



March 25, 2021

ENGROSSED

SENATE BILL No. 305

DIGEST OF SB 305 (Updated March 24, 2021 12:49 pm - DI 77)

Citations Affected: IC 25-27; IC 34-30.

Synopsis: Physical therapy licensure compact. Adopts the physical therapy licensure compact. Makes conforming amendments.

Effective: July 1, 2021; January 1, 2022.

**Messmer, Charbonneau, Becker,
Buck, Ford J.D., Tomes, Freeman**
(HOUSE SPONSORS — LINDAUER, ZENT, CLERE, FLEMING)

January 11, 2021, read first time and referred to Committee on Health and Provider Services.

January 28, 2021, reported favorably — Do Pass.

February 1, 2021, read second time, ordered engrossed. Engrossed.

February 2, 2021, read third time, passed. Yeas 46, nays 1.

HOUSE ACTION

March 2, 2021, read first time and referred to Committee on Public Health.

March 25, 2021, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

ES 305—LS 6521/DI 119



March 25, 2021

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 305

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-27-1-2, AS AMENDED BY P.L.160-2019,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 2. (a) Except as otherwise provided in this chapter
4 **and IC 25-27-2**, it is unlawful for a person or business entity to do the
5 following:
6 (1) Practice physical therapy without first obtaining from the
7 board a license authorizing the person to practice physical therapy
8 in this state.
9 (2) Profess to be or promote an employee to be a physical
10 therapist, physiotherapist, doctor of physiotherapy, doctor of
11 physical therapy, or registered physical therapist or to use the
12 initials "P.T.", "D.P.T.", "L.P.T.", or "R.P.T.", or any other letters,
13 words, abbreviations, or insignia indicating that physical therapy
14 is provided by a physical therapist, unless physical therapy is
15 provided by or under the direction of a physical therapist.
16 (3) Advertise services for physical therapy or physiotherapy
17 services, unless the individual performing those services is a

ES 305—LS 6521/DI 119



1 physical therapist.
 2 (b) Except as provided in section 2.5 of this chapter, it is unlawful
 3 for a person to practice physical therapy other than upon the order or
 4 referral of a physician, podiatrist, psychologist, chiropractor, dentist,
 5 nurse practitioner, or physician assistant holding an unlimited license
 6 to practice medicine, podiatric medicine, psychology, chiropractic,
 7 dentistry, nursing, or as a physician assistant, respectively. It is
 8 unlawful for a physical therapist to use the services of a physical
 9 therapist assistant except as provided under this chapter. For the
 10 purposes of this subsection, the function of:

- 11 (1) teaching;
 - 12 (2) doing research;
 - 13 (3) providing advisory services; or
 - 14 (4) conducting seminars on physical therapy;
- 15 is not considered to be a practice of physical therapy.

16 (c) Except as otherwise provided in this chapter **and IC 25-27-2**, it
 17 is unlawful for a person to profess to be or act as a physical therapist
 18 assistant or to use the initials "P.T.A." or any other letters, words,
 19 abbreviations, or insignia indicating that the person is a physical
 20 therapist assistant without first obtaining from the board a certificate
 21 authorizing the person to act as a physical therapist assistant. It is
 22 unlawful for the person to act as a physical therapist assistant other
 23 than under the general supervision of a licensed physical therapist who
 24 is in responsible charge of a patient. However, nothing in this chapter
 25 prohibits a person licensed or registered in this state under another law
 26 from engaging in the practice for which the person is licensed or
 27 registered. These exempted persons include persons engaged in the
 28 practice of osteopathic medicine, chiropractic, or podiatric medicine.

29 (d) Except as provided in section 2.5 of this chapter, this chapter
 30 does not authorize a person who is licensed as a physical therapist or
 31 certified as a physical therapist assistant to:

- 32 (1) evaluate any physical disability or mental disorder except
 33 upon the order or referral of a physician, podiatrist, psychologist,
 34 chiropractor, physician assistant, nurse practitioner, or dentist;
- 35 (2) practice medicine, surgery (as described in
 36 IC 25-22.5-1-1.1(a)(1)(C)), dentistry, optometry, osteopathic
 37 medicine, psychology, chiropractic, or podiatric medicine; or
- 38 (3) prescribe a drug or other remedial substance used in medicine.

