ethics policies adopted by the  
 3-5 executive council or the Texas Ethics Commission.

3-6 (c) A person appointed to the executive council is entitled  
 3-7 to reimbursement, as provided by the General Appropriations Act,  
 3-8 for the travel expenses incurred in attending the training program  
 3-9 regardless of whether the person's attendance at the program occurs  
 3-10 before or after the person qualifies for office.

3-11 (d) The director of the executive council shall create a  
 3-12 training manual that includes the information required by  
 3-13 Subsection (b). The director shall distribute a copy of the  
 3-14 training manual annually to each member of the executive council.  
 3-15 On receipt of the training manual, each member of the executive  
 3-16 council shall sign and submit to the director a statement  
 3-17 acknowledging receipt of the training manual.

3-18 SECTION 1.05. Section 452.102, Occupations Code, is amended  
 3-19 to read as follows:

3-20 Sec. 452.102. DIVISION OF RESPONSIBILITIES. The executive  
 3-21 council shall develop and implement policies that clearly separate  
 3-22 [define] the policymaking [respective] responsibilities of the  
 3-23 executive council and the management responsibilities of the  
 3-24 director and the staff of the executive council.

3-25 SECTION 1.06. Section 452.152(b), Occupations Code, is  
 3-26 amended to read as follows:

3-27 (b) The executive council shall perform the administrative  
 3-28 functions relating to issuing and renewing licenses, including[+  
 3-29 ~~(1) the administration of written examinations and~~  
 3-30 ~~collection of fees; and~~

3-31 ~~(2)]~~ the ministerial functions of preparing and  
 3-32 delivering licenses, obtaining material and information in  
 3-33 connection with the renewal of a license, and receiving and  
 3-34 forwarding complaints to the appropriate board.

3-35 SECTION 1.07. Subchapter D, Chapter 452, Occupations Code,  
 3-36 is amended by adding Section 452.160 to read as follows:

3-37 Sec. 452.160. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE  
 3-38 RESOLUTION. (a) The executive council shall develop a policy to  
 3-39 encourage the use of:

3-40 (1) negotiated rulemaking under Chapter 2008,  
 3-41 Government Code, for the adoption of rules by the executive council  
 3-42 or the occupational therapy or physical therapy boards; and

3-43 (2) appropriate alternative dispute resolution  
 3-44 procedures under Chapter 2009, Government Code, to assist in the  
 3-45 resolution of internal and external disputes under the executive  
 3-46 council's jurisdiction.

3-47 (b) The executive council's procedures relating to  
 3-48 alternative dispute resolution must conform, to the extent  
 3-49 possible, to any model guidelines issued by the State Office of  
 3-50 Administrative Hearings for the use of alternative dispute  
 3-51 resolution by state agencies.

3-52 (c) The executive council shall:

3-53 (1) coordinate the implementation of the policy  
 3-54 adopted under Subsection (a);

3-55 (2) provide training as needed to implement the  
 3-56 procedures for negotiated rulemaking or alternative dispute  
 3-57 resolution; and

3-58 (3) collect data concerning the effectiveness of those  
 3-59 procedures.

3-60 SECTION 1.08. Section 452.153(b), Occupations Code, is  
 3-61 repealed.

3-62 SECTION 1.09. As soon as practicable after the effective  
 3-63 date of this article:

3-64 (1) the director of the Executive Council of Physical  
 3-65 Therapy and Occupational Therapy Examiners shall create the  
 3-66 training manual required by Section 452.059(d), Occupations Code,  
 3-67 as added by this article; and

3-68 (2) the executive council shall:

3-69 (A) develop and implement the policies required

4-1 by Section 452.102, Occupations Code, as amended by this article;  
4-2 and

4-3 (B) develop the policy required by Section  
4-4 452.160, Occupations Code, as added by this article.

4-5 SECTION 1.10. Notwithstanding Section 452.059(a),  
4-6 Occupations Code, as added by this article, a member of the  
4-7 Executive Council of Physical Therapy and Occupational Therapy  
4-8 Examiners who has not completed the training required by Section  
4-9 452.059, Occupations Code, as added by this article, may vote,  
4-10 deliberate, and be counted as a member in attendance at a meeting of  
4-11 the Executive Council of Physical Therapy and Occupational Therapy  
4-12 Examiners until December 1, 2017.

4-13 ARTICLE 2. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

4-14 SECTION 2.01. Section 453.002, Occupations Code, is amended  
4-15 to read as follows:

4-16 Sec. 453.002. APPLICATION OF SUNSET ACT. The Texas Board of  
4-17 Physical Therapy Examiners is subject to Chapter 325, Government  
4-18 Code (Texas Sunset Act). Unless continued in existence as provided  
4-19 by that chapter, the board is abolished and this chapter expires  
4-20 September 1, 2029 [2017].

4-21 SECTION 2.02. Section 453.054, Occupations Code, is amended  
4-22 to read as follows:

4-23 Sec. 453.054. MEMBERSHIP RESTRICTIONS. (a) In this  
4-24 section, "Texas trade association" means a ~~[nonprofit,~~  
4-25 cooperative~~]~~ and voluntarily joined statewide association of  
4-26 business or professional competitors in this state designed to  
4-27 assist its members and its industry or profession in dealing with  
4-28 mutual business or professional problems and in promoting their  
4-29 common interest.

4-30 (b) A person ~~[An officer, employee, or paid consultant of a~~  
4-31 ~~Texas trade association in the field of health care]~~ may not be a  
4-32 member of the board if:

4-33 (1) the person is an officer, employee, or paid  
4-34 consultant of a Texas trade association in the field of health care;  
4-35 or

4-36 (2) the person's~~[-~~  
4-37 ~~[(c) A person who is the]~~ spouse is ~~[of]~~ an officer,  
4-38 manager, or paid consultant of a Texas trade association in the  
4-39 field of health care ~~[may not be a member of the board]~~.

4-40 (c) ~~[(d)]~~ A person may not be ~~[serve as]~~ a member of the  
4-41 board if the person is required to register as a lobbyist under  
4-42 Chapter 305, Government Code, because of the person's activities  
4-43 for compensation on behalf of a profession related to the operation  
4-44 of the board.

4-45 SECTION 2.03. Sections 453.056(a) and (c), Occupations  
4-46 Code, are amended to read as follows:

4-47 (a) It is a ground for removal from the board that a member:

4-48 (1) does not have at the time of taking office  
4-49 ~~[appointment]~~ the qualifications required by Section 453.051(a);

4-50 (2) does not maintain during service on the board the  
4-51 qualifications required by Section 453.051(a);

4-52 (3) is ineligible for membership under ~~[violates a~~  
4-53 ~~prohibition established by]~~ Section 453.053 or 453.054;

4-54 (4) cannot, because of illness or disability,  
4-55 discharge the member's duties for a substantial part of the member's  
4-56 term; or

4-57 (5) is absent from more than half of the regularly  
4-58 scheduled board meetings that the member is eligible to attend  
4-59 during a calendar year without an excuse approved ~~[unless the~~  
4-60 ~~absence is excused]~~ by a majority vote of the board.

4-61 (c) If the coordinator of physical therapy programs has  
4-62 knowledge that a potential ground for removal exists, the  
4-63 coordinator shall notify the presiding officer of the board of the  
4-64 potential ground. The presiding officer shall then notify the  
4-65 governor and the attorney general that a potential ground for  
4-66 removal exists. If the potential ground for removal involves the  
4-67 presiding officer, the coordinator shall notify the next highest  
4-68 ranking officer of the board, who shall then notify the governor and  
4-69 the attorney general that a potential ground for removal exists.

5-1 SECTION 2.04. Section 453.058, Occupations Code, is amended  
5-2 to read as follows:

5-3 Sec. 453.058. OFFICERS. (a) The governor shall designate  
5-4 a member of the board as the presiding officer of the board to serve  
5-5 in that capacity at the pleasure of the governor.

5-6 (b) After the appointment of members every two years, the  
5-7 members of the board shall elect from among its members a [~~presiding~~  
5-8 ~~officer,~~] secretary[~~,~~] and other officers required to conduct the  
5-9 business of the board.

5-10 SECTION 2.05. Section 453.060, Occupations Code, is amended  
5-11 to read as follows:

5-12 Sec. 453.060. TRAINING. (a) A person who is appointed to  
5-13 and qualifies for office as [~~Before~~] a member of the board may not  
5-14 vote, deliberate, or be counted as a member in attendance at a  
5-15 meeting of [~~assume the member's duties, the member must complete at~~  
5-16 least a course of the training program established by] the board  
5-17 until the person completes a training program that complies with  
5-18 [~~under~~] this section.

5-19 (b) The [A] training program must [shall] provide the person  
5-20 with information [~~to a participant~~] regarding:

5-21 (1) the law governing board and executive council  
5-22 operations [~~this chapter~~];

5-23 (2) the programs, functions, rules, and budget of  
5-24 [~~operated by~~] the board and executive council;

5-25 (3) the scope of and limitations on the rulemaking  
5-26 authority [~~the role and functions~~] of the board and executive  
5-27 council;

5-28 (4) [~~the rules of the board, with an emphasis on the~~  
5-29 ~~rules that relate to disciplinary and investigatory authority;~~

5-30 [~~(5) the current budget for the board;~~

5-31 [~~(6)] the results of the most recent formal audit of~~  
5-32 the board and executive council;

5-33 (5) [~~(7)] the requirements of:~~

5-34 (A) laws relating to open meetings, public  
5-35 information, administrative procedure, and disclosing conflicts  
5-36 [~~Chapters 551, 552, 2001, and 2002, Government Code;~~

5-37 [~~(8) the requirements of the conflict~~] of interest;  
5-38 and

5-39 (B) [~~laws and~~] other laws applicable to members  
5-40 of the board in performing their duties [~~relating to public~~  
5-41 officials]; and

5-42 (6) [~~(9)] any applicable ethics policies adopted by~~  
5-43 the board or the Texas Ethics Commission.

5-44 (c) A person appointed to the board is entitled to  
5-45 reimbursement, as provided by the General Appropriations Act, for  
5-46 the travel expenses incurred in attending the training program  
5-47 regardless of whether the person's attendance at the program occurs  
5-48 before or after the person qualifies for office [~~In developing the~~  
5-49 training requirements provided for by this section, the board shall  
5-50 consult with the governor's office, the attorney general's office,  
5-51 and the Texas Ethics Commission].

5-52 (d) The director of the executive council shall create a  
5-53 training manual that includes the information required by  
5-54 Subsection (b). The director shall distribute a copy of the  
5-55 training manual annually to each board member. On receipt of the  
5-56 training manual, each board member shall sign and submit to the  
5-57 director a statement acknowledging receipt of the training manual  
5-58 [~~If another state agency or entity is given the authority to~~  
5-59 establish the training requirements, the board shall allow that  
5-60 training instead of developing its own program].

5-61 SECTION 2.06. Section 453.105(b), Occupations Code, is  
5-62 amended to read as follows:

5-63 (b) The board shall develop and implement policies that  
5-64 clearly separate [~~define~~] the policymaking [~~respective~~]  
5-65 responsibilities of the board and the management responsibilities  
5-66 of the director and [~~the~~] staff of the executive council.

5-67 SECTION 2.07. Subchapter C, Chapter 453, Occupations Code,  
5-68 is amended by adding Sections 453.1061 and 453.109 to read as  
5-69 follows:

6-1 Sec. 453.1061. PLACE OF EMPLOYMENT. The board may require  
 6-2 that a license holder provide current information in a readily  
 6-3 accessible and usable format regarding the license holder's place  
 6-4 of employment as a physical therapist or physical therapist  
 6-5 assistant.

6-6 Sec. 453.109. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE  
 6-7 RESOLUTION. (a) The board shall develop a policy to encourage the  
 6-8 use of:

6-9 (1) negotiated rulemaking under Chapter 2008,  
 6-10 Government Code, for the adoption of board rules; and

6-11 (2) appropriate alternative dispute resolution  
 6-12 procedures under Chapter 2009, Government Code, to assist in the  
 6-13 resolution of internal and external disputes under the board's  
 6-14 jurisdiction.

6-15 (b) The board's procedures relating to alternative dispute  
 6-16 resolution must conform, to the extent possible, to any model  
 6-17 guidelines issued by the State Office of Administrative Hearings  
 6-18 for the use of alternative dispute resolution by state agencies.

