
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1836 Session of
2017

INTRODUCED BY BARRAR, V. BROWN, P. COSTA, DRISCOLL, EVERETT,
GABLER, GILLEN, HELM, JOZWIAK, KORTZ, MILLARD, MURT, NELSON,
O'NEILL, C. QUINN, RADER, ROTHMAN, STURLA, WARD, WATSON,
MARSICO, READSHAW, ROE AND D. COSTA, OCTOBER 10, 2017

REFERRED TO COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY
PREPAREDNESS, OCTOBER 10, 2017

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

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

7 This Compact is designed to achieve the following objectives:

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

21 SECTION 2. DEFINITIONS

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

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

- 1 3. "Alternative program" means a non-disciplinary monitoring
2 or practice remediation process approved by a physical
3 therapy licensing board. This includes, but is not
4 limited to, substance abuse issues.
- 5 4. "Compact privilege" means the authorization granted by a
6 remote state to allow a licensee from another member
7 state to practice as a physical therapist or work as a
8 physical therapist assistant in the remote state under
9 its laws and rules. The practice of physical therapy
10 occurs in the member state where the patient/client is
11 located at the time of the patient/client encounter.
- 12 5. "Continuing competence" means a requirement, as a
13 condition of license renewal, to provide evidence of
14 participation in, and/or completion of, educational and
15 professional activities relevant to practice or area of
16 work.
- 17 6. "Data system" means a repository of information about
18 licensees, including examination, licensure,
19 investigative, compact privilege, and adverse action.
- 20 7. "Encumbered license" means a license that a physical
21 therapy licensing board has limited in any way.
- 22 8. "Executive Board" means a group of directors elected or
23 appointed to act on behalf of, and within the powers
24 granted to them by, the Commission.
- 25 9. "Home state" means the member state that is the
26 licensee's primary state of residence.
- 27 10. "Investigative information" means information, records,
28 and documents received or generated by a physical therapy
29 licensing board pursuant to an investigation.
- 30 11. "Jurisprudence requirement" means the assessment of an

1 individual's knowledge of the laws and rules governing
2 the practice of physical therapy in a state.

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

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

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

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

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

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

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

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

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

- 1 21. "Rule" means a regulation, principle, or directive
2 promulgated by the Commission that has the force of law.
3 22. "State" means any state, commonwealth, district, or
4 territory of the United States of America that regulates
5 the practice of physical therapy.

6 SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

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

29 B. Upon adoption of this statute, the member state shall
30 have the authority to obtain biometric-based information from

1 each physical therapy licensure applicant and submit this
2 information to the Federal Bureau of Investigation for a
3 criminal background check in accordance with 28 U.S.C. §534 and
4 42 U.S.C. §14616.

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

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

10 SECTION 4. COMPACT PRIVILEGE

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

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

29 B. The compact privilege is valid until the expiration date
30 of the home license. The licensee must comply with the

1 requirements of Section 4A to maintain the compact privilege in
2 the remote state.

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

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

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

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

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

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

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

1 action.

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

5 SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

9 A. Home of record;

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

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

13 SECTION 6. ADVERSE ACTIONS

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

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

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

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

1 compact privilege.

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

3 1. Take adverse actions as set forth in Section 4D

4 against a licensee's compact privilege in the state;

5 2. Issue subpoenas for both hearings and investigations

6 that require the attendance and testimony of

7 witnesses, and the production of evidence. Subpoenas

8 issued by a physical therapy licensing board in a

9 party state for the attendance and testimony of

10 witnesses, and/or the production of evidence from

11 another party state, shall be enforced in the latter

12 state by any court of competent jurisdiction,

13 according to the practice and procedure of that court

14 applicable to subpoenas issued in proceedings pending

15 before it. The issuing authority shall pay any

16 witness fees, travel expenses, mileage, and other

17 fees required by the service statutes of the state

18 where the witnesses and/or evidence are located; and

19 3. If otherwise permitted by state law, recover from the

20 licensee the costs of investigations and disposition

21 of cases resulting from any adverse action taken

22 against that licensee.

23 F. Joint Investigations

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

25 state by its respective physical therapy practice act

26 or other applicable state law, a member state may

27 participate with other member states in joint

28 investigations of licensees.

29 2. Member states shall share any investigative,

30 litigation, or compliance materials in furtherance of

1 any joint or individual investigation initiated under
2 the Compact.

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

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

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

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

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

20 B. Membership, Voting, and Meetings

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

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

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

- 1 4. The member state board shall fill any vacancy
- 2 occurring in the Commission.
- 3 5. Each delegate shall be entitled to one (1) vote with
- 4 regard to the promulgation of rules and creation of
- 5 bylaws and shall otherwise have an opportunity to
- 6 participate in the business and affairs of the
- 7 Commission.
- 8 6. A delegate shall vote in person or by such other
- 9 means as provided in the bylaws. The bylaws may
- 10 provide for delegates' participation in meetings by
- 11 telephone or other means of communication.
- 12 7. The Commission shall meet at least once during each
- 13 calendar year. Additional meetings shall be held as
- 14 set forth in the bylaws.