39 SECTION 2. IC 25-27-2 IS ADDED TO THE INDIANA CODE AS
 40 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 41 JANUARY 1, 2022]:

42 **Chapter 2. Physical Therapy Licensure Compact**

ES 305—LS 6521/DI 119



1 **Sec. 1. PURPOSE**

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

9 This Compact is designed to achieve the following objectives:

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

23 **Sec. 2. DEFINITIONS**

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

- 26 (1) "Active Duty Military" means full-time duty status in the
27 active uniformed service of the United States, including
28 members of the National Guard and Reserve on active duty
29 orders pursuant to 10 U.S.C. Chapter 1209 and 10 U.S.C.
30 Chapter 1211.
- 31 (2) "Adverse Action" means disciplinary action taken by a
32 physical therapy licensing board based upon misconduct,
33 unacceptable performance, or a combination of both.
- 34 (3) "Alternative Program" means a non-disciplinary
35 monitoring or practice remediation process approved by a
36 physical therapy licensing board. This includes, but is not
37 limited to, substance abuse issues.
- 38 (4) "Compact privilege" means the authorization granted by
39 a remote state to allow a licensee from another member state
40 to practice as a physical therapist or work as a physical
41 therapist assistant in the remote state under its laws and rules.
42 The practice of physical therapy occurs in the member state



- 1 where the patient/client is located at the time of the
2 patient/client encounter.
- 3 (5) "Continuing competence" means a requirement, as a
4 condition of license renewal, to provide evidence of
5 participation in, and/or completion of, educational and
6 professional activities relevant to practice or area of work.
- 7 (6) "Data system" means a repository of information about
8 licensees, including examination, licensure, investigative,
9 compact privilege, and adverse action.
- 10 (7) "Encumbered license" means a license that a physical
11 therapy licensing board has limited in any way.
- 12 (8) "Executive Board" means a group of directors elected or
13 appointed to act on behalf of, and within the powers granted
14 to them by, the Commission.
- 15 (9) "Home state" means the member state that is the
16 licensee's primary state of residence.
- 17 (10) "Investigative information" means information, records,
18 and documents received or generated by a physical therapy
19 licensing board pursuant to an investigation.
- 20 (11) "Jurisprudence Requirement" means the assessment of
21 an individual's knowledge of the laws and rules governing the
22 practice of physical therapy in a state.
- 23 (12) "Licensee" means an individual who currently holds an
24 authorization from the state to practice as a physical therapist
25 or to work as a physical therapist assistant.
- 26 (13) "Member state" means a state that has enacted the
27 Compact.
- 28 (14) "Party state" means any member state in which a
29 licensee holds a current license or compact privilege or is
30 applying for a license or compact privilege.
- 31 (15) "Physical therapist" means an individual who is licensed
32 by a state to practice physical therapy.
- 33 (16) "Physical therapist assistant" means an individual who
34 is licensed/certified by a state and who assists the physical
35 therapist in selected components of physical therapy.
- 36 (17) "Physical therapy," "physical therapy practice," and
37 "the practice of physical therapy" mean the care and services
38 provided by or under the direction and supervision of a
39 licensed physical therapist.
- 40 (18) "Physical Therapy Compact Commission" or
41 "Commission" means the national administrative body whose
42 membership consists of all states that have enacted the