6-19 (c) The board shall:

6-20 (1) coordinate the implementation of the policy  
 6-21 adopted under Subsection (a);

6-22 (2) provide training as needed to implement the  
 6-23 procedures for negotiated rulemaking or alternative dispute  
 6-24 resolution; and

6-25 (3) collect data concerning the effectiveness of those  
 6-26 procedures.

6-27 SECTION 2.08. Section 453.151(c), Occupations Code, is  
 6-28 amended to read as follows:

6-29 (c) Information maintained by the executive council or the  
 6-30 board under this chapter regarding the home address or personal  
 6-31 telephone number of a person licensed under this chapter [~~or a~~  
 6-32 person who is an owner or manager of a physical therapy facility  
 6-33 registered under this chapter] is confidential and not subject to  
 6-34 disclosure under Chapter 552, Government Code. A person licensed  
 6-35 under this chapter [~~or a person who is an owner or manager of a~~  
 6-36 physical therapy facility registered under this chapter] must  
 6-37 provide the board with a business address or address of record that  
 6-38 will be subject to disclosure under Chapter 552, Government Code.

6-39 SECTION 2.09. Section 453.154(e), Occupations Code, is  
 6-40 amended to read as follows:

6-41 (e) The staff of the executive council [~~coordinator of~~  
 6-42 physical therapy programs] shall notify the board of a complaint  
 6-43 that is unresolved after the time prescribed by the board for  
 6-44 resolving the complaint so that the board may take necessary action  
 6-45 on the complaint.

6-46 SECTION 2.10. The heading to Subchapter E, Chapter 453,  
 6-47 Occupations Code, is amended to read as follows:

6-48 SUBCHAPTER E. LICENSE REQUIREMENTS [~~, REGISTRATION OF FACILITIES]~~

6-49 SECTION 2.11. Section 453.202(b), Occupations Code, is  
 6-50 amended to read as follows:

6-51 (b) The application must be accompanied by[+]

6-52 [~~(1) an examination fee prescribed by the board, and~~

6-53 [~~(2)~~] a nonrefundable application fee prescribed by  
 6-54 the executive council [board].

6-55 SECTION 2.12. Section 453.203, Occupations Code, is amended  
 6-56 to read as follows:

6-57 Sec. 453.203. QUALIFICATIONS FOR PHYSICAL THERAPIST OR  
 6-58 PHYSICAL THERAPIST ASSISTANT LICENSE. (a) An applicant for a  
 6-59 physical therapist license must, in addition to other requirements  
 6-60 and qualifications established by the board, present:

6-61 (1) evidence satisfactory to the board that the  
 6-62 applicant has completed an accredited physical therapy educational  
 6-63 program; or

6-64 (2) official documentation from an educational  
 6-65 credentials review agency approved by the board certifying that the  
 6-66 applicant has completed[+]

6-67 [~~(A)~~] a program equivalent to a Commission on  
 6-68 Accreditation in [~~of~~] Physical Therapy Education accredited  
 6-69 program[+and]

7-1 ~~[(B) at least 60 academic semester credits or the~~  
 7-2 ~~equivalent from an accredited institution of higher education].~~

7-3 (b) An applicant for a physical therapist assistant license  
 7-4 must, in addition to other requirements and qualifications  
 7-5 established by the board, present evidence satisfactory to the  
 7-6 board that the applicant has completed an accredited physical  
 7-7 therapist assistant program or an accredited physical therapy  
 7-8 educational program~~[, including courses in the anatomical,~~  
 7-9 ~~biological, and physical sciences, and clinical procedures~~  
 7-10 ~~prescribed and approved by the board].~~

7-11 (c) A physical therapy educational program or physical  
 7-12 therapist assistant program is an accredited program if the program  
 7-13 is[+

7-14 ~~[(1)]~~ accredited by the Commission on Accreditation in  
 7-15 Physical Therapy Education~~[, and~~

7-16 ~~[(2)]~~ associated with an institution of higher  
 7-17 education].

7-18 SECTION 2.13. Section 453.204(b), Occupations Code, is  
 7-19 amended to read as follows:

7-20 (b) Before allowing a foreign-trained applicant to take the  
 7-21 examination, the board shall require the applicant to furnish proof  
 7-22 of[+

7-23 ~~[(1)]~~ good moral character, and  
 7-24 ~~[(2)]~~ completion of requirements substantially equal  
 7-25 to those under Section 453.203.

7-26 SECTION 2.14. Section 453.205, Occupations Code, is amended  
 7-27 to read as follows:

7-28 Sec. 453.205. LICENSE EXAMINATION. (a) The board by rule  
 7-29 shall recognize a national testing entity to administer the  
 7-30 examination required to obtain a physical therapist or physical  
 7-31 therapist assistant license ~~[shall examine applicants for licenses~~  
 7-32 ~~at least once each year at a reasonable place and time designated by~~  
 7-33 ~~the board].~~

7-34 (b) The physical therapist examination is a national  
 7-35 examination that tests entry-level competence related to ~~[must~~  
 7-36 ~~cover the subjects generally taught by an accredited]~~ physical  
 7-37 therapy theory, examination ~~[educational program or an accredited~~  
 7-38 ~~physical therapist assistant program and may include clinical~~  
 7-39 ~~decision-making]~~ and evaluation, prognosis, treatment  
 7-40 intervention, prevention ~~[program planning and implementation, and~~  
 7-41 ~~administration, education], and consultation~~~~[, and research in~~  
 7-42 ~~physical therapy].~~

7-43 (c) The physical therapist assistant examination is a  
 7-44 national examination that tests for required knowledge and skills  
 7-45 in the technical application of physical therapy services ~~[board by~~  
 7-46 ~~rule may establish a procedure for administering the examination,~~  
 7-47 ~~including the conditions under which and the number of times an~~  
 7-48 ~~applicant may retake an examination].~~

7-49 (d) An applicant for a license must agree to comply with the  
 7-50 security and copyright provisions of the national examination. If  
 7-51 the board has knowledge of a violation of the security or copyright  
 7-52 provisions or a compromise or attempted compromise of the  
 7-53 provisions, the board shall report the matter to the testing entity  
 7-54 [The board shall have any written portion of the examination  
 7-55 validated by an independent testing entity].

7-56 (e) The board may disqualify an applicant from taking or  
 7-57 retaking an examination for a period specified by the board if the  
 7-58 board determines that the applicant engaged or attempted to engage  
 7-59 in conduct that compromises or undermines the integrity of the  
 7-60 examination process, including a violation of security or copyright  
 7-61 provisions related to the national examination.

7-62 (f) If the board enters into a contract with a national  
 7-63 testing entity under Subsection (a), the contract must include a  
 7-64 provision requiring the national testing entity to provide to the  
 7-65 board an examination score report for each applicant for a license  
 7-66 under this chapter who took the examination.

7-67 (g) The board may require an applicant for a physical  
 7-68 therapist or physical therapist assistant license to pass a  
 7-69 jurisprudence examination.

8-1 SECTION 2.15. Section 453.207, Occupations Code, is amended  
8-2 to read as follows:

8-3 Sec. 453.207. REEXAMINATION. (a) An applicant who fails  
8-4 to pass an [a one-part] examination under Section 453.205 may  
8-5 retake the examination under the policies of the national testing  
8-6 entity [or a part of a divided examination may take another one-part  
8-7 examination or the part of the divided examination that the  
8-8 applicant failed on payment of an additional examination fee].

8-9 (b) [If an applicant fails to pass a second or subsequent  
8-10 examination, the board shall require the applicant to complete an  
8-11 additional course of study designated by the board.] Before  
8-12 retaking an [taking a subsequent] examination, the applicant must:

8-13 (1) submit [present] to the board a reexamination  
8-14 application prescribed by the board [satisfactory evidence that the  
8-15 applicant has completed the required course of study]; and

8-16 (2) pay a nonrefundable application [an additional]  
8-17 fee prescribed by the executive council [equal to the amount of the  
8-18 fee required for filing the original application].

8-19 SECTION 2.16. Subchapter E, Chapter 453, Occupations Code,  
8-20 is amended by adding Sections 453.214 and 453.215 to read as  
8-21 follows:

8-22 Sec. 453.214. LICENSE BY ENDORSEMENT. (a) The board shall  
8-23 issue a physical therapist license or a physical therapist  
8-24 assistant license, as applicable, to an applicant who holds a  
8-25 current, unrestricted license in another jurisdiction that  
8-26 maintains licensing requirements that are substantially equivalent  
8-27 to the requirements under this chapter. An applicant for a license  
8-28 under this section must:

8-29 (1) present proof to the board that the applicant is  
8-30 licensed in good standing as a physical therapist or physical  
8-31 therapist assistant in that jurisdiction;

8-32 (2) provide to the board information regarding the  
8-33 status of any other professional license that the applicant holds  
8-34 or has held in this state or another jurisdiction;

8-35 (3) present proof to the board that the applicant has  
8-36 passed a jurisprudence examination required by the board;

8-37 (4) meet the qualifications required by Section  
8-38 453.203 or 453.204, as applicable;

8-39 (5) not have committed an act that is grounds for  
8-40 denial of a license under Section 453.351;

8-41 (6) submit to the board a current photograph that  
8-42 meets the requirements for a United States passport; and

8-43 (7) meet any additional requirements provided by board  
8-44 rule.

8-45 (b) The board shall adopt rules for issuing a provisional  
8-46 license under Section 453.209 to an applicant for a license by  
8-47 endorsement who encounters a delay that is outside the applicant's  
8-48 control in submitting to the board the documentation required by  
8-49 this section.

8-50 Sec. 453.215. CRIMINAL HISTORY RECORD INFORMATION FOR  
8-51 LICENSE ISSUANCE. (a) The board shall require that an applicant  
8-52 for a license submit a complete and legible set of fingerprints, on  
8-53 a form prescribed by the board, to the board or to the Department of  
8-54 Public Safety for the purpose of obtaining criminal history record  
8-55 information from the Department of Public Safety and the Federal  
8-56 Bureau of Investigation.

8-57 (b) The board may not issue a license to a person who does  
8-58 not comply with the requirement of Subsection (a).

8-59 (c) The board shall conduct a criminal history record  
8-60 information check of each applicant for a license using  
8-61 information:

8-62 (1) provided by the individual under this section; and

8-63 (2) made available to the board by the Department of  
8-64 Public Safety, the Federal Bureau of Investigation, and any other  
8-65 criminal justice agency under Chapter 411, Government Code.

8-66 (d) The board may:

8-67 (1) enter into an agreement with the Department of  
8-68 Public Safety to administer a criminal history record information  
8-69 check required under this section; and

9-1 (2) authorize the Department of Public Safety to  
9-2 collect from each applicant the costs incurred by the Department of  
9-3 Public Safety in conducting the criminal history record information  
9-4 check.

9-5 SECTION 2.17. Section 453.252(b), Occupations Code, is  
9-6 amended to read as follows:

9-7 (b) A person whose license has been expired for 90 days or  
9-8 less may renew the license by paying to the executive council the  
9-9 renewal fee and a late fee set by the executive council in an amount  
9-10 that does not exceed one-half of the amount charged for renewal of  
9-11 [examination for] the license. If a person's license has been  
9-12 expired for more than 90 days but less than one year, the person may  
9-13 renew the license by paying to the executive council all unpaid  
9-14 renewal fees and a late fee set by the executive council in an  
9-15 amount that does not exceed the amount charged for renewal of  
9-16 [examination for] the license.

9-17 SECTION 2.18. Section 453.253(b), Occupations Code, is  
9-18 amended to read as follows:

9-19 (b) The person must pay to the executive council a renewal  
9-20 fee set by the executive council under this section in an amount  
9-21 that does not exceed the renewal [examination] fee for the license.

9-22 SECTION 2.19. Section 453.254, Occupations Code, is amended  
9-23 by adding Subsection (e) to read as follows:

9-24 (e) The board by rule shall establish a process for  
9-25 selecting an appropriate organization to approve continuing  
9-26 competence activities under Subsection (d). The selection process  
9-27 must include a request for proposal and bidding process. If the  
9-28 board authorizes an organization to approve continuing competence  
9-29 activities under Subsection (d), the board shall request bids and  
9-30 proposals from that organization and other organizations at least  
9-31 once every four years.

9-32 SECTION 2.20. Subchapter F, Chapter 453, Occupations Code,  
9-33 is amended by adding Section 453.255 to read as follows:

9-34 Sec. 453.255. CRIMINAL HISTORY RECORD INFORMATION  
9-35 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a  
9-36 license issued under this chapter shall submit a complete and  
9-37 legible set of fingerprints for purposes of performing a criminal  
9-38 history record information check of the applicant as provided by  
9-39 Section 453.215.

