
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 862 Session of
2019

INTRODUCED BY BARRAR, SAINATO, DeLUCA, HEFFLEY, HILL-EVANS,
JAMES, MURT, NEILSON, RYAN AND WEBSTER, MARCH 18, 2019

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MARCH 18, 2019

AN ACT

1 Authorizing the Commonwealth of Pennsylvania to join the
2 Physical Therapy Licensure Compact; and providing for the
3 form of the compact.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Physical
8 Therapy Licensure Compact Act.

9 Section 2. Authority to execute compact.

10 The Governor, on behalf of the Commonwealth, is hereby
11 authorized to execute a compact in substantially the following
12 form with any one or more of the states of the United States,
13 and the General Assembly hereby signifies in advance its
14 approval and ratification of such compact:

15 PHYSICAL THERAPY LICENSURE COMPACT

16 SECTION 1. PURPOSE

17 The purpose of this Compact is to facilitate interstate practice
18 of physical therapy with the goal of improving public access to

1 physical therapy services. The practice of physical therapy
2 occurs in the state where the patient/client is located at the
3 time of the patient/client encounter. The Compact preserves the
4 regulatory authority of states to protect public health and
5 safety through the current system of state licensure.

6 This Compact is designed to achieve the following objectives:

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

20 SECTION 2. DEFINITIONS

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

- 23 1. "Active duty military" means full-time duty status in the
24 active uniformed service of the United States, including
25 members of the National Guard and Reserve on active duty
26 orders pursuant to 10 U.S.C. Section 1209 and 1211.
- 27 2. "Adverse action" means disciplinary action taken by a
28 physical therapy licensing board based upon misconduct,
29 unacceptable performance, or a combination of both.
- 30 3. "Alternative program" means a non-disciplinary monitoring

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

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

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

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

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

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

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

26 10. "Investigative information" means information, records,
27 and documents received or generated by a physical therapy
28 licensing board pursuant to an investigation.

29 11. "Jurisprudence requirement" means the assessment of an
30 individual's knowledge of the laws and rules governing

1 the practice of physical therapy in a state.

2 12. "Licensee" means an individual who currently holds an
3 authorization from the state to practice as a physical
4 therapist or to work as a physical therapist assistant.

5 13. "Member state" means a state that has enacted the
6 Compact.

7 14. "Party state" means any member state in which a licensee
8 holds a current license or compact privilege or is
9 applying for a license or compact privilege.

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

12 16. "Physical therapist assistant" means an individual who
13 is licensed/certified by a state and who assists the
14 physical therapist in selected components of physical
15 therapy.

16 17. "Physical therapy," "physical therapy practice," and
17 "the practice of physical therapy" mean the care and
18 services provided by or under the direction and
19 supervision of a licensed physical therapist.

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

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

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

30 21. "Rule" means a regulation, principle, or directive

1 promulgated by the Commission that has the force of law.

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

5 SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

7 1. Participate fully in the Commission's data system,
8 including using the Commission's unique identifier as
9 defined in rules;

10 2. Have a mechanism in place for receiving and
11 investigating complaints about licensees;

12 3. Notify the Commission, in compliance with the terms
13 of the Compact and rules, of any adverse action or
14 the availability of investigative information
15 regarding a licensee;

16 4. Fully implement a criminal background check
17 requirement, within a time frame established by rule,
18 by receiving the results of the Federal Bureau of
19 Investigation record search on criminal background
20 checks and use the results in making licensure
21 decisions in accordance with Section 3B;

22 5. Comply with the rules of the Commission;

23 6. Utilize a recognized national examination as a
24 requirement for licensure pursuant to the rules of
25 the Commission; and

26 7. Have continuing competence requirements as a
27 condition for license renewal.

28 B. Upon adoption of this statute, the member state shall
29 have the authority to obtain biometric-based information from
30 each physical therapy licensure applicant and submit this

1 information to the Federal Bureau of Investigation for a
2 criminal background check in accordance with 28 U.S.C. §534 and
3 42 U.S.C. §14616.

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

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

9 SECTION 4. COMPACT PRIVILEGE

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

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

28 B. The compact privilege is valid until the expiration date
29 of the home license. The licensee must comply with the
30 requirements of Section 4A to maintain the compact privilege in

1 the remote state.