- 1 **Compact.**
 2 **(19) "Physical therapy licensing board" or "licensing board"**
 3 **means the agency of a state that is responsible for the**
 4 **licensing and regulation of physical therapists and physical**
 5 **therapist assistants.**
 6 **(20) "Remote State" means a member state other than the**
 7 **home state, where a licensee is exercising or seeking to**
 8 **exercise the compact privilege.**
 9 **(21) "Rule" means a regulation, principle, or directive**
 10 **promulgated by the Commission that has the force of law.**
 11 **(22) "State" means any state, commonwealth, district, or**
 12 **territory of the United States of America that regulates the**
 13 **practice of physical therapy.**
- 14 **Sec. 3. STATE PARTICIPATION IN THE COMPACT**
 15 **(a) To participate in the Compact, a state must:**
 16 **(1) participate fully in the Commission's data system,**
 17 **including using the Commission's unique identifier as defined**
 18 **in rules;**
 19 **(2) have a mechanism in place for receiving and investigating**
 20 **complaints about licensees;**
 21 **(3) notify the Commission, in compliance with the terms of the**
 22 **Compact and rules, of any adverse action or the availability**
 23 **of investigative information regarding a licensee;**
 24 **(4) fully implement a criminal background check**
 25 **requirement, within a time frame established by rule, by**
 26 **receiving the results of the Federal Bureau of Investigation**
 27 **record search on criminal background checks and use the**
 28 **results in making licensure decisions in accordance with**
 29 **Section 3(b);**
 30 **(5) comply with the rules of the Commission;**
 31 **(6) utilize a recognized national examination as a requirement**
 32 **for licensure pursuant to the rules of the Commission; and**
 33 **(7) have continuing competence requirements as a condition**
 34 **for license renewal.**
 35 **(b) Upon adoption of this statute, the member state shall have**
 36 **the authority to obtain biometric-based information from each**
 37 **physical therapy licensure applicant and submit this information**
 38 **to the Federal Bureau of Investigation for a criminal background**
 39 **check in accordance with 28 U.S.C. 534 and 42 U.S.C. 14616.**
 40 **(c) A member state shall grant the compact privilege to a**
 41 **licensee holding a valid unencumbered license in another member**
 42 **state in accordance with the terms of the Compact and rules.**



1 (d) Member states may charge a fee for granting a compact
2 privilege.

3 **Sec. 4. COMPACT PRIVILEGE**

4 (a) To exercise the compact privilege under the terms and
5 provisions of the Compact, the licensee shall:

- 6 (1) hold a license in the home state;
7 (2) have no encumbrance on any state license;
8 (3) be eligible for a compact privilege in any member state in
9 accordance with subsections (d), (g), and (h);
10 (4) have not had any adverse action against any license or
11 compact privilege within the previous two (2) years;
12 (5) notify the Commission that the licensee is seeking the
13 compact privilege within a remote state(s);
14 (6) pay any applicable fees, including any state fee, for the
15 compact privilege;
16 (7) meet any jurisprudence requirements established by the
17 remote state(s) in which the licensee is seeking a compact
18 privilege; and
19 (8) report to the Commission adverse action taken by any
20 non-member state within thirty (30) days from the date the
21 adverse action is taken.

22 (b) The compact privilege is valid until the expiration date of the
23 home license. The licensee must comply with the requirements of
24 subsection (a) to maintain the compact privilege in the remote
25 state.

26 (c) A licensee providing physical therapy in a remote state under
27 the compact privilege shall function within the laws and
28 regulations of the remote state.

29 (d) A licensee providing physical therapy in a remote state is
30 subject to that state's regulatory authority. A remote state may, in
31 accordance with due process and that state's laws, remove a
32 licensee's compact privilege in the remote state for a specific period
33 of time, impose fines, and/or take any other necessary actions to
34 protect the health and safety of its citizens. The licensee is not
35 eligible for a compact privilege in any state until the specific time
36 for removal has passed and all fines are paid.

37 (e) If a home state license is encumbered, the licensee shall lose
38 the compact privilege in any remote state until the following occur:

- 39 (1) the home state license is no longer encumbered; and
40 (2) two (2) years have elapsed from the date of the adverse
41 action.

42 (f) Once an encumbered license in the home state is restored to



1 good standing, the licensee must meet the requirements of
2 subsection (a) to obtain a compact privilege in any remote state.