9-40 (b) The board may administratively suspend or refuse to  
9-41 renew the license of a person who does not comply with the  
9-42 requirement of Subsection (a).

9-43 (c) A license holder is not required to submit fingerprints  
9-44 under this section for the renewal of the license if the license  
9-45 holder has previously submitted fingerprints under:

9-46 (1) Section 453.215 for the initial issuance of the  
9-47 license; or

9-48 (2) this section as part of a prior license renewal.

9-49 SECTION 2.21. Subchapter H, Chapter 453, Occupations Code,  
9-50 is amended by adding Sections 453.3525 and 453.357 to read as  
9-51 follows:

9-52 Sec. 453.3525. SCHEDULE OF SANCTIONS. (a) The board by  
9-53 rule shall adopt a schedule of administrative penalties and other  
9-54 sanctions that the board may impose under this chapter. In adopting  
9-55 the schedule of sanctions, the board shall ensure that the amount of  
9-56 the penalty or severity of the sanction imposed is appropriate to  
9-57 the type of violation or conduct that is the basis for disciplinary  
9-58 action. In determining the appropriate disciplinary action,  
9-59 including the amount of any administrative penalty to assess, the  
9-60 board shall consider:

9-61 (1) the seriousness of the violation, including:

9-62 (A) the nature, circumstances, extent, and  
9-63 gravity of the violation; and

9-64 (B) the hazard or potential hazard created to the  
9-65 health, safety, or economic welfare of the public;

9-66 (2) the history of previous violations;

9-67 (3) the amount necessary to deter future violations;

9-68 (4) efforts to correct the violation;

9-69 (5) the economic harm to the public interest or public

10-1 confidence caused by the violation;

10-2 (6) whether the violation was intentional; and

10-3 (7) any other matter that justice may require.

10-4 (b) The board shall make the schedule of sanctions adopted  
10-5 under Subsection (a) available to the public on request.

10-6 Sec. 453.357. RECORD OF DISCIPLINARY ACTION; EXPUNGEMENT.

10-7 (a) The board by rule shall establish a process to expunge any  
10-8 record of disciplinary action taken against a license holder before  
10-9 September 1, 2019, for practicing in a facility that failed to meet  
10-10 the registration requirements of Section 453.213, as that section  
10-11 existed on January 1, 2019. The rules must provide that the board  
10-12 may not expunge a record under this section after September 1, 2021.

10-13 (b) This section expires September 1, 2021.

10-14 SECTION 2.22. Section 453.401, Occupations Code, is amended  
10-15 to read as follows:

10-16 Sec. 453.401. IMPOSITION OF PENALTY. The board may impose  
10-17 an administrative penalty on a person licensed or regulated under  
10-18 this chapter [~~or a facility registered under this chapter~~] who  
10-19 violates this chapter or a rule or order adopted under this chapter.

10-20 SECTION 2.23. Section 453.402(b), Occupations Code, is  
10-21 amended to read as follows:

10-22 (b) The amount of the penalty shall be determined according  
10-23 to the sanctions schedule adopted under Section 453.3525 [~~based on:~~

10-24 ~~(1) the seriousness of the violation, including:~~

10-25 ~~[(A) the nature, circumstances, extent, and~~  
10-26 ~~gravity of a prohibited act; and~~

10-27 ~~[(B) the hazard or potential hazard created to~~  
10-28 ~~the health, safety, or economic welfare of the public;~~

10-29 ~~[(2) the history of previous violations;~~

10-30 ~~[(3) the amount necessary to deter future violations;~~

10-31 ~~[(4) efforts to correct the violation; and~~

10-32 ~~[(5) any other matter that justice may require].~~

10-33 SECTION 2.24. Section 453.403(a), Occupations Code, is  
10-34 amended to read as follows:

10-35 (a) The board shall adopt rules that establish procedures  
10-36 for assessing an administrative penalty and that provide for notice  
10-37 and a hearing for a license holder [~~or facility administrator~~] that  
10-38 may be subject to a penalty under this subchapter.

10-39 SECTION 2.25. The following provisions of the Occupations  
10-40 Code are repealed:

10-41 (1) Section 453.001(8);

10-42 (2) Section 453.202(c);

10-43 (3) Section 453.206; and

10-44 (4) Section 453.213.

10-45 SECTION 2.26. (a) Except as provided by Subsection (b) of  
10-46 this section, Section 453.060, Occupations Code, as amended by this  
10-47 article, applies to a member of the Texas Board of Physical Therapy  
10-48 Examiners appointed before, on, or after the effective date of this  
10-49 article.

10-50 (b) A member of the Texas Board of Physical Therapy  
10-51 Examiners who, before the effective date of this article, completed  
10-52 the training program required by Section 453.060, Occupations Code,  
10-53 as that law existed before the effective date of this article, is  
10-54 required to complete additional training only on subjects added to  
10-55 the training program required by Section 453.060, Occupations Code,  
10-56 as amended by this article. A board member described by this  
10-57 subsection may not vote, deliberate, or be counted as a member in  
10-58 attendance at a meeting of the Texas Board of Physical Therapy  
10-59 Examiners held on or after December 1, 2017, until the member  
10-60 completes the additional training.

10-61 SECTION 2.27. As soon as practicable after the effective  
10-62 date of this article, the director of the Executive Council of  
10-63 Physical Therapy and Occupational Therapy Examiners shall create  
10-64 the training manual required by Section 453.060(d), Occupations  
10-65 Code, as amended by this article.

10-66 SECTION 2.28. As soon as practicable after the effective  
10-67 date of this article, the Texas Board of Physical Therapy Examiners  
10-68 shall:

10-69 (1) develop and implement the policies required by:

11-1 (A) Section 453.105(b), Occupations Code, as  
11-2 amended by this article; and

11-3 (B) Section 453.109, Occupations Code, as added  
11-4 by this article; and

11-5 (2) adopt any rules necessary to implement Chapter  
11-6 453, Occupations Code, as amended by this article.

11-7 SECTION 2.29. Not later than September 1, 2018, the Texas  
11-8 Board of Physical Therapy Examiners shall establish the request for  
11-9 proposal and bidding process required by Section 453.254(e),  
11-10 Occupations Code, as added by this article.

11-11 SECTION 2.30. Sections 453.203, 453.204, 453.205, 453.207,  
11-12 453.252, and 453.253, Occupations Code, as amended by this article,  
11-13 and Sections 453.215 and 453.255, Occupations Code, as added by  
11-14 this article, apply only to an application for the issuance or  
11-15 renewal of a physical therapist or physical therapist assistant  
11-16 license submitted to the Texas Board of Physical Therapy Examiners  
11-17 on or after the effective date of this article. An application  
11-18 submitted before that date is governed by the law in effect on the  
11-19 date the application was submitted, and the former law is continued  
11-20 in effect for that purpose.

11-21 SECTION 2.31. A person who holds a physical therapist or  
11-22 physical therapist assistant license issued before the effective  
11-23 date of this article may continue to renew that license without  
11-24 complying with the changes in law made by this article to Section  
11-25 453.203, Occupations Code.

11-26 SECTION 2.32. (a) The Texas Board of Physical Therapy  
11-27 Examiners shall dismiss the portion of any complaint, penalty,  
11-28 disciplinary action, or contested case pending on September 1,  
11-29 2019, that is based on a violation of rules adopted under Section  
11-30 453.213, Occupations Code, as repealed by this article.

11-31 (b) Section 453.357, Occupations Code, as added by this  
11-32 article, applies only to records of disciplinary action for conduct  
11-33 that occurred before September 1, 2019.

11-34 SECTION 2.33. Section 453.3525, Occupations Code, as added  
11-35 by this article, and Section 453.402(b), Occupations Code, as  
11-36 amended by this article, apply only to conduct that occurs on or  
11-37 after the date that rules adopted under Section 453.3525 take  
11-38 effect. Conduct that occurs before that date is governed by the law  
11-39 in effect before the effective date of this article, and the former  
11-40 law is continued in effect for that purpose.

11-41 ARTICLE 3. PHYSICAL THERAPY LICENSURE COMPACT

11-42 SECTION 3.01. Chapter 453, Occupations Code, is amended by  
11-43 adding Subchapter K to read as follows:

11-44 SUBCHAPTER K. PHYSICAL THERAPY LICENSURE COMPACT

11-45 Sec. 453.501. PHYSICAL THERAPY LICENSURE COMPACT. The  
11-46 Physical Therapy Licensure Compact is enacted and entered into with  
11-47 all other jurisdictions that legally join in the compact, which  
11-48 reads as follows:

11-49 SECTION 1. PURPOSE

11-50 The purpose of this Compact is to facilitate interstate  
11-51 practice of physical therapy with the goal of improving public  
11-52 access to physical therapy services. The practice of physical  
11-53 therapy occurs in the state where the patient/client is located at  
11-54 the time of the patient/client encounter. The Compact preserves the  
11-55 regulatory authority of states to protect public health and safety  
11-56 through the current system of state licensure.

11-57 This Compact is designed to achieve the following objectives:

- 11-58 1. Increase public access to physical therapy services by
- 11-59 providing for the mutual recognition of other member
- 11-60 state licenses;
- 11-61 2. Enhance the states' ability to protect the public's
- 11-62 health and safety;
- 11-63 3. Encourage the cooperation of member states in regulating
- 11-64 multi-state physical therapy practice;
- 11-65 4. Support spouses of relocating military members;
- 11-66 5. Enhance the exchange of licensure, investigative, and
- 11-67 disciplinary information between member states; and
- 11-68 6. Allow a remote state to hold a provider of services with a
- 11-69 compact privilege in that state accountable to that

12-1 state's practice standards.

12-2 SECTION 2. DEFINITIONS

12-3 As used in this Compact, and except as otherwise provided,  
 12-4 the following definitions shall apply:

- 12-5 1. "Active Duty Military" means full-time duty status  
 12-6 in the active uniformed service of the United  
 12-7 States, including members of the National Guard and  
 12-8 Reserve on active duty orders pursuant to 10 U.S.C.  
 12-9 Section 1209 and 1211.
- 12-10 2. "Adverse Action" means disciplinary action taken by  
 12-11 a physical therapy licensing board based upon  
 12-12 misconduct, unacceptable performance, or a  
 12-13 combination of both.
- 12-14 3. "Alternative Program" means a non-disciplinary  
 12-15 monitoring or practice remediation process  
 12-16 approved by a physical therapy licensing board.  
 12-17 This includes, but is not limited to, substance  
 12-18 abuse issues.
- 12-19 4. "Compact privilege" means the authorization  
 12-20 granted by a remote state to allow a licensee from  
 12-21 another member state to practice as a physical  
 12-22 therapist or work as a physical therapist assistant  
 12-23 in the remote state under its laws and rules. The  
 12-24 practice of physical therapy occurs in the member  
 12-25 state where the patient/client is located at the  
 12-26 time of the patient/client encounter.
- 12-27 5. "Continuing competence" means a requirement, as a  
 12-28 condition of license renewal, to provide evidence  
 12-29 of participation in, and/or completion of,  
 12-30 educational and professional activities relevant  
 12-31 to practice or area of work.
- 12-32 6. "Data system" means a repository of information  
 12-33 about licensees, including examination, licensure,  
 12-34 investigative, compact privilege, and adverse  
 12-35 action.
- 12-36 7. "Encumbered license" means a license that a  
 12-37 physical therapy licensing board has limited in any  
 12-38 way.
- 12-39 8. "Executive Board" means a group of directors  
 12-40 elected or appointed to act on behalf of, and  
 12-41 within the powers granted to them by, the  
 12-42 Commission.
- 12-43 9. "Home state" means the member state that is the  
 12-44 licensee's primary state of residence.
- 12-45 10. "Investigative information" means information,  
 12-46 records, and documents received or generated by a  
 12-47 physical therapy licensing board pursuant to an  
 12-48 investigation.
- 12-49 11. "Jurisprudence Requirement" means the assessment  
 12-50 of an individual's knowledge of the laws and rules  
 12-51 governing the practice of physical therapy in a  
 12-52 state.
- 12-53 12. "Licensee" means an individual who currently holds  
 12-54 an authorization from the state to practice as a  
 12-55 physical therapist or to work as a physical  
 12-56 therapist assistant.
- 12-57 13. "Member state" means a state that has enacted the  
 12-58 Compact.
- 12-59 14. "Party state" means any member state in which a  
 12-60 licensee holds a current license or compact  
 12-61 privilege or is applying for a license or compact  
 12-62 privilege.
- 12-63 15. "Physical therapist" means an individual who is  
 12-64 licensed by a state to practice physical therapy.
- 12-65 16. "Physical therapist assistant" means an individual  
 12-66 who is licensed/certified by a state and who  
 12-67 assists the physical therapist in selected  
 12-68 components of physical therapy.
- 12-69 17. "Physical therapy," "physical therapy practice,"

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

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

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

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

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

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

SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

1. Participate fully in the Commission's data system, including using the Commission's unique identifier as defined in rules;
2. Have a mechanism in place for receiving and investigating complaints about licensees;
3. Notify the Commission, in compliance with the terms of the Compact and rules, of any adverse action or the availability of investigative information regarding a licensee;
4. Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions in accordance with Section 3.B.;
5. Comply with the rules of the Commission;
6. Utilize a recognized national examination as a requirement for licensure pursuant to the rules of the Commission; and
7. Have continuing competence requirements as a condition for license renewal.