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

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

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

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

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

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

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

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

4 SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

8 A. Home of record;

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

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

12 SECTION 6. ADVERSE ACTIONS

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

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

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

26 D. Any member state may investigate actual or alleged
27 violations of the statutes and rules authorizing the practice of
28 physical therapy in any other member state in which a physical
29 therapist or physical therapist assistant holds a license or
30 compact privilege.

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

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

22 F. Joint Investigations

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

1 the Compact.

2 SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT
3 COMMISSION.

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

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

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

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

19 B. Membership, Voting, and Meetings

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

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

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

30 4. The member state board shall fill any vacancy

1 occurring in the Commission.

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

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

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

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

- 16 1. Establish the fiscal year of the Commission;
- 17 2. Establish bylaws;
- 18 3. Maintain its financial records in accordance with the
19 bylaws;
- 20 4. Meet and take such actions as are consistent with the
21 provisions of this Compact and the bylaws;
- 22 5. Promulgate uniform rules to facilitate and coordinate
23 implementation and administration of this Compact.
24 The rules shall have the force and effect of law and
25 shall be binding in all member states;
- 26 6. Bring and prosecute legal proceedings or actions in
27 the name of the Commission, provided that the
28 standing of any state physical therapy licensing
29 board to sue or be sued under applicable law shall
30 not be affected;

- 1 7. Purchase and maintain insurance and bonds;
- 2 8. Borrow, accept, or contract for services of
- 3 personnel, including, but not limited to, employees
- 4 of a member state;
- 5 9. Hire employees, elect or appoint officers, fix
- 6 compensation, define duties, grant such individuals
- 7 appropriate authority to carry out the purposes of
- 8 the Compact, and to establish the Commission's
- 9 personnel policies and programs relating to conflicts
- 10 of interest, qualifications of personnel, and other
- 11 related personnel matters;
- 12 10. Accept any and all appropriate donations and grants
- 13 of money, equipment, supplies, materials and
- 14 services, and to receive, utilize and dispose of the
- 15 same; provided that at all times the Commission shall
- 16 avoid any appearance of impropriety and/or conflict
- 17 of interest;
- 18 11. Lease, purchase, accept appropriate gifts or
- 19 donations of, or otherwise to own, hold, improve or
- 20 use, any property, real, personal or mixed; provided
- 21 that at all times the Commission shall avoid any
- 22 appearance of impropriety;
- 23 12. Sell, convey, mortgage, pledge, lease, exchange,
- 24 abandon, or otherwise dispose of any property real,
- 25 personal, or mixed;
- 26 13. Establish a budget and make expenditures;
- 27 14. Borrow money;
- 28 15. Appoint committees, including standing committees
- 29 comprising of members, state regulators, state
- 30 legislators or their representatives, and consumer

1 representatives, and such other interested persons as
2 may be designated in this Compact and the bylaws;

3 16. Provide and receive information from, and cooperate
4 with, law enforcement agencies;

5 17. Establish and elect an Executive Board; and

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

10 D. The Executive Board

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

13 1. The Executive Board shall be comprised of nine
14 members:

15 a. Seven voting members who are elected by the
16 Commission from the current membership of the
17 Commission;

18 b. One ex-officio, nonvoting member from the
19 recognized national physical therapy professional
20 association; and

21 c. One ex-officio, nonvoting member from the
22 recognized membership organization of the physical
23 therapy licensing boards.

24 2. The ex-officio members will be selected by their
25 respective organizations.

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

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

29 5. The Executive Board shall have the following duties
30 and responsibilities:

- a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such as annual dues, and any commission Compact fee charged to licensees for the compact privilege;
- b. Ensure Compact administration services are appropriately provided, contractual or otherwise;
- c. Prepare and recommend the budget;
- d. Maintain financial records on behalf of the Commission;
- e. Monitor Compact compliance of member states and provide compliance reports to the Commission;
- f. Establish additional committees as necessary; and
- g. Other duties as provided in rules or bylaws.

E. Meetings of the Commission

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

1 Commission's internal personnel practices and
2 procedures;

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

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

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

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

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

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

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

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

25 3. If a meeting, or portion of a meeting, is closed
26 pursuant to this provision, the Commission's legal
27 counsel or designee shall certify that the meeting
28 may be closed and shall reference each relevant
29 exempting provision.