3 (g) If a licensee's compact privilege in any remote state is
4 removed, the individual shall lose the compact privilege in any
5 remote state until the following occur:

6 (1) the specific period of time for which the compact privilege
7 was removed has ended;

8 (2) all fines have been paid; and

9 (3) two years have elapsed from the date of the adverse action.

10 (h) Once the requirements of subsection (g) have been met, the
11 licensee must meet the requirements in subsection (a) of this
12 chapter to obtain a compact privilege in a remote state.

13 **Sec. 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR**
14 **SPOUSES**

15 A licensee who is active duty military or is the spouse of an
16 individual who is active duty military may designate one of the
17 following as the home state:

18 (1) home of record;

19 (2) permanent Change of Station (PCS); or

20 (3) state of current residence if it is different than the PCS
21 state or home of record.

22 **Sec. 6. ADVERSE ACTIONS**

23 (a) A home state shall have exclusive power to impose adverse
24 action against a license issued by the home state.

25 (b) A home state may take adverse action based on the
26 investigative information of a remote state, so long as the home
27 state follows its own procedures for imposing adverse action.

28 (c) Nothing in this Compact shall override a member state's
29 decision that participation in an alternative program may be used
30 in lieu of adverse action and that such participation shall remain
31 non-public if required by the member state's laws. Member states
32 must require licensees who enter any alternative programs in lieu
33 of discipline to agree not to practice in any other member state
34 during the term of the alternative program without prior
35 authorization from such other member state.

36 (d) Any member state may investigate actual or alleged
37 violations of the statutes and rules authorizing the practice of
38 physical therapy in any other member state in which a physical
39 therapist or physical therapist assistant holds a license or compact
40 privilege.

41 (e) A remote state shall have the authority to:

42 (1) take adverse actions as set forth in section 4(d) of this



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

17 **(f) Joint Investigations**

18 (1) In addition to the authority granted to a member state by
 19 its respective physical therapy practice act or other applicable
 20 state law, a member state may participate with other member
 21 states in joint investigations of licensees.
 22 (2) Member states shall share any investigative, litigation, or
 23 compliance materials in furtherance of any joint or individual
 24 investigation initiated under the Compact.

25 **Sec. 7. ESTABLISHMENT OF THE PHYSICAL THERAPY**
 26 **COMPACT COMMISSION**

27 (a) The Compact member states hereby create and establish a
 28 joint public agency known as the Physical Therapy Compact
 29 Commission.

30 (1) The Commission is an instrumentality of the Compact
 31 states.
 32 (2) Venue is proper and judicial proceedings by or against the
 33 Commission shall be brought solely and exclusively in a court
 34 of competent jurisdiction where the principal office of the
 35 Commission is located. The Commission may waive venue and
 36 jurisdictional defenses to the extent it adopts or consents to
 37 participate in alternative dispute resolution proceedings.
 38 (3) Nothing in this Compact shall be construed to be a waiver
 39 of sovereign immunity.