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

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

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

SECTION 4. COMPACT PRIVILEGE

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

1. Hold a license in the home state;
2. Have no encumbrance on any state license;
3. Be eligible for a compact privilege in any member state in accordance with Section 4D, G and H;
4. Have not had any adverse action against any license or compact privilege within the previous 2 years;
5. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);
6. Pay any applicable fees, including any state fee,

14-1 for the compact privilege;

14-2 7. Meet any jurisprudence requirements established by  
14-3 the remote state(s) in which the licensee is  
14-4 seeking a compact privilege; and

14-5 8. Report to the Commission adverse action taken by  
14-6 any non-member state within 30 days from the date  
14-7 the adverse action is taken.

14-8 B. The compact privilege is valid until the expiration date  
14-9 of the home license. The licensee must comply with the requirements  
14-10 of Section 4.A. to maintain the compact privilege in the remote  
14-11 state.

14-12 C. A licensee providing physical therapy in a remote state  
14-13 under the compact privilege shall function within the laws and  
14-14 regulations of the remote state.

14-15 D. A licensee providing physical therapy in a remote state  
14-16 is subject to that state's regulatory authority. A remote state  
14-17 may, in accordance with due process and that state's laws, remove a  
14-18 licensee's compact privilege in the remote state for a specific  
14-19 period of time, impose fines, and/or take any other necessary  
14-20 actions to protect the health and safety of its citizens. The  
14-21 licensee is not eligible for a compact privilege in any state until  
14-22 the specific time for removal has passed and all fines are paid.

14-23 E. If a home state license is encumbered, the licensee shall  
14-24 lose the compact privilege in any remote state until the following  
14-25 occur:

- 14-26 1. The home state license is no longer encumbered; and
- 14-27 2. Two years have elapsed from the date of the adverse  
14-28 action.

14-29 F. Once an encumbered license in the home state is restored  
14-30 to good standing, the licensee must meet the requirements of  
14-31 Section 4A to obtain a compact privilege in any remote state.

14-32 G. If a licensee's compact privilege in any remote state is  
14-33 removed, the individual shall lose the compact privilege in any  
14-34 remote state until the following occur:

- 14-35 1. The specific period of time for which the compact  
14-36 privilege was removed has ended;
- 14-37 2. All fines have been paid; and
- 14-38 3. Two years have elapsed from the date of the adverse  
14-39 action.

14-40 H. Once the requirements of Section 4G have been met, the  
14-41 license must meet the requirements in Section 4A to obtain a compact  
14-42 privilege in a remote state.

#### 14-43 SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

14-44 A licensee who is active duty military or is the spouse of an  
14-45 individual who is active duty military may designate one of the  
14-46 following as the home state:

14-47 A. Home of record;

14-48 B. Permanent Change of Station (PCS); or

14-49 C. State of current residence if it is different than the  
14-50 PCS state or home of record.

#### 14-51 SECTION 6. ADVERSE ACTIONS

14-52 A. A home state shall have exclusive power to impose adverse  
14-53 action against a license issued by the home state.

14-54 B. A home state may take adverse action based on the  
14-55 investigative information of a remote state, so long as the home  
14-56 state follows its own procedures for imposing adverse action.

14-57 C. Nothing in this Compact shall override a member state's  
14-58 decision that participation in an alternative program may be used  
14-59 in lieu of adverse action and that such participation shall remain  
14-60 non-public if required by the member state's laws. Member states  
14-61 must require licensees who enter any alternative programs in lieu  
14-62 of discipline to agree not to practice in any other member state  
14-63 during the term of the alternative program without prior  
14-64 authorization from such other member state.

14-65 D. Any member state may investigate actual or alleged  
14-66 violations of the statutes and rules authorizing the practice of  
14-67 physical therapy in any other member state in which a physical  
14-68 therapist or physical therapist assistant holds a license or  
14-69 compact privilege.

- 15-1 E. A remote state shall have the authority to:  
 15-2 1. Take adverse actions as set forth in Section 4.D.  
 15-3 against a licensee's compact privilege in the  
 15-4 state;  
 15-5 2. Issue subpoenas for both hearings and  
 15-6 investigations that require the attendance and  
 15-7 testimony of witnesses, and the production of  
 15-8 evidence. Subpoenas issued by a physical therapy  
 15-9 licensing board in a party state for the attendance  
 15-10 and testimony of witnesses, and/or the production  
 15-11 of evidence from another party state, shall be  
 15-12 enforced in the latter state by any court of  
 15-13 competent jurisdiction, according to the practice  
 15-14 and procedure of that court applicable to subpoenas  
 15-15 issued in proceedings pending before it. The  
 15-16 issuing authority shall pay any witness fees,  
 15-17 travel expenses, mileage, and other fees required  
 15-18 by the service statutes of the state where the  
 15-19 witnesses and/or evidence are located; and  
 15-20 3. If otherwise permitted by state law, recover from  
 15-21 the licensee the costs of investigations and  
 15-22 disposition of cases resulting from any adverse  
 15-23 action taken against that licensee.

15-24 F. Joint Investigations

- 15-25 1. In addition to the authority granted to a member  
 15-26 state by its respective physical therapy practice  
 15-27 act or other applicable state law, a member state  
 15-28 may participate with other member states in joint  
 15-29 investigations of licensees.  
 15-30 2. Member states shall share any investigative,  
 15-31 litigation, or compliance materials in furtherance  
 15-32 of any joint or individual investigation initiated  
 15-33 under the Compact.

15-34 SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT  
 15-35 COMMISSION

15-36 A. The Compact member states hereby create and establish a  
 15-37 joint public agency known as the Physical Therapy Compact  
 15-38 Commission:

- 15-39 1. The Commission is an instrumentality of the Compact  
 15-40 states.  
 15-41 2. Venue is proper and judicial proceedings by or  
 15-42 against the Commission shall be brought solely and  
 15-43 exclusively in a court of competent jurisdiction  
 15-44 where the principal office of the Commission is  
 15-45 located. The Commission may waive venue and  
 15-46 jurisdictional defenses to the extent it adopts or  
 15-47 consents to participate in alternative dispute  
 15-48 resolution proceedings.  
 15-49 3. Nothing in this Compact shall be construed to be a  
 15-50 waiver of sovereign immunity.

15-51 B. Membership, Voting, and Meetings

- 15-52 1. Each member state shall have and be limited to one  
 15-53 (1) delegate selected by that member state's  
 15-54 licensing board.  
 15-55 2. The delegate shall be a current member of the  
 15-56 licensing board, who is a physical therapist,  
 15-57 physical therapist assistant, public member, or  
 15-58 the board administrator.  
 15-59 3. Any delegate may be removed or suspended from  
 15-60 office as provided by the law of the state from  
 15-61 which the delegate is appointed.  
 15-62 4. The member state board shall fill any vacancy  
 15-63 occurring in the Commission.  
 15-64 5. Each delegate shall be entitled to one (1) vote with  
 15-65 regard to the promulgation of rules and creation of  
 15-66 bylaws and shall otherwise have an opportunity to  
 15-67 participate in the business and affairs of the  
 15-68 Commission.  
 15-69 6. A delegate shall vote in person or by such other

16-1 means as provided in the bylaws. The bylaws may  
 16-2 provide for delegates' participation in meetings by  
 16-3 telephone or other means of communication.

16-4 7. The Commission shall meet at least once during each  
 16-5 calendar year. Additional meetings shall be held as  
 16-6 set forth in the bylaws.

16-7 C. The Commission shall have the following powers and  
 16-8 duties:

- 16-9 1. Establish the fiscal year of the Commission;
- 16-10 2. Establish bylaws;
- 16-11 3. Maintain its financial records in accordance with  
 16-12 the bylaws;
- 16-13 4. Meet and take such actions as are consistent with  
 16-14 the provisions of this Compact and the bylaws;
- 16-15 5. Promulgate uniform rules to facilitate and  
 16-16 coordinate implementation and administration of  
 16-17 this Compact. The rules shall have the force and  
 16-18 effect of law and shall be binding in all member  
 16-19 states;
- 16-20 6. Bring and prosecute legal proceedings or actions in  
 16-21 the name of the Commission, provided that the  
 16-22 standing of any state physical therapy licensing  
 16-23 board to sue or be sued under applicable law shall  
 16-24 not be affected;
- 16-25 7. Purchase and maintain insurance and bonds;
- 16-26 8. Borrow, accept, or contract for services of  
 16-27 personnel, including, but not limited to,  
 16-28 employees of a member state;
- 16-29 9. Hire employees, elect or appoint officers, fix  
 16-30 compensation, define duties, grant such  
 16-31 individuals appropriate authority to carry out the  
 16-32 purposes of the Compact, and to establish the  
 16-33 Commission's personnel policies and programs  
 16-34 relating to conflicts of interest, qualifications  
 16-35 of personnel, and other related personnel matters;
- 16-36 10. Accept any and all appropriate donations and grants  
 16-37 of money, equipment, supplies, materials and  
 16-38 services, and to receive, utilize and dispose of  
 16-39 the same; provided that at all times the Commission  
 16-40 shall avoid any appearance of impropriety and/or  
 16-41 conflict of interest;
- 16-42 11. Lease, purchase, accept appropriate gifts or  
 16-43 donations of, or otherwise to own, hold, improve or  
 16-44 use, any property, real, personal or mixed;  
 16-45 provided that at all times the Commission shall  
 16-46 avoid any appearance of impropriety;
- 16-47 12. Sell convey, mortgage, pledge, lease, exchange,  
 16-48 abandon, or otherwise dispose of any property real,  
 16-49 personal, or mixed;
- 16-50 13. Establish a budget and make expenditures;
- 16-51 14. Borrow money;
- 16-52 15. Appoint committees, including standing committees  
 16-53 composed of members, state regulators, state  
 16-54 legislators or their representatives, and consumer  
 16-55 representatives, and such other interested persons  
 16-56 as may be designated in this Compact and the  
 16-57 bylaws;
- 16-58 16. Provide and receive information from, and cooperate  
 16-59 with, law enforcement agencies;
- 16-60 17. Establish and elect an Executive Board; and
- 16-61 18. Perform such other functions as may be necessary or  
 16-62 appropriate to achieve the purposes of this Compact  
 16-63 consistent with the state regulation of physical  
 16-64 therapy licensure and practice.

16-65 D. The Executive Board

16-66 The Executive Board shall have the power to act on behalf of  
 16-67 the Commission according to the terms of this Compact.