30 4. The Commission shall keep minutes that fully and

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

10 F. Financing of the Commission

- 11 1. The Commission shall pay, or provide for the payment
12 of, the reasonable expenses of its establishment,
13 organization, and ongoing activities.
- 14 2. The Commission may accept any and all appropriate
15 revenue sources, donations, and grants of money,
16 equipment, supplies, materials, and services.
- 17 3. The Commission may levy on and collect an annual
18 assessment from each member state or impose fees on
19 other parties to cover the cost of the operations and
20 activities of the Commission and its staff, which
21 must be in a total amount sufficient to cover its
22 annual budget as approved each year for which revenue
23 is not provided by other sources. The aggregate
24 annual assessment amount shall be allocated based
25 upon a formula to be determined by the Commission,
26 which shall promulgate a rule binding upon all member
27 states.
- 28 4. The Commission shall not incur obligations of any
29 kind prior to securing the funds adequate to meet the
30 same; nor shall the Commission pledge the credit of

1 any of the member states, except by and with the
2 authority of the member state.

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

12 G. Qualified Immunity, Defense, and Indemnification

- 13 1. The members, officers, executive director, employees
14 and representatives of the Commission shall be immune
15 from suit and liability, either personally or in
16 their official capacity, for any claim for damage to
17 or loss of property or personal injury or other civil
18 liability caused by or arising out of any actual or
19 alleged act, error or omission that occurred, or that
20 the person against whom the claim is made had a
21 reasonable basis for believing occurred within the
22 scope of Commission employment, duties or
23 responsibilities; provided that nothing in this
24 paragraph shall be construed to protect any such
25 person from suit and/or liability for any damage,
26 loss, injury, or liability caused by the intentional
27 or willful or wanton misconduct of that person.
- 28 2. The Commission shall defend any member, officer,
29 executive director, employee or representative of the
30 Commission in any civil action seeking to impose

1 liability arising out of any actual or alleged act,
2 error, or omission that occurred within the scope of
3 Commission employment, duties, or responsibilities,
4 or that the person against whom the claim is made had
5 a reasonable basis for believing occurred within the
6 scope of Commission employment, duties, or
7 responsibilities; provided that nothing herein shall
8 be construed to prohibit that person from retaining
9 his or her own counsel; and provided further, that
10 the actual or alleged act, error, or omission did not
11 result from that person's intentional or willful or
12 wanton misconduct.

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

26 SECTION 8. DATA SYSTEM

27 A. The Commission shall provide for the development,
28 maintenance, and utilization of a coordinated database and
29 reporting system containing licensure, adverse action, and
30 investigative information on all licensed individuals in member

1 states.

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

7 1. Identifying information;

8 2. Licensure data;

9 3. Adverse actions against a license or compact
10 privilege;

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

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

15 6. Other information that may facilitate the
16 administration of this Compact, as determined by the
17 rules of the Commission.

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

20 D. The Commission shall promptly notify all member states of
21 any adverse action taken against a licensee or an individual
22 applying for a license. Adverse action information pertaining to
23 a licensee in any member state will be available to any other
24 member state.

25 E. Member states contributing information to the data system
26 may designate information that may not be shared with the public
27 without the express permission of the contributing state.

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

1 data system.

2 SECTION 9. RULEMAKING

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

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

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

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

- 19 1. On the website of the Commission or other publicly
20 accessible platform; and
- 21 2. On the website of each member state physical therapy
22 licensing board or other publicly accessible platform
23 or the publication in which each state would
24 otherwise publish proposed rules.

25 E. The Notice of Proposed Rulemaking shall include:

- 26 1. The proposed time, date, and location of the meeting
27 in which the rule will be considered and voted upon;
- 28 2. The text of the proposed rule or amendment and the
29 reason for the proposed rule;
- 30 3. A request for comments on the proposed rule from any

1 interested person; and

2 4. The manner in which interested persons may submit
3 notice to the Commission of their intention to attend
4 the public hearing and any written comments.

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

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

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

12 2. A state or federal governmental subdivision or
13 agency; or

14 3. An association having at least twenty-five (25)
15 members.

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

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

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

1 3. All hearings will be recorded. A copy of the
2 recording will be made available on request.
3 4. Nothing in this section shall be construed as
4 requiring a separate hearing on each rule. Rules may
5 be grouped for the convenience of the Commission at
6 hearings required by this section.