40 **(b) Membership, Voting, and Meetings**

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



- 1 **(2) The delegate shall be a current member of the licensing**
2 **board, who is a physical therapist, physical therapist assistant,**
3 **public member, or the board administrator.**
4 **(3) Any delegate may be removed or suspended from office as**
5 **provided by the law of the state from which the delegate is**
6 **appointed.**
7 **(4) The member state board shall fill any vacancy occurring**
8 **in the Commission.**
9 **(5) Each delegate shall be entitled to one (1) vote with regard**
10 **to the promulgation of rules and creation of bylaws and shall**
11 **otherwise have an opportunity to participate in the business**
12 **and affairs of the Commission.**
13 **(6) A delegate shall vote in person or by such other means as**
14 **provided in the bylaws. The bylaws may provide for**
15 **delegates' participation in meetings by telephone or other**
16 **means of communication.**
17 **(7) The Commission shall meet at least once during each**
18 **calendar year. Additional meetings shall be held as set forth**
19 **in the bylaws.**
20 **(c) The Commission shall have the following powers and duties:**
21 **(1) establish the fiscal year of the Commission;**
22 **(2) establish bylaws;**
23 **(3) maintain its financial records in accordance with the**
24 **bylaws;**
25 **(4) meet and take such actions as are consistent with the**
26 **provisions of this Compact and the bylaws;**
27 **(5) promulgate uniform rules to facilitate and coordinate**
28 **implementation and administration of this Compact. The**
29 **rules shall have the force and effect of law and shall be**
30 **binding in all member states;**
31 **(6) bring and prosecute legal proceedings or actions in the**
32 **name of the Commission, provided that the standing of any**
33 **state physical therapy licensing board to sue or be sued under**
34 **applicable law shall not be affected;**
35 **(7) purchase and maintain insurance and bonds;**
36 **(8) borrow, accept, or contract for services of personnel,**
37 **including, but not limited to, employees of a member state;**
38 **(9) hire employees, elect or appoint officers, fix compensation,**
39 **define duties, grant such individuals appropriate authority to**
40 **carry out the purposes of the Compact, and to establish the**
41 **Commission's personnel policies and programs relating to**
42 **conflicts of interest, qualifications of personnel, and other**



- 1 related personnel matters;
- 2 (10) accept any and all appropriate donations and grants of
- 3 money, equipment, supplies, materials and services, and to
- 4 receive, utilize and dispose of the same; provided that at all
- 5 times the Commission shall avoid any appearance of
- 6 impropriety and/or conflict of interest;
- 7 (11) lease, purchase, accept appropriate gifts or donations of,
- 8 or otherwise to own, hold, improve or use, any property, real,
- 9 personal or mixed; provided that at all times the Commission
- 10 shall avoid any appearance of impropriety;
- 11 (12) sell, convey, mortgage, pledge, lease, exchange, abandon,
- 12 or otherwise dispose of any property real, personal, or mixed;
- 13 (13) establish a budget and make expenditures;
- 14 (14) borrow money;
- 15 (15) appoint committees, including standing committees
- 16 composed of members, state regulators, state legislators or
- 17 their representatives, and consumer representatives, and such
- 18 other interested persons as may be designated in this Compact
- 19 and the bylaws;
- 20 (16) provide and receive information from, and cooperate
- 21 with, law enforcement agencies;
- 22 (17) establish and elect an Executive Board; and
- 23 (18) perform such other functions as may be necessary or
- 24 appropriate to achieve the purposes of this Compact
- 25 consistent with the state regulation of physical therapy
- 26 licensure and practice.
- 27 (d) The Executive Board shall have the power to act on behalf
- 28 of the Commission according to the terms of this Compact.
- 29 (1) The Executive Board shall be composed of nine (9)
- 30 members:
- 31 (A) seven (7) voting members who are elected by the
- 32 Commission from the current membership of the
- 33 Commission;
- 34 (B) one (1) ex-officio, nonvoting member from the
- 35 recognized national physical therapy professional
- 36 association; and
- 37 (C) one (1) ex-officio, nonvoting member from the
- 38 recognized membership organization of the physical
- 39 therapy licensing boards.
- 40 (2) The ex-officio members will be selected by their respective
- 41 organizations.
- 42 (3) The Commission may remove any member of the



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- Executive Board as provided in bylaws.
- (4) The Executive Board shall meet at least annually.
- (5) The Executive Board shall have the following duties 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 of this chapter.
 - (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 Commission's internal personnel practices and procedures;
 - (C) current, threatened, or reasonably anticipated litigation;
 - (D) negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
 - (E) accusing any person of a crime or formally censuring any person;
 - (F) disclosure of trade secrets or commercial or financial information that is privileged or confidential;
 - (G) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- of personal privacy;
- (H) disclosure of investigative records compiled for law enforcement purposes;
- (I) disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or
- (J) matters specifically exempted from disclosure by federal or member state statute.