- 16-68 1. The Executive Board shall be composed of nine  
 16-69 members:

- 17-1 a. Seven voting members who are elected by the
- 17-2 Commission from the current membership of the
- 17-3 Commission;
- 17-4 b. One ex-officio, nonvoting member from the
- 17-5 recognized national physical therapy
- 17-6 professional association; and
- 17-7 c. One ex-officio, nonvoting member from the
- 17-8 recognized membership organization of the
- 17-9 physical therapy licensing boards.
- 17-10 2. The ex-officio members will be selected by their
- 17-11 respective organizations.
- 17-12 3. The Commission may remove any member of the
- 17-13 Executive Board as provided in bylaws.
- 17-14 4. The Executive Board shall meet at least annually.
- 17-15 5. The Executive Board shall have the following Duties
- 17-16 and responsibilities:
- 17-17 a. Recommend to the entire Commission changes to
- 17-18 the rules or bylaws, changes to this Compact
- 17-19 legislation, fees paid by Compact member
- 17-20 states such as annual dues, and any
- 17-21 commission Compact fee charged to licensees
- 17-22 for the compact privilege;
- 17-23 b. Ensure Compact administration services are
- 17-24 appropriately provided, contractual or
- 17-25 otherwise;
- 17-26 c. Prepare and recommend the budget;
- 17-27 d. Maintain financial records on behalf of the
- 17-28 Commission;
- 17-29 e. Monitor Compact compliance of member states
- 17-30 and provide compliance reports to the
- 17-31 Commission;
- 17-32 f. Establish additional committees as necessary;
- 17-33 and
- 17-34 g. Other duties as provided in rules or bylaws.
- 17-35 E. Meetings of the Commission
- 17-36 1. All meetings shall be open to the public, and public
- 17-37 notice of meetings shall be given in the same
- 17-38 manner as required under the rulemaking provisions
- 17-39 in Section 9.
- 17-40 2. The Commission or the Executive Board or other
- 17-41 committees of the Commission may convene in a
- 17-42 closed, non-public meeting if the Commission or
- 17-43 Executive Board or other committees of the
- 17-44 Commission must discuss:
- 17-45 a. Non-compliance of a member state with its
- 17-46 obligations under the Compact;
- 17-47 b. The employment, compensation, discipline or
- 17-48 other matters, practices or procedures
- 17-49 related to specific employees or other
- 17-50 matters related to the Commission's internal
- 17-51 personnel practices and procedures;
- 17-52 c. Current, threatened, or reasonably
- 17-53 anticipated litigation;
- 17-54 d. Negotiation of contracts for the purchase,
- 17-55 lease, or sale of goods, services, or real
- 17-56 estate;
- 17-57 e. Accusing any person of a crime or formally
- 17-58 censuring any person;
- 17-59 f. Disclosure of trade secrets or commercial or
- 17-60 financial information that is privileged or
- 17-61 confidential;
- 17-62 g. Disclosure of information of a personal nature
- 17-63 where disclosure would constitute a clearly
- 17-64 unwarranted invasion of personal privacy;
- 17-65 h. Disclosure of investigative records compiled
- 17-66 for law enforcement purposes;
- 17-67 i. Disclosure of information related to any
- 17-68 investigative reports prepared by or on
- 17-69 behalf of or for use of the Commission or

18-1 other committee charged with responsibility  
18-2 of investigation or determination of  
18-3 compliance issues pursuant to the Compact; or  
18-4 j. Matters specifically exempted from disclosure  
18-5 by federal or member state statute.

18-6 3. If a meeting, or portion of a meeting, is closed  
18-7 pursuant to this provision, the Commission's legal  
18-8 counsel or designee shall certify that the meeting  
18-9 may be closed and shall reference each relevant  
18-10 exempting provision.

18-11 4. The Commission shall keep minutes that fully and  
18-12 clearly describe all matters discussed in a meeting  
18-13 and shall provide a full and accurate summary of  
18-14 actions taken, and the reasons therefore,  
18-15 including a description of the views expressed. All  
18-16 documents considered in connection with an action  
18-17 shall be identified in such minutes. All minutes  
18-18 and documents of a closed meeting shall remain  
18-19 under seal, subject to release by a majority vote  
18-20 of the Commission or order of a court of competent  
18-21 jurisdiction.

18-22 F. Financing of the Commission

18-23 1. The Commission shall pay, or provide for the  
18-24 payment of, the reasonable expenses of its  
18-25 establishment, organization, and ongoing  
18-26 activities.

18-27 2. The Commission may accept any and all appropriate  
18-28 revenue sources, donations, and grants of money,  
18-29 equipment, supplies, materials, and services.

18-30 3. The Commission may levy on and collect an annual  
18-31 assessment from each member state or impose fees on  
18-32 other parties to cover the cost of the operations  
18-33 and activities of the Commission and its staff,  
18-34 which must be in a total amount sufficient to cover  
18-35 its annual budget as approved each year for which  
18-36 revenue is not provided by other sources. The  
18-37 aggregate annual assessment amount shall be  
18-38 allocated based upon a formula to be determined by  
18-39 the Commission, which shall promulgate a rule  
18-40 binding upon all member states.

18-41 4. The Commission shall not incur obligations of any  
18-42 kind prior to securing the funds adequate to meet  
18-43 the same; nor shall the Commission pledge the  
18-44 credit of any of the member states, except by and  
18-45 with the authority of the member state.

18-46 5. The Commission shall keep accurate accounts of all  
18-47 receipts and disbursements. The receipts and  
18-48 disbursements of the Commission shall be subject to  
18-49 the audit and accounting procedures established  
18-50 under its bylaws. However, all receipts and  
18-51 disbursements of funds handled by the Commission  
18-52 shall be audited yearly by a certified or licensed  
18-53 public accountant, and the report of the audit  
18-54 shall be included in and become part of the annual  
18-55 report of the Commission.

18-56 G. Qualified Immunity, Defense, and Indemnification

18-57 1. The members, officers, executive director,  
18-58 employees and representatives of the Commission  
18-59 shall be immune from suit and liability, either  
18-60 personally or in their official capacity, for any  
18-61 claim for damage to or loss of property or personal  
18-62 injury or other civil liability caused by or  
18-63 arising out of any actual or alleged act, error or  
18-64 omission that occurred, or that the person against  
18-65 whom the claim is made had a reasonable basis for  
18-66 believing occurred within the scope of Commission  
18-67 employment, duties or responsibilities; provided  
18-68 that nothing in this paragraph shall be construed  
18-69 to protect any such person from suit and/or

19-1 liability for any damage, loss, injury, or  
 19-2 liability caused by the intentional or willful or  
 19-3 wanton misconduct of that person.

19-4 2. The Commission shall defend any member, officer,  
 19-5 executive director, employee or representative of  
 19-6 the Commission in any civil action seeking to  
 19-7 impose liability arising out of any actual or  
 19-8 alleged act, error, or omission that occurred  
 19-9 within the scope of Commission employment, duties,  
 19-10 or responsibilities, or that the person against  
 19-11 whom the claim is made had a reasonable basis for  
 19-12 believing occurred within the scope of Commission  
 19-13 employment, duties, or responsibilities; provided  
 19-14 that nothing herein shall be construed to prohibit  
 19-15 that person from retaining his or her own counsel;  
 19-16 and provided further, that the actual or alleged  
 19-17 act, error, or omission did not result from that  
 19-18 person's intentional or willful or wanton  
 19-19 misconduct.

19-20 3. The Commission shall indemnify and hold harmless  
 19-21 any member, officer, executive director, employee,  
 19-22 or representative of the Commission for the amount  
 19-23 of any settlement or judgment obtained against that  
 19-24 person arising out of any actual or alleged act,  
 19-25 error or omission that occurred within the scope of  
 19-26 Commission employment, duties, or  
 19-27 responsibilities, or that such person had a  
 19-28 reasonable basis for believing occurred within the  
 19-29 scope of Commission employment, duties, or  
 19-30 responsibilities, provided that the actual or  
 19-31 alleged act, error, or omission did not result from  
 19-32 the intentional or willful or wanton misconduct of  
 19-33 that person.

#### 19-34 SECTION 8. DATA SYSTEM

19-35 A. The Commission shall provide for the development,  
 19-36 maintenance, and utilization of a coordinated database and  
 19-37 reporting system containing licensure, adverse action, and  
 19-38 investigative information on all licensed individuals in member  
 19-39 states.

19-40 B. Notwithstanding any other provision of state law to the  
 19-41 contrary, a member state shall submit a uniform data set to the data  
 19-42 system on all individuals to whom this Compact is applicable as  
 19-43 required by the rules of the Commission, including:

- 19-44 1. Identifying information;
- 19-45 2. Licensure data;
- 19-46 3. Adverse actions against a license or compact  
 19-47 privilege;
- 19-48 4. Non-confidential information related to  
 19-49 alternative program participation;
- 19-50 5. Any denial of application for licensure, and the  
 19-51 reason(s) for such denial; and
- 19-52 6. Other information that may facilitate the  
 19-53 administration of this Compact, as determined by  
 19-54 the rules of the Commission.

19-55 C. Investigative information pertaining to a licensee in  
 19-56 any member state will only be available to other party states.

19-57 D. The Commission shall promptly notify all member states of  
 19-58 any adverse action taken against a licensee or an individual  
 19-59 applying for a license. Adverse action information pertaining to a  
 19-60 licensee in any member state will be available to any other member  
 19-61 state.

19-62 E. Member states contributing information to the data  
 19-63 system may designate information that may not be shared with the  
 19-64 public without the express permission of the contributing state.

19-65 F. Any information submitted to the data system that is  
 19-66 subsequently required to be expunged by the laws of the member state  
 19-67 contributing the information shall be removed from the data system.

#### 19-68 SECTION 9. RULEMAKING

19-69 A. The Commission shall exercise its rulemaking powers

20-1 pursuant to the criteria set forth in this Section and the rules  
 20-2 adopted thereunder. Rules and amendments shall become binding as of  
 20-3 the date specified in each rule or amendment.

20-4 B. If a majority of the legislatures of the member states  
 20-5 rejects a rule, by enactment of a statute or resolution in the same  
 20-6 manner used to adopt the Compact within 4 years of the date of  
 20-7 adoption of the rule, then such rule shall have no further force and  
 20-8 effect in any member state.

20-9 C. Rules or amendments to the rules shall be adopted at a  
 20-10 regular or special meeting of the Commission.

20-11 D. Prior to promulgation and adoption of a final rule or  
 20-12 rules by the Commission, and at least thirty (30) days in advance of  
 20-13 the meeting at which the rule will be considered and voted upon, the  
 20-14 Commission shall file a Notice of Proposed Rulemaking:

20-15 1. On the website of the Commission or other publicly  
 20-16 accessible platform; and

20-17 2. On the website of each member state physical  
 20-18 therapy licensing board or other publicly  
 20-19 accessible platform or the publication in which  
 20-20 each state would otherwise publish proposed rules.

20-21 E. The Notice of Proposed Rulemaking shall include:

20-22 1. The proposed time, date, and location of the  
 20-23 meeting in which the rule will be considered and  
 20-24 voted upon;

20-25 2. The text of the proposed rule or amendment and the  
 20-26 reason for the proposed rule;

20-27 3. A request for comments on the proposed rule from any  
 20-28 interested person; and

20-29 4. The manner in which interested persons may submit  
 20-30 notice to the Commission of their intention to  
 20-31 attend the public hearing and any written comments.

20-32 F. Prior to adoption of a proposed rule, the Commission  
 20-33 shall allow persons to submit written data, facts, opinions, and  
 20-34 arguments, which shall be made available to the public.

20-35 G. The Commission shall grant an opportunity for a public  
 20-36 hearing before it adopts a rule or amendment if a hearing is  
 20-37 requested by:

20-38 1. At least twenty-five (25) persons;

20-39 2. A state or federal governmental subdivision or  
 20-40 agency; or

20-41 3. An association having at least twenty-five (25)  
 20-42 members.

20-43 H. If a hearing is held on the proposed rule or amendment,  
 20-44 the Commission shall publish the place, time, and date of the  
 20-45 scheduled public hearing. If the hearing is held via electronic  
 20-46 means, the Commission shall publish the mechanism for access to the  
 20-47 electronic hearing.

20-48 1. All persons wishing to be heard at the hearing shall  
 20-49 notify the executive director of the Commission or  
 20-50 other designated member in writing of their desire  
 20-51 to appear and testify at the hearing not less than  
 20-52 five (5) business days before the scheduled date of  
 20-53 the hearing.

20-54 2. Hearings shall be conducted in a manner providing  
 20-55 each person who wishes to comment a fair and  
 20-56 reasonable opportunity to comment orally or in  
 20-57 writing.

20-58 3. All hearings will be recorded. A copy of the  
 20-59 recording will be made available on request.

20-60 4. Nothing in this section shall be construed as  
 20-61 requiring a separate hearing on each rule. Rules  
 20-62 may be grouped for the convenience of the  
 20-63 Commission at hearings required by this section.

20-64 I. Following the scheduled hearing date, or by the close of  
 20-65 business on the scheduled hearing date if the hearing was not held,  
 20-66 the Commission shall consider all written and oral comments  
 20-67 received.

20-68 J. If no written notice of intent to attend the public  
 20-69 hearing by interested parties is received, the Commission may

21-1 proceed with promulgation of the proposed rule without a public  
 21-2 hearing.

21-3 K. The Commission shall, by majority vote of all members,  
 21-4 take final action on the proposed rule and shall determine the  
 21-5 effective date of the rule, if any, based on the rulemaking record  
 21-6 and the full text of the rule.