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

- 17 1. Establish the fiscal year of the Commission;
- 18 2. Establish bylaws;
- 19 3. Maintain its financial records in accordance with the
- 20 bylaws;
- 21 4. Meet and take such actions as are consistent with the
- 22 provisions of this Compact and the bylaws;
- 23 5. Promulgate uniform rules to facilitate and coordinate
- 24 implementation and administration of this Compact.
- 25 The rules shall have the force and effect of law and
- 26 shall be binding in all member states;
- 27 6. Bring and prosecute legal proceedings or actions in
- 28 the name of the Commission, provided that the
- 29 standing of any state physical therapy licensing
- 30 board to sue or be sued under applicable law shall

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

1 legislators or their representatives, and consumer
2 representatives, and such other interested persons as
3 may be designated in this Compact and the bylaws;

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

6 17. Establish and elect an Executive Board; and

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

11 D. The Executive Board

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

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

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

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

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

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

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

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

30 5. The Executive Board shall have the following duties

- 1 and responsibilities:
- 2 a. Recommend to the entire Commission changes to the
- 3 rules or bylaws, changes to this Compact
- 4 legislation, fees paid by Compact member states
- 5 such as annual dues, and any commission Compact
- 6 fee charged to licensees for the compact
- 7 privilege;
- 8 b. Ensure Compact administration services are
- 9 appropriately provided, contractual or otherwise;
- 10 c. Prepare and recommend the budget;
- 11 d. Maintain financial records on behalf of the
- 12 Commission;
- 13 e. Monitor Compact compliance of member states and
- 14 provide compliance reports to the Commission;
- 15 f. Establish additional committees as necessary; and
- 16 g. Other duties as provided in rules or bylaws.

17 E. Meetings of the Commission

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

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

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

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

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

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

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

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

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

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

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

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

11 F. Financing of the Commission

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

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

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

29 4. The Commission shall not incur obligations of any
30 kind prior to securing the funds adequate to meet the

1 same; nor shall the Commission pledge the credit of
2 any of the member states, except by and with the
3 authority of the member state.

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

13 G. Qualified Immunity, Defense, and Indemnification

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

- 29 2. The Commission shall defend any member, officer,
30 executive director, employee or representative of the

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

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

27 SECTION 8. DATA SYSTEM

- 28 A. The Commission shall provide for the development,
29 maintenance, and utilization of a coordinated database and
30 reporting system containing licensure, adverse action, and

1 investigative information on all licensed individuals in member
2 states.

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

- 8 1. Identifying information;
- 9 2. Licensure data;
- 10 3. Adverse actions against a license or compact
11 privilege;
- 12 4. Non-confidential information related to alternative
13 program participation;
- 14 5. Any denial of application for licensure, and the
15 reason(s) for such denial; and
- 16 6. Other information that may facilitate the
17 administration of this Compact, as determined by the
18 rules of the Commission.

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

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

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

29 F. Any information submitted to the data system that is
30 subsequently required to be expunged by the laws of the member

1 state contributing the information shall be removed from the
2 data system.

3 SECTION 9. RULEMAKING

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

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

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

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

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

26 E. The Notice of Proposed Rulemaking shall include:

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

- 1 3. A request for comments on the proposed rule from any
- 2 interested person; and
- 3 4. The manner in which interested persons may submit
- 4 notice to the Commission of their intention to attend
- 5 the public hearing and any written comments.

6 F. Prior to adoption of a proposed rule, the Commission

7 shall allow persons to submit written data, facts, opinions, and

8 arguments, which shall be made available to the public.

9 G. The Commission shall grant an opportunity for a public

10 hearing before it adopts a rule or amendment if a hearing is

11 requested by:

- 12 1. At least twenty-five (25) persons;
- 13 2. A state or federal governmental subdivision or
- 14 agency; or
- 15 3. An association having at least twenty-five (25)
- 16 members.

17 H. If a hearing is held on the proposed rule or amendment,

18 the Commission shall publish the place, time, and date of the

19 scheduled public hearing. If the hearing is held via electronic

20 means, the Commission shall publish the mechanism for access to

21 the electronic hearing.

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

1 writing.

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

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

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

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

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

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

29 1. Meet an imminent threat to public health, safety, or
30 welfare;

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

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

20 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

21 A. Oversight

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

1 proceeding in a member state pertaining to the
2 subject matter of this Compact which may affect the
3 powers, responsibilities or actions of the
4 Commission.

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

12 B. Default, Technical Assistance, and Termination

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

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

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

1 or liabilities incurred during the period of default.

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

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

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

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

25 C. Dispute Resolution

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

30 2. The Commission shall promulgate a rule providing for

1 both mediation and binding dispute resolution for
2 disputes as appropriate.

3 D. Enforcement

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

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

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

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

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

1 necessary to the implementation and administration of the
2 Compact.

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

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

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

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

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

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

29 SECTION 12. CONSTRUCTION AND SEVERABILITY

30 This Compact shall be liberally construed so as to effectuate

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

13 Section 3. Effective date.

14 This act shall take effect immediately.