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

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

(f) Financing of the Commission

(1) The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

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

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

(4) The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member



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

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

11 **(g) Qualified Immunity, Defense, and Indemnification**

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

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

38 (3) The Commission shall indemnify and hold harmless any
39 member, officer, executive director, employee, or
40 representative of the Commission for the amount of any
41 settlement or judgment obtained against that person arising
42 out of any actual or alleged act, error or omission that



1 occurred within the scope of Commission employment, duties,
 2 or responsibilities, or that such person had a reasonable basis
 3 for believing occurred within the scope of Commission
 4 employment, duties, or responsibilities, provided that the
 5 actual or alleged act, error, or omission did not result from
 6 the intentional or willful or wanton misconduct of that person.

7 **Sec. 8. DATA SYSTEM**

8 (a) The Commission shall provide for the development,
 9 maintenance, and utilization of a coordinated database and
 10 reporting system containing licensure, adverse action, and
 11 investigative information on all licensed individuals in member
 12 states.

13 (b) Notwithstanding any other provision of state law to the
 14 contrary, a member state shall submit a uniform data set to the
 15 data system on all individuals to whom this Compact is applicable
 16 as required by the rules of the Commission, including:

- 17 (1) identifying information;
- 18 (2) licensure data;
- 19 (3) adverse actions against a license or compact privilege;
- 20 (4) non-confidential information related to alternative
 21 program participation;
- 22 (5) any denial of application for licensure, and the reason(s)
 23 for such denial; and
- 24 (6) other information that may facilitate the administration of
 25 this Compact, as determined by the rules of the Commission.

26 (c) Investigative information pertaining to a licensee in any
 27 member state will only be available to other party states.

28 (d) The Commission shall promptly notify all member states of
 29 any adverse action taken against a licensee or an individual
 30 applying for a license. Adverse action information pertaining to a
 31 licensee in any member state will be available to any other member
 32 state.

33 (e) Member states contributing information to the data system
 34 may designate information that may not be shared with the public
 35 without the express permission of the contributing state.

36 (f) Any information submitted to the data system that is
 37 subsequently required to be expunged by the laws of the member
 38 state contributing the information shall be removed from the data
 39 system.

40 **Sec. 9. RULEMAKING**

41 (a) The Commission shall exercise its rulemaking powers
 42 pursuant to the criteria set forth in this Section and the rules



1 adopted thereunder. Rules and amendments shall become binding
2 as of the date specified in each rule or amendment.

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

8 (c) Rules or amendments to the rules shall be adopted at a
9 regular or special meeting of the Commission.

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

14 (1) on the website of the Commission or other publicly
15 accessible platform; and

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

20 (e) The notice of proposed rulemaking shall include:

21 (1) the proposed time, date, and location of the meeting in
22 which the rule will be considered and voted upon;

23 (2) the text of the proposed rule or amendment and the reason
24 for the proposed rule;

25 (3) a request for comments on the proposed rule from any
26 interested person; and

27 (4) the manner in which interested persons may submit notice
28 to the Commission of their intention to attend the public
29 hearing and any written comments.

30 (f) Prior to adoption of a proposed rule, the Commission shall
31 allow persons to submit written data, facts, opinions, and
32 arguments, which shall be made available to the public.

33 (g) The Commission shall grant an opportunity for a public
34 hearing before it adopts a rule or amendment if a hearing is
35 requested by:

36 (1) at least twenty-five (25) persons;

37 (2) a state or federal governmental subdivision or agency; or

38 (3) an association having at least twenty-five (25) members.