21-7 L. Upon determination that an emergency exists, the  
 21-8 Commission may consider and adopt an emergency rule without prior  
 21-9 notice, opportunity for comment, or hearing, provided that the  
 21-10 usual rulemaking procedures provided in the Compact and in this  
 21-11 section shall be retroactively applied to the rule as soon as  
 21-12 reasonably possible, in no event later than ninety (90) days after  
 21-13 the effective date of the rule. For the purposes of this provision,  
 21-14 an emergency rule is one that must be adopted immediately in order  
 21-15 to:

- 21-16 1. Meet an imminent threat to public health, safety,  
 21-17 or welfare;
- 21-18 2. Prevent a loss of Commission or member state funds;
- 21-19 3. Meet a deadline for the promulgation of an  
 21-20 administrative rule that is established by federal  
 21-21 law or rule; or
- 21-22 4. Protect public health and safety.

21-23 M. The Commission or an authorized committee of the  
 21-24 Commission may direct revisions to a previously adopted rule or  
 21-25 amendment for purposes of correcting typographical errors, errors  
 21-26 in format, errors in consistency, or grammatical errors. Public  
 21-27 notice of any revisions shall be posted on the website of the  
 21-28 Commission. The revision shall be subject to challenge by any  
 21-29 person for a period of thirty (30) days after posting. The revision  
 21-30 may be challenged only on grounds that the revision results in a  
 21-31 material change to a rule. A challenge shall be made in writing, and  
 21-32 delivered to the chair of the Commission prior to the end of the  
 21-33 notice period. If no challenge is made, the revision will take  
 21-34 effect without further action. If the revision is challenged, the  
 21-35 revision may not take effect without the approval of the  
 21-36 Commission.

#### 21-37 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

##### 21-38 A. Oversight

- 21-39 1. The executive, legislative, and judicial branches  
 21-40 of state government in each member state shall  
 21-41 enforce this Compact and take all actions necessary  
 21-42 and appropriate to effectuate the Compact's  
 21-43 purposes and intent. The provisions of this Compact  
 21-44 and the rules promulgated hereunder shall have  
 21-45 standing as statutory law.
- 21-46 2. All courts shall take judicial notice of the  
 21-47 Compact and the rules in any judicial or  
 21-48 administrative proceeding in a member state  
 21-49 pertaining to the subject matter of this Compact  
 21-50 which may affect the powers, responsibilities or  
 21-51 actions of the Commission.
- 21-52 3. The Commission shall be entitled to receive service  
 21-53 of process in any such proceeding, and shall have  
 21-54 standing to intervene in such a proceeding for all  
 21-55 purposes. Failure to provide service of process to  
 21-56 the Commission shall render a judgment or order  
 21-57 void as to the Commission, this Compact, or  
 21-58 promulgated rules.

##### 21-59 B. Default, Technical Assistance, and Termination

- 21-60 1. If the Commission determines that a member state  
 21-61 has defaulted in the performance of its obligations  
 21-62 or responsibilities under this Compact or the  
 21-63 promulgated rules, the Commission shall:
  - 21-64 a. Provide written notice to the defaulting state  
 21-65 and other member states of the nature of the  
 21-66 default, the proposed means of curing the  
 21-67 default and/or any other action to be taken by  
 21-68 the Commission; and
  - 21-69 b. Provide remedial training and specific

technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.
6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

#### C. Dispute Resolution

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.
2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

#### D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.
2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.
3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

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

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission

23-1 shall meet and exercise rulemaking powers necessary to the  
23-2 implementation and administration of the Compact.

23-3 B. Any state that joins the Compact subsequent to the  
23-4 Commission's initial adoption of the rules shall be subject to the  
23-5 rules as they exist on the date on which the Compact becomes law in  
23-6 that state. Any rule that has been previously adopted by the  
23-7 Commission shall have the full force and effect of law on the day  
23-8 the Compact becomes law in that state.

23-9 C. Any member state may withdraw from this Compact by  
23-10 enacting a statute repealing the same.

23-11 1. A member state's withdrawal shall not take effect  
23-12 until six (6) months after enactment of the  
23-13 repealing statute.

23-14 2. Withdrawal shall not affect the continuing  
23-15 requirement of the withdrawing state's physical  
23-16 therapy licensing board to comply with the  
23-17 investigative and adverse action reporting  
23-18 requirements of this act prior to the effective  
23-19 date of withdrawal.

23-20 D. Nothing contained in this Compact shall be construed to  
23-21 invalidate or prevent any physical therapy licensure agreement or  
23-22 other cooperative arrangement between a member state and a  
23-23 non-member state that does not conflict with the provisions of this  
23-24 Compact.

23-25 E. This Compact may be amended by the member states. No  
23-26 amendment to this Compact shall become effective and binding upon  
23-27 any member state until it is enacted into the laws of all member  
23-28 states.

#### 23-29 SECTION 12. CONSTRUCTION AND SEVERABILITY

23-30 This Compact shall be liberally construed so as to effectuate  
23-31 the purposes thereof. The provisions of this Compact shall be  
23-32 severable and if any phrase, clause, sentence or provision of this  
23-33 Compact is declared to be contrary to the constitution of any party  
23-34 state or of the United States or the applicability thereof to any  
23-35 government, agency, person or circumstance is held invalid, the  
23-36 validity of the remainder of this Compact and the applicability  
23-37 thereof to any government, agency, person or circumstance shall not  
23-38 be affected thereby. If this Compact shall be held contrary to the  
23-39 constitution of any party state, the Compact shall remain in full  
23-40 force and effect as to the remaining party states and in full force  
23-41 and effect as to the party state affected as to all severable  
23-42 matters.

23-43 Sec. 453.502. ADMINISTRATION OF COMPACT. The board is the  
23-44 Physical Therapy Licensure Compact administrator for this state.

23-45 Sec. 453.503. RULES. The board may adopt rules necessary to  
23-46 implement this subchapter.

23-47 Sec. 453.504. PHYSICAL THERAPY LICENSURE COMPACT;  
23-48 DISCLOSURE OF PERSONAL INFORMATION. (a) In reporting information  
23-49 to the coordinated database and reporting system under Section 8 of  
23-50 the Physical Therapy Licensure Compact, the board may disclose  
23-51 personally identifiable information about a physical therapist or a  
23-52 physical therapist assistant, including the person's social  
23-53 security number.

23-54 (b) The coordinated database and reporting system may not  
23-55 share personally identifiable information with a state that is not  
23-56 a party to the compact unless the state agrees to not disclose that  
23-57 information to any other person.

#### 23-58 ARTICLE 4. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

23-59 SECTION 4.01. Section 454.003, Occupations Code, is amended  
23-60 to read as follows:

23-61 Sec. 454.003. APPLICATION OF SUNSET ACT. The Texas Board of  
23-62 Occupational Therapy Examiners is subject to Chapter 325,  
23-63 Government Code (Texas Sunset Act). Unless continued in existence  
23-64 as provided by that chapter, the board is abolished and this chapter  
23-65 expires September 1, 2029 [2017].

23-66 SECTION 4.02. Section 454.005(b), Occupations Code, is  
23-67 amended to read as follows:

23-68 (b) The licensing provisions of this chapter do not apply  
23-69 to:

24-1 (1) an occupational therapy aide assisting a license  
 24-2 holder under this chapter;  
 24-3 (2) a person engaged in a course of study leading to a  
 24-4 degree or certificate in occupational therapy at an accredited or  
 24-5 approved educational program if:  
 24-6 (A) the activities and services constitute a part  
 24-7 of a supervised course of study; and  
 24-8 (B) the person is designated by a title that  
 24-9 clearly indicates the person's status as a student or trainee;  
 24-10 (3) a person fulfilling the supervised field work  
 24-11 experience requirements of Section 454.203, if those activities and  
 24-12 services constitute a part of the experience necessary to meet the  
 24-13 requirement of that section;  
 24-14 (4) an occupational therapist performing a special  
 24-15 project in patient care while working toward an advanced degree  
 24-16 from an accredited college or university;  
 24-17 (5) an occupational therapist or occupational therapy  
 24-18 assistant who does not live in this state and who:  
 24-19 (A) is licensed by another state or who meets the  
 24-20 requirements for certification established by the National Board  
 24-21 for Certification in Occupational Therapy [~~American Occupational~~  
 24-22 ~~Therapy Association~~] as an occupational therapist registered (OTR)  
 24-23 or a certified occupational therapy assistant (COTA); and  
 24-24 (B) comes into this state for not more than four  
 24-25 consecutive months to:  
 24-26 (i) provide or attend an educational  
 24-27 activity;  
 24-28 (ii) assist in a case of medical emergency;  
 24-29 or  
 24-30 (iii) engage in a special occupational  
 24-31 therapy project; or  
 24-32 (6) a qualified and properly trained person acting  
 24-33 under a physician's supervision under Section 157.001.  
 24-34 SECTION 4.03. Section 454.053, Occupations Code, is amended  
 24-35 to read as follows:  
 24-36 Sec. 454.053. MEMBERSHIP RESTRICTIONS. (a) In this  
 24-37 section, "Texas trade association" means a [~~nonprofit,~~  
 24-38 cooperative~~[-]~~] and voluntarily joined statewide association of  
 24-39 business or professional competitors in this state designed to  
 24-40 assist its members and its industry or profession in dealing with  
 24-41 mutual business or professional problems and in promoting their  
 24-42 common interest.  
 24-43 (b) A person [~~An officer, employee, or paid consultant of a~~  
 24-44 ~~Texas trade association in the field of health care~~] may not be a  
 24-45 member of the board if:  
 24-46 (1) the person is an officer, employee, or paid  
 24-47 consultant of a Texas trade association in the field of health care;  
 24-48 or  
 24-49 (2) the person's [~~-~~  
 24-50 [~~(c) A person who is the~~] spouse is [~~of~~] an officer,  
 24-51 manager, or paid consultant of a Texas trade association in the  
 24-52 field of health care [~~may not be a member of the board~~].  
 24-53 (c) [~~(d)~~] A person may not be [~~serve as~~] a member of the  
 24-54 board if the person is required to register as a lobbyist under  
 24-55 Chapter 305, Government Code, because of the person's activities  
 24-56 for compensation on behalf of a profession related to the operation  
 24-57 of the executive council or the board.  
 24-58 SECTION 4.04. Sections 454.055(a) and (c), Occupations  
 24-59 Code, are amended to read as follows:  
 24-60 (a) It is a ground for removal from the board that a member:  
 24-61 (1) does not have at the time of taking office  
 24-62 [~~appointment~~] the qualifications required by Section 454.051(a);  
 24-63 (2) does not maintain during service on the board the  
 24-64 qualifications required by Section 454.051(a);  
 24-65 (3) is ineligible for membership under [~~violates a~~  
 24-66 ~~prohibition established by~~] Section 454.052 or 454.053;  
 24-67 (4) cannot, because of illness or disability,  
 24-68 discharge the member's duties for a substantial part of the member's  
 24-69 term; or

25-1 (5) is absent from more than half of the regularly  
 25-2 scheduled board meetings that the member is eligible to attend  
 25-3 during a calendar year without an excuse approved [~~unless the~~  
 25-4 ~~absence is excused~~] by a majority vote of the board.

25-5 (c) If the coordinator of occupational therapy programs has  
 25-6 knowledge that a potential ground for removal exists, the  
 25-7 coordinator shall notify the presiding officer of the board of the  
 25-8 potential ground. The presiding officer shall then notify the  
 25-9 governor and the attorney general that a potential ground for  
 25-10 removal exists. If the potential ground for removal involves the  
 25-11 presiding officer, the coordinator shall notify the next highest  
 25-12 ranking officer of the board, who shall then notify the governor and  
 25-13 the attorney general that a potential ground for removal exists.

25-14 SECTION 4.05. Section 454.057, Occupations Code, is amended  
 25-15 to read as follows:

25-16 Sec. 454.057. OFFICERS. (a) The governor shall designate  
 25-17 a member of the board as the presiding officer of the board to serve  
 25-18 in that capacity at the pleasure of the governor.

25-19 (b) After the appointment of members every two years, the  
 25-20 members of the board shall elect from among its members [~~a presiding~~  
 25-21 ~~officer,~~] a secretary[~~,~~] and other officers required to conduct the  
 25-22 business of the board.