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

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

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

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

- 28 1. Meet an imminent threat to public health, safety, or
29 welfare;
- 30 2. Prevent a loss of Commission or member state funds;

- 1 3. Meet a deadline for the promulgation of an
- 2 administrative rule that is established by federal
- 3 law or rule; or
- 4 4. Protect public health and safety.

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

19 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

20 A. Oversight

- 21 1. The executive, legislative, and judicial branches of
- 22 state government in each member state shall enforce
- 23 this Compact and take all actions necessary and
- 24 appropriate to effectuate the Compact's purposes and
- 25 intent. The provisions of this Compact and the rules
- 26 promulgated hereunder shall have standing as
- 27 statutory law.
- 28 2. All courts shall take judicial notice of the Compact
- 29 and the rules in any judicial or administrative
- 30 proceeding in a member state pertaining to the

1 subject matter of this Compact which may affect the
2 powers, responsibilities or actions of the
3 Commission.

- 4 3. The Commission shall be entitled to receive service
5 of process in any such proceeding, and shall have
6 standing to intervene in such a proceeding for all
7 purposes. Failure to provide service of process to
8 the Commission shall render a judgment or order void
9 as to the Commission, this Compact, or promulgated
10 rules.

11 B. Default, Technical Assistance, and Termination

- 12 1. If the Commission determines that a member state has
13 defaulted in the performance of its obligations or
14 responsibilities under this Compact or the
15 promulgated rules, the Commission shall:

- 16 a. Provide written notice to the defaulting state
17 and other member states of the nature of the
18 default, the proposed means of curing the default
19 and/or any other action to be taken by the
20 Commission; and
21 b. Provide remedial training and specific technical
22 assistance regarding the default.

- 23 2. If a state in default fails to cure the default, the
24 defaulting state may be terminated from the Compact
25 upon an affirmative vote of a majority of the member
26 states, and all rights, privileges and benefits
27 conferred by this Compact may be terminated on the
28 effective date of termination. A cure of the default
29 does not relieve the offending state of obligations
30 or liabilities incurred during the period of default.

1 3. Termination of membership in the Compact shall be
2 imposed only after all other means of securing
3 compliance have been exhausted. Notice of intent to
4 suspend or terminate shall be given by the Commission
5 to the governor, the majority and minority leaders of
6 the defaulting state's legislature, and each of the
7 member states.

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

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

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

24 C. Dispute Resolution

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

29 2. The Commission shall promulgate a rule providing for
30 both mediation and binding dispute resolution for

1 disputes as appropriate.

2 D. Enforcement

3 1. The Commission, in the reasonable exercise of its
4 discretion, shall enforce the provisions and rules of
5 this Compact.

6 2. By majority vote, the Commission may initiate legal
7 action in the United States District Court for the
8 District of Columbia or the federal district where
9 the Commission has its principal offices against a
10 member state in default to enforce compliance with
11 the provisions of the Compact and its promulgated
12 rules and bylaws. The relief sought may include both
13 injunctive relief and damages. In the event judicial
14 enforcement is necessary, the prevailing member shall
15 be awarded all costs of such litigation, including
16 reasonable attorney's fees.

17 3. The remedies herein shall not be the exclusive
18 remedies of the Commission. The Commission may pursue
19 any other remedies available under federal or state
20 law.

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

24 A. The Compact shall come into effect on the date on which
25 the Compact statute is enacted into law in the tenth member
26 state. The provisions, which become effective at that time,
27 shall be limited to the powers granted to the Commission
28 relating to assembly and the promulgation of rules. Thereafter,
29 the Commission shall meet and exercise rulemaking powers
30 necessary to the implementation and administration of the

1 Compact.

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

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

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

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

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

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

28 SECTION 12. CONSTRUCTION AND SEVERABILITY

29 This Compact shall be liberally construed so as to effectuate
30 the purposes thereof. The provisions of this Compact shall be

1 severable and if any phrase, clause, sentence or provision of
2 this Compact is declared to be contrary to the constitution of
3 any party state or of the United States or the applicability
4 thereof to any government, agency, person or circumstance is
5 held invalid, the validity of the remainder of this Compact and
6 the applicability thereof to any government, agency, person or
7 circumstance shall not be affected thereby. If this Compact
8 shall be held contrary to the constitution of any party state,
9 the Compact shall remain in full force and effect as to the
10 remaining party states and in full force and effect as to the
11 party state affected as to all severable matters.

12 Section 3. Effective date.

13 This act shall take effect immediately.