39 (h) If a hearing is held on the proposed rule or amendment, the
40 Commission shall publish the place, time, and date of the scheduled
41 public hearing. If the hearing is held via electronic means, the
42 Commission shall publish the mechanism for access to the



- 1 **electronic hearing.**
- 2 **(1) All persons wishing to be heard at the hearing shall notify**
- 3 **the executive director of the Commission or other designated**
- 4 **member in writing of their desire to appear and testify at the**
- 5 **hearing not less than five (5) business days before the**
- 6 **scheduled date of the hearing.**
- 7 **(2) Hearings shall be conducted in a manner providing each**
- 8 **person who wishes to comment a fair and reasonable**
- 9 **opportunity to comment orally or in writing.**
- 10 **(3) All hearings will be recorded. A copy of the recording will**
- 11 **be made available on request.**
- 12 **(4) Nothing in this section shall be construed as requiring a**
- 13 **separate hearing on each rule. Rules may be grouped for the**
- 14 **convenience of the Commission at hearings required by this**
- 15 **section.**
- 16 **(i) Following the scheduled hearing date, or by the close of**
- 17 **business on the scheduled hearing date if the hearing was not held,**
- 18 **the Commission shall consider all written and oral comments**
- 19 **received.**
- 20 **(j) If no written notice of intent to attend the public hearing by**
- 21 **interested parties is received, the Commission may proceed with**
- 22 **promulgation of the proposed rule without a public hearing.**
- 23 **(k) The Commission shall, by majority vote of all members, take**
- 24 **final action on the proposed rule and shall determine the effective**
- 25 **date of the rule, if any, based on the rulemaking record and the full**
- 26 **text of the rule.**
- 27 **(l) Upon determination that an emergency exists, the**
- 28 **Commission may consider and adopt an emergency rule without**
- 29 **prior notice, opportunity for comment, or hearing, provided that**
- 30 **the usual rulemaking procedures provided in the Compact and in**
- 31 **this section shall be retroactively applied to the rule as soon as**
- 32 **reasonably possible, in no event later than ninety (90) days after**
- 33 **the effective date of the rule. For the purposes of this provision, an**
- 34 **emergency rule is one that must be adopted immediately in order**
- 35 **to:**
- 36 **(1) meet an imminent threat to public health, safety, or**
- 37 **welfare;**
- 38 **(2) prevent a loss of Commission or member state funds;**
- 39 **(3) meet a deadline for the promulgation of an administrative**
- 40 **rule that is established by federal law or rule; or**
- 41 **(4) protect public health and safety.**
- 42 **(m) The Commission or an authorized committee of the**



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

13 **Sec. 10. OVERSIGHT, DISPUTE RESOLUTION, AND**
 14 **ENFORCEMENT**

15 **(a) Oversight**

16 (1) The executive, legislative, and judicial branches of state
 17 government in each member state shall enforce this Compact
 18 and take all actions necessary and appropriate to effectuate
 19 the Compact's purposes and intent. The provisions of this
 20 Compact and the rules promulgated hereunder shall have
 21 standing as statutory law.

22 (2) All courts shall take judicial notice of the Compact and the
 23 rules in any judicial or administrative proceeding in a
 24 member state pertaining to the subject matter of this
 25 Compact which may affect the powers, responsibilities or
 26 actions of the Commission.

27 (3) The Commission shall be entitled to receive service of
 28 process in any such proceeding, and shall have standing to
 29 intervene in such a proceeding for all purposes. Failure to
 30 provide service of process to the Commission shall render a
 31 judgment or order void as to the Commission, this Compact,
 32 or promulgated rules.

33 **(b) Default, Technical Assistance, and Termination**

34 (1) If the Commission determines that a member state has
 35 defaulted in the performance of its obligations or
 36 responsibilities under this Compact or the promulgated rules,
 37 the Commission shall:

38 (A) provide written notice to the defaulting state and other
 39 member states of the nature of the default, the proposed
 40 means of curing the default and/or any other action to be
 41 taken by the Commission; and