25-23 SECTION 4.06. Section 454.059, Occupations Code, is amended  
 25-24 to read as follows:

25-25 Sec. 454.059. TRAINING. (a) A person who is appointed to  
 25-26 and qualifies for office as [~~Before~~] a member of the board may not  
 25-27 vote, deliberate, or be counted as a member in attendance at a  
 25-28 meeting of the board until the person completes [~~assume the~~  
 25-29 ~~member's duties, the member must complete at least~~] a [~~course of~~  
 25-30 ~~the~~] training program that complies with [~~established by the board~~  
 25-31 ~~under~~] this section.

25-32 (b) The training program must [~~shall~~] provide the person  
 25-33 with information [~~to a participant~~] regarding:

25-34 (1) the law governing board and executive council  
 25-35 operations [~~this chapter~~];

25-36 (2) the programs, functions, rules, and budget of  
 25-37 [~~operated by~~] the board and executive council;

25-38 (3) the scope of and limitations on the rulemaking  
 25-39 authority [~~role and functions~~] of the board and executive council;

25-40 (4) [~~the rules of the board, with an emphasis on the~~  
 25-41 ~~rules that relate to disciplinary and investigatory authority;~~

25-42 [~~(5) the current budget for the board;~~

25-43 [~~(6)~~] the results of the most recent formal audit of  
 25-44 the board and executive council;

25-45 (5) [~~(7)~~] the requirements of:

25-46 (A) laws relating to open meetings, public  
 25-47 information, administrative procedure, and disclosing conflicts of  
 25-48 interest; and

25-49 (B) other laws applicable to members of the board  
 25-50 in performing their duties [~~Chapters 551, 552, 2001, and 2002,~~  
 25-51 ~~Government Code,~~

25-52 [~~(8) the requirements of the conflict of interest laws~~  
 25-53 ~~and other laws relating to public officials]; and~~

25-54 (6) [~~(9)~~] any applicable ethics policies adopted by  
 25-55 the board or the Texas Ethics Commission.

25-56 (c) A person appointed to the board is entitled to  
 25-57 reimbursement, as provided by the General Appropriations Act, for  
 25-58 the travel expenses incurred in attending the training program  
 25-59 regardless of whether the person's attendance at the program occurs  
 25-60 before or after the person qualifies for office [~~In developing the~~  
 25-61 ~~training requirements provided for by this section, the board shall~~  
 25-62 ~~consult with the governor's office, the attorney general's office,~~  
 25-63 ~~and the Texas Ethics Commission].~~

25-64 (d) The director of the executive council shall create a  
 25-65 training manual that includes the information required by  
 25-66 Subsection (b). The director shall distribute a copy of the  
 25-67 training manual annually to each board member. On receipt of the  
 25-68 training manual, each board member shall sign and submit to the  
 25-69 director a statement acknowledging receipt of the training manual

26-1 [~~If another state agency or entity is given the authority to~~  
26-2 ~~establish the training requirements, the board shall allow that~~  
26-3 ~~training instead of developing its own program].~~

26-4 SECTION 4.07. Section 454.105(b), Occupations Code, is  
26-5 amended to read as follows:

26-6 (b) The board shall develop and implement policies that  
26-7 clearly separate [~~define~~] the policymaking [~~respective~~]  
26-8 responsibilities of the board and the management responsibilities  
26-9 of the director and [the] staff of the executive council.

26-10 SECTION 4.08. Subchapter C, Chapter 454, Occupations Code,  
26-11 is amended by adding Sections 454.1061 and 454.108 to read as  
26-12 follows:

26-13 Sec. 454.1061. PLACE OF EMPLOYMENT. The board may require  
26-14 that a license holder provide current information in a readily  
26-15 accessible and usable format regarding the license holder's current  
26-16 place of employment as an occupational therapist or occupational  
26-17 therapy assistant.

26-18 Sec. 454.108. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE  
26-19 RESOLUTION. (a) The board shall develop a policy to encourage the  
26-20 use of:

26-21 (1) negotiated rulemaking under Chapter 2008,  
26-22 Government Code, for the adoption of board rules; and

26-23 (2) appropriate alternative dispute resolution  
26-24 procedures under Chapter 2009, Government Code, to assist in the  
26-25 resolution of internal and external disputes under the board's  
26-26 jurisdiction.

26-27 (b) The board's procedures relating to alternative dispute  
26-28 resolution must conform, to the extent possible, to any model  
26-29 guidelines issued by the State Office of Administrative Hearings  
26-30 for the use of alternative dispute resolution by state agencies.

26-31 (c) The board shall:

26-32 (1) coordinate the implementation of the policy  
26-33 adopted under Subsection (a);

26-34 (2) provide training as needed to implement the  
26-35 procedures for negotiated rulemaking or alternative dispute  
26-36 resolution; and

26-37 (3) collect data concerning the effectiveness of those  
26-38 procedures.

26-39 SECTION 4.09. Section 454.153(e), Occupations Code, is  
26-40 amended to read as follows:

26-41 (e) The staff of the executive council [~~coordinator of~~  
26-42 ~~occupational therapy programs~~] shall notify the board of a  
26-43 complaint that extends beyond the time prescribed by the board for  
26-44 resolving the complaint so that the board may take necessary action  
26-45 on the complaint.

26-46 SECTION 4.10. The heading to Subchapter E, Chapter 454,  
26-47 Occupations Code, is amended to read as follows:

26-48 SUBCHAPTER E. LICENSE REQUIREMENTS [~~, REGISTRATION OF FACILITIES~~]

26-49 SECTION 4.11. Section 454.203, Occupations Code, is amended  
26-50 to read as follows:

26-51 Sec. 454.203. QUALIFICATIONS FOR OCCUPATIONAL THERAPIST OR  
26-52 OCCUPATIONAL THERAPY ASSISTANT LICENSE. [~~(a)~~] An applicant for an  
26-53 occupational therapist license or an occupational therapy  
26-54 assistant license must present evidence satisfactory to the board  
26-55 that the applicant has:

26-56 (1) successfully completed the academic and  
26-57 supervised field work experience requirements of an educational  
26-58 program in occupational therapy recognized by the board, as  
26-59 provided by Section 454.204; and

26-60 (2) [successfully completed a period of supervised  
26-61 field work experience arranged by the recognized educational  
26-62 institution at which the applicant met the academic requirements,  
26-63 and

26-64 [~~(3)~~] passed an examination as provided by Section  
26-65 454.207.

26-66 [~~(b) To satisfy the supervised field work experience~~  
26-67 ~~required by Subsection (a)(2):~~

26-68 [~~(1) an occupational therapist must have completed a~~  
26-69 period of at least six months, and

27-1 ~~[(2) an occupational therapy assistant must have~~  
 27-2 ~~completed a period of at least two months.]~~

27-3 SECTION 4.12. Section 454.204, Occupations Code, is amended  
 27-4 to read as follows:

27-5 Sec. 454.204. EDUCATIONAL REQUIREMENTS. To satisfy Section  
 27-6 454.203(1) [454.203(a)(1)]:

27-7 (1) an applicant applying for an occupational  
 27-8 therapist license must have, from an educational [a] program  
 27-9 approved by the Accreditation Council for Occupational Therapy  
 27-10 Education, its predecessor organization, or another national  
 27-11 credentialing agency approved by the board:

27-12 (A) an entry-level degree in occupational  
 27-13 therapy, or a degree that exceeds the requirements for an  
 27-14 entry-level degree in occupational therapy, from an educational  
 27-15 program that prepares a person for entry into the field as an  
 27-16 occupational therapist [a baccalaureate degree in occupational  
 27-17 therapy, if the applicant graduated before January 1, 2007]; or

27-18 (B) a certificate evidencing successful  
 27-19 completion of required undergraduate occupational therapy course  
 27-20 work awarded to persons with a baccalaureate degree that is not in  
 27-21 occupational therapy, if the applicant graduated before January 1,  
 27-22 2007; ~~[or~~

27-23 ~~[(C) a postbaccalaureate degree in occupational~~  
 27-24 ~~therapy,] and~~

27-25 (2) an applicant applying for an occupational therapy  
 27-26 assistant license must have, from an educational program approved  
 27-27 by the Accreditation Council for Occupational Therapy Education,  
 27-28 its predecessor organization, or another national credentialing  
 27-29 agency approved by the board:

27-30 (A) an entry-level degree in occupational  
 27-31 therapy, or a degree that exceeds the requirements for an  
 27-32 entry-level degree in occupational therapy, from an educational  
 27-33 program that prepares a person for entry into the field as an  
 27-34 [associate degree in] occupational therapy assistant; or

27-35 (B) an entry-level certificate in occupational  
 27-36 therapy, or a certificate that exceeds the requirements for an  
 27-37 entry-level certificate in occupational therapy, from an  
 27-38 educational program that prepares a person for entry into the field  
 27-39 as an occupational therapy assistant [certificate].

27-40 SECTION 4.13. Section 454.205(a), Occupations Code, is  
 27-41 amended to read as follows:

27-42 (a) To obtain a license under this chapter, an applicant who  
 27-43 is foreign-trained must satisfy the examination requirements and  
 27-44 complete academic and supervised field work requirements  
 27-45 substantially equivalent to those under [of] Section 454.203  
 27-46 [454.203(a)(3)].

27-47 SECTION 4.14. Section 454.207, Occupations Code, is amended  
 27-48 to read as follows:

27-49 Sec. 454.207. LICENSE EXAMINATION. (a) The board by rule  
 27-50 shall recognize a national testing entity to administer the  
 27-51 examinations required to obtain an occupational therapist or  
 27-52 occupational therapy assistant license.

27-53 (b) The [examine each applicant for a license by written]  
 27-54 examination must [to] test the applicant's knowledge of the basic  
 27-55 and clinical sciences relating to occupational therapy,  
 27-56 occupational therapy techniques and methods, and other subjects the  
 27-57 board may require to determine the applicant's fitness to practice.

27-58 ~~[(b) The board shall examine applicants for licenses at~~  
 27-59 ~~least twice each year at the board's regular meetings and under the~~  
 27-60 ~~supervision required by the board.]~~

27-61 (c) If the board enters into a contract with a national  
 27-62 testing entity under Subsection (a), the contract must include a  
 27-63 provision requiring that the national testing entity be responsible  
 27-64 for overseeing the examination process, including responsibility  
 27-65 for:

27-66 (1) specifying application requirements for the  
 27-67 examination;

27-68 (2) specifying reexamination requirements for the  
 27-69 examination;

28-1 (3) verifying that an applicant meets the educational  
 28-2 and supervised field work experience requirements established by  
 28-3 the board; and  
 28-4 (4) notifying an applicant and the board of the  
 28-5 applicant's examination results [The board shall:  
 28-6 [~~(1) approve an examination for:~~  
 28-7 [~~(A) occupational therapists, and~~  
 28-8 [~~(B) occupational therapy assistants,~~  
 28-9 [~~(2) establish standards for acceptable performance,~~  
 28-10 and  
 28-11 [~~(3) have the written portion of the examination~~  
 28-12 validated by an independent testing entity].

28-13 (d) The rules adopted under this section may require that an  
 28-14 applicant authorize the national testing entity to directly provide  
 28-15 to the board the applicant's examination results [board shall give  
 28-16 reasonable public notice of the examination in accordance with its  
 28-17 rules].

28-18 (e) The board may require an applicant for an occupational  
 28-19 therapist or occupational therapy assistant license to pass a  
 28-20 jurisprudence examination.

28-21 SECTION 4.15. Subchapter E, Chapter 454, Occupations Code,  
 28-22 is amended by adding Sections 454.216 and 454.217 to read as  
 28-23 follows:

28-24 Sec. 454.216. LICENSE BY ENDORSEMENT. (a) The board shall  
 28-25 issue an occupational therapist license or an occupational therapy  
 28-26 assistant license, as applicable, to an applicant who holds a  
 28-27 current, unrestricted license in another jurisdiction that  
 28-28 maintains licensing requirements that are substantially equivalent  
 28-29 to the requirements under this chapter. An applicant for a license  
 28-30 under this section must:

28-31 (1) present proof to the board that the applicant is  
 28-32 licensed in good standing as an occupational therapist or  
 28-33 occupational therapy assistant in that jurisdiction;

28-34 (2) provide to the board information regarding the  
 28-35 status of any other professional license that the applicant holds  
 28-36 or has held in this state or another jurisdiction;

28-37 (3) present proof to the board that the applicant has  
 28-38 passed a jurisprudence examination required by the board;

28-39 (4) meet the qualifications required by Section  
 28-40 454.203 or 454.205, as applicable;

28-41 (5) not have committed an act that is grounds for  
 28-42 denial of a license under Section 454.301;

28-43 (6) submit to the board a current photograph that  
 28-44 meets the requirements for a United States passport; and

28-45 (7) meet any additional requirements provided by board  
 28-46 rule.