42 (B) provide remedial training and specific technical



- 1 assistance regarding the default.
- 2 (2) If a state in default fails to cure the default, the defaulting
3 state may be terminated from the Compact upon an
4 affirmative vote of a majority of the member states, and all
5 rights, privileges and benefits conferred by this Compact may
6 be terminated on the effective date of termination. A cure of
7 the default does not relieve the offending state of obligations
8 or liabilities incurred during the period of default.
- 9 (3) Termination of membership in the Compact shall be
10 imposed only after all other means of securing compliance
11 have been exhausted. Notice of intent to suspend or terminate
12 shall be given by the Commission to the governor, the
13 majority and minority leaders of the defaulting state's
14 legislature, and each of the member states.
- 15 (4) A state that has been terminated is responsible for all
16 assessments, obligations, and liabilities incurred through the
17 effective date of termination, including obligations that extend
18 beyond the effective date of termination.
- 19 (5) The Commission shall not bear any costs related to a state
20 that is found to be in default or that has been terminated from
21 the Compact, unless agreed upon in writing between the
22 Commission and the defaulting state.
- 23 (6) The defaulting state may appeal the action of the
24 Commission by petitioning the U.S. District Court for the
25 District of Columbia or the federal district where the
26 Commission has its principal offices. The prevailing member
27 shall be awarded all costs of such litigation, including
28 reasonable attorney's fees.
- 29 (c) Dispute Resolution
- 30 (1) Upon request by a member state, the Commission shall
31 attempt to resolve disputes related to the Compact that arise
32 among member states and between member and non-member
33 states.
- 34 (2) The Commission shall promulgate a rule providing for
35 both mediation and binding dispute resolution for disputes as
36 appropriate.
- 37 (d) Enforcement
- 38 (1) The Commission, in the reasonable exercise of its
39 discretion, shall enforce the provisions and rules of this
40 Compact.
- 41 (2) By majority vote, the Commission may initiate legal action
42 in the United States District Court for the District of



1 Columbia or the federal district where the Commission has its
 2 principal offices against a member state in default to enforce
 3 compliance with the provisions of the Compact and its
 4 promulgated rules and bylaws. The relief sought may include
 5 both injunctive relief and damages. In the event judicial
 6 enforcement is necessary, the prevailing member shall be
 7 awarded all costs of such litigation, including reasonable
 8 attorney's fees.

9 (3) The remedies herein shall not be the exclusive remedies of
 10 the Commission. The Commission may pursue any other
 11 remedies available under federal or state law.

12 **Sec. 11. DATE OF IMPLEMENTATION OF THE**
 13 **INTERSTATE COMMISSION FOR PHYSICAL THERAPY**
 14 **PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND**
 15 **AMENDMENT**

16 (a) The Compact shall come into effect on the date on which the
 17 Compact statute is enacted into law in the tenth member state. The
 18 provisions, which become effective at that time, shall be limited to
 19 the powers granted to the Commission relating to assembly and the
 20 promulgation of rules. Thereafter, the Commission shall meet and
 21 exercise rulemaking powers necessary to the implementation and
 22 administration of the Compact.

23 (b) Any state that joins the Compact subsequent to the
 24 Commission's initial adoption of the rules shall be subject to the
 25 rules as they exist on the date on which the Compact becomes law
 26 in that state. Any rule that has been previously adopted by the
 27 Commission shall have the full force and effect of law on the day
 28 the Compact becomes law in that state.

29 (c) Any member state may withdraw from this Compact by
 30 enacting a statute repealing the same.

31 (1) A member state's withdrawal shall not take effect until six

32 (6) months after enactment of the repealing statute.

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

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



1 (e) This Compact may be amended by the member states. No
2 amendment to this Compact shall become effective and binding
3 upon any member state until it is enacted into the laws of all
4 member states.

5 **Sec. 12. CONSTRUCTION AND SEVERABILITY**

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

18 SECTION 3. IC 34-30-2-101.4 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2021]: **Sec. 101.4. IC 25-27-2-1 (Concerning**
21 **the physical therapy compact commission).**



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 305, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 305 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 10, Nays 0

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 305, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 2 with "[EFFECTIVE JANUARY 1, 2022]".

and when so amended that said bill do pass.

(Reference is to SB 305 as printed January 29, 2021.)

BARRETT

Committee Vote: yeas 11, nays 0.