28-47 (b) The board shall adopt rules for issuing a provisional  
 28-48 license under Section 454.210 to an applicant for a license by  
 28-49 endorsement who encounters a delay that is outside the applicant's  
 28-50 control in submitting to the board the documentation required by  
 28-51 this section.

28-52 Sec. 454.217. CRIMINAL HISTORY RECORD INFORMATION FOR  
 28-53 LICENSE ISSUANCE. (a) The board shall require that an applicant  
 28-54 for a license submit a complete and legible set of fingerprints, on  
 28-55 a form prescribed by the board, to the board or to the Department of  
 28-56 Public Safety for the purpose of obtaining criminal history record  
 28-57 information from the Department of Public Safety and the Federal  
 28-58 Bureau of Investigation.

28-59 (b) The board may not issue a license to a person who does  
 28-60 not comply with the requirement of Subsection (a).

28-61 (c) The board shall conduct a criminal history record  
 28-62 information check of each applicant for a license using  
 28-63 information:

28-64 (1) provided by the individual under this section; and

28-65 (2) made available to the board by the Department of  
 28-66 Public Safety, the Federal Bureau of Investigation, and any other  
 28-67 criminal justice agency under Chapter 411, Government Code.

28-68 (d) The board may:

28-69 (1) enter into an agreement with the Department of

29-1 Public Safety to administer a criminal history record information  
 29-2 check required under this section; and

29-3 (2) authorize the Department of Public Safety to  
 29-4 collect from each applicant the costs incurred by the Department of  
 29-5 Public Safety in conducting the criminal history record information  
 29-6 check.

29-7 SECTION 4.16. Section 454.252(b), Occupations Code, is  
 29-8 amended to read as follows:

29-9 (b) A person whose license has been expired for 90 days or  
 29-10 less may renew the license by paying to the executive council the  
 29-11 renewal fee and a late fee set by the executive council that may not  
 29-12 exceed one-half of the renewal [~~examination~~] fee for the license.  
 29-13 If a person's license has been expired for more than 90 days but  
 29-14 less than one year, the person may renew the license by paying to  
 29-15 the executive council all unpaid renewal fees and a late fee set by  
 29-16 the executive council that may not exceed the amount of the renewal  
 29-17 fee [~~charged for examination for the license~~].

29-18 SECTION 4.17. Section 454.253(b), Occupations Code, is  
 29-19 amended to read as follows:

29-20 (b) The person must pay to the executive council a renewal  
 29-21 fee set by the executive council under this section in an amount  
 29-22 that may not exceed the renewal [~~examination~~] fee for the license.

29-23 SECTION 4.18. Section 454.254, Occupations Code, is amended  
 29-24 by adding Subsection (e) to read as follows:

29-25 (e) The board by rule shall establish a process for  
 29-26 selecting a license holder peer organization in this state to  
 29-27 evaluate and approve continuing education courses under Subsection  
 29-28 (d). The selection process must include a request for proposal and  
 29-29 bidding process. If the board authorizes a peer organization to  
 29-30 evaluate and approve continuing education courses under Subsection  
 29-31 (d), the board shall request bids and proposals from that  
 29-32 organization and other organizations at least once every four  
 29-33 years.

29-34 SECTION 4.19. Subchapter F, Chapter 454, Occupations Code,  
 29-35 is amended by adding Section 454.255 to read as follows:

29-36 Sec. 454.255. CRIMINAL HISTORY RECORD INFORMATION  
 29-37 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a  
 29-38 license issued under this chapter shall submit a complete and  
 29-39 legible set of fingerprints for purposes of performing a criminal  
 29-40 history record information check of the applicant as provided by  
 29-41 Section 454.217.

29-42 (b) The board may administratively suspend or refuse to  
 29-43 renew the license of a person who does not comply with the  
 29-44 requirement of Subsection (a).

29-45 (c) A license holder is not required to submit fingerprints  
 29-46 under this section for the renewal of the license if the license  
 29-47 holder has previously submitted fingerprints under:

29-48 (1) Section 454.217 for the initial issuance of the  
 29-49 license; or

29-50 (2) this section as part of a prior license renewal.

29-51 SECTION 4.20. Subchapter G, Chapter 454, Occupations Code,  
 29-52 is amended by adding Sections 454.3025 and 454.307 to read as  
 29-53 follows:

29-54 Sec. 454.3025. SCHEDULE OF SANCTIONS. (a) The board by  
 29-55 rule shall adopt a schedule of administrative penalties and other  
 29-56 sanctions that the board may impose under this chapter. In adopting  
 29-57 the schedule of sanctions, the board shall ensure that the amount of  
 29-58 the penalty or severity of the sanction imposed is appropriate to  
 29-59 the type of violation or conduct that is the basis for disciplinary  
 29-60 action. In determining the appropriate disciplinary action,  
 29-61 including the amount of any administrative penalty to assess, the  
 29-62 board shall consider:

29-63 (1) the seriousness of the violation, including:

29-64 (A) the nature, circumstances, extent, and  
 29-65 gravity of the violation; and

29-66 (B) the hazard or potential hazard created to the  
 29-67 health, safety, or economic welfare of the public;

29-68 (2) the history of previous violations;

29-69 (3) the amount necessary to deter future violations;

- 30-1 (4) efforts to correct the violation;
- 30-2 (5) the economic harm to the public interest or public
- 30-3 confidence caused by the violation;
- 30-4 (6) whether the violation was intentional; and
- 30-5 (7) any other matter that justice requires.

30-6 (b) The board shall make the schedule of sanctions adopted  
30-7 under Subsection (a) available to the public on request.

30-8 Sec. 454.307. RECORD OF DISCIPLINARY ACTION; EXPUNGEMENT.

30-9 (a) The board by rule shall establish a process to expunge any  
30-10 record of disciplinary action taken against a license holder before  
30-11 September 1, 2019, for practicing in a facility that failed to meet  
30-12 the registration requirements of Section 454.215, as that section  
30-13 existed on January 1, 2019. The rules must provide that the board  
30-14 may not expunge a record under this section after September 1, 2021.

30-15 (b) This section expires September 1, 2021.

30-16 SECTION 4.21. Sections 454.3521(a) and (b), Occupations  
30-17 Code, are amended to read as follows:

30-18 (a) The board may impose an administrative penalty against a  
30-19 person licensed [~~or facility registered~~] under this chapter who  
30-20 violates this chapter or a rule or order adopted under this chapter.

30-21 (b) The penalty may not exceed \$200, and each day a  
30-22 violation continues or occurs is a separate violation for the  
30-23 purpose of imposing a penalty. The amount of the penalty shall be  
30-24 determined according to the sanctions schedule under Section  
30-25 454.3025 [~~based on:~~

30-26 [~~(1) the seriousness of the violation, including the~~  
30-27 ~~nature, circumstances, extent, and gravity of any prohibited acts,~~  
30-28 ~~and the hazard or potential hazard created to the health, safety, or~~  
30-29 ~~economic welfare of the public;~~

30-30 [~~(2) the history of previous violations;~~

30-31 [~~(3) the amount necessary to deter a future violation;~~

30-32 [~~(4) efforts to correct the violation; and~~

30-33 [~~(5) any other matter that justice requires].~~

30-34 SECTION 4.22. The following provisions of the Occupations  
30-35 Code are repealed:

30-36 (1) Section 454.205(b);

30-37 (2) Section 454.206;

30-38 (3) Section 454.208;

30-39 (4) Section 454.209; and

30-40 (5) Section 454.215.

30-41 SECTION 4.23. (a) Except as provided by Subsection (b) of  
30-42 this section, Section 454.059, Occupations Code, as amended by this  
30-43 article, applies to a member of the Texas Board of Occupational  
30-44 Therapy Examiners appointed before, on, or after the effective date  
30-45 of this article.

30-46 (b) A member of the Texas Board of Occupational Therapy  
30-47 Examiners who, before the effective date of this article, completed  
30-48 the training program required by Section 454.059, Occupations Code,  
30-49 as that law existed before the effective date of this article, is  
30-50 required to complete additional training only on subjects added to  
30-51 the training program required by Section 454.059, Occupations Code,  
30-52 as amended by this article. A board member described by this  
30-53 subsection may not vote, deliberate, or be counted as a member in  
30-54 attendance at a meeting of the Texas Board of Occupational Therapy  
30-55 Examiners held on or after December 1, 2017, until the member  
30-56 completes the additional training.

30-57 SECTION 4.24. As soon as practicable after the effective  
30-58 date of this article, the director of the Executive Council of  
30-59 Physical Therapy and Occupational Therapy Examiners shall create  
30-60 the training manual required by Section 454.059(d), Occupations  
30-61 Code, as amended by this article.

30-62 SECTION 4.25. As soon as practicable after the effective  
30-63 date of this article, the Texas Board of Occupational Therapy  
30-64 Examiners shall:

30-65 (1) develop and implement the policies required by:

30-66 (A) Section 454.105(b), Occupations Code, as  
30-67 amended by this article; and

30-68 (B) Section 454.108, Occupations Code, as added  
30-69 by this article; and

31-1 (2) adopt any rules necessary to implement Chapter  
31-2 454, Occupations Code, as amended by this article.

31-3 SECTION 4.26. Not later than September 1, 2018, the Texas  
31-4 Board of Occupational Therapy Examiners shall establish the request  
31-5 for proposal and bidding process required by Section 454.254(e),  
31-6 Occupations Code, as added by this article.

31-7 SECTION 4.27. Sections 454.203, 454.205, 454.252, and  
31-8 454.253, Occupations Code, as amended by this article, and Sections  
31-9 454.217 and 454.255, Occupations Code, as added by this article,  
31-10 apply only to an application for the issuance or renewal of an  
31-11 occupational therapist or occupational therapy assistant license  
31-12 submitted to the Texas Board of Occupational Therapy Examiners on  
31-13 or after the effective date of this article. An application  
31-14 submitted before that date is governed by the law in effect on the  
31-15 date the application was submitted, and the former law is continued  
31-16 in effect for that purpose.

31-17 SECTION 4.28. A person who holds an occupational therapist  
31-18 or occupational therapy assistant license issued before the  
31-19 effective date of this article may continue to renew that license  
31-20 without complying with the changes in law made by this article to  
31-21 Section 454.203, Occupations Code.

31-22 SECTION 4.29. (a) The Texas Board of Occupational Therapy  
31-23 Examiners shall dismiss the portion of any complaint, penalty,  
31-24 disciplinary action, or contested case pending on September 1,  
31-25 2019, that is based on a violation of rules adopted under Section  
31-26 454.215, Occupations Code, as repealed by this article.

31-27 (b) Section 454.307, Occupations Code, as added by this  
31-28 article, applies only to records of disciplinary action for conduct  
31-29 that occurred before September 1, 2019.

31-30 SECTION 4.30. Section 454.3025, Occupations Code, as added  
31-31 by this article, and Section 454.3521(b), Occupations Code, as  
31-32 amended by this article, apply only to conduct that occurs on or  
31-33 after the date that rules adopted under Section 454.3025 take  
31-34 effect. Conduct that occurs before that date is governed by the law  
31-35 in effect before the effective date of this article, and the former  
31-36 law is continued in effect for that purpose.

31-37 ARTICLE 5. EFFECTIVE DATE

31-38 SECTION 5.01. (a) Except as provided by Subsection (b) of  
31-39 this section, this Act takes effect September 1, 2017.

31-40 (b) The following changes in law take effect September 1,  
31-41 2019:

31-42 (1) the repeal by Article 2 of this Act of Sections  
31-43 453.001(8) and 453.213, Occupations Code;

31-44 (2) Sections 453.1061 and 453.357, Occupations Code,  
31-45 as added by Article 2 of this Act;

31-46 (3) Sections 453.151(c), 453.401, and 453.403(a),  
31-47 Occupations Code, as amended by Article 2 of this Act;

31-48 (4) the heading to Subchapter E, Chapter 453,  
31-49 Occupations Code, as amended by Article 2 of this Act;

31-50 (5) Sections 454.1061 and 454.307, Occupations Code,  
31-51 as added by Article 4 of this Act;

31-52 (6) the heading to Subchapter E, Chapter 454,  
31-53 Occupations Code, as amended by Article 4 of this Act;

31-54 (7) the repeal by Article 4 of this Act of Section  
31-55 454.215, Occupations Code; and

31-56 (8) Section 454.3521(a), Occupations Code, as amended  
31-57 by Article 4 of this Act.

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