

1 SB164
2 203231-1
3 By Senator Whatley
4 RFD: Healthcare
5 First Read: 11-FEB-20

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8 SYNOPSIS: This bill would establish the Physical
9 Therapy Licensure Compact.

10 This bill would allow interstate practice by
11 licensed physical therapists and physical therapist
12 assistants among party states.

13 This bill would authorize regulatory
14 authorities in party states to legally recognize,
15 in a manner consistent with terms of the compact,
16 physical therapists and physical therapist
17 assistants licensed within those states.

18 This bill would allow a remote state to hold
19 a provider of physical therapy services with a
20 compact privilege in that state accountable under
21 that state's practice standards.

22 This bill would provide eligibility
23 requirements for licensed physical therapists and
24 physical therapist assistants to practice pursuant
25 to the compact.

26 This bill would provide for a coordinated
27 database and reporting system containing licensure,

1 adverse action, and investigative information on
2 licensees.

3 This bill would provide for investigations
4 and disciplinary actions.

5 This bill would establish the Physical
6 Therapy Compact Commission and would provide for
7 membership, powers, and duties.

8 This bill would also provide for rulemaking
9 functions of the commission, enforcement of the
10 compact, dispute resolution, and withdrawal of
11 party states.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 Relating to the licensed practice of physical
18 therapy; to provide and adopt the Physical Therapy Licensure
19 Compact to allow interstate practice by licensed physical
20 therapists and physical therapist assistants among party
21 states; to authorize regulatory authorities in party states to
22 legally recognize, in a manner consistent with terms of the
23 compact, physical therapists and physical therapist assistants
24 licensed within those states; to provide eligibility
25 requirements for licensed physical therapists and physical
26 therapist assistants to practice pursuant to the compact; to
27 provide for a coordinated database and reporting system

1 containing licensure, adverse action, and investigative
2 information on licensees; to provide for investigations and
3 disciplinary actions; to establish the Physical Therapy
4 Compact Commission, and to provide for membership, powers, and
5 duties, and provide for rulemaking functions of the
6 commission; and to provide for oversight of the compact,
7 enforcement of the compact, dispute resolution, and withdrawal
8 of party states.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. PURPOSE.

11 (a) The purpose of this compact is to facilitate
12 interstate practice of physical therapy with the goal of
13 improving public access to physical therapy services. The
14 practice of physical therapy occurs in the state where the
15 patient/client is located at the time of the patient/client
16 encounter. The compact preserves the regulatory authority of
17 states to protect public health and safety through the current
18 system of state licensure.

19 (b) This compact is designed to achieve the
20 following objectives:

21 (1) Increase public access to physical therapy
22 services by providing for the mutual recognition of other
23 member state licenses.

24 (2) Enhance the states' ability to protect public
25 health and safety.

26 (3) Encourage the cooperation of member states in
27 regulating multi-state physical therapy practice.

1 (4) Support spouses of relocating military members.

2 (5) Enhance the exchange of licensure,
3 investigative, and disciplinary information between member
4 states.

5 (6) Allow a remote state to hold a provider of
6 services with a compact privilege in that state accountable
7 under that state's practice standards.

8 Section 2. DEFINITIONS.

9 As used in this compact, and except as otherwise
10 provided, the following terms have the following meanings:

11 (1) ACTIVE DUTY MILITARY. Full-time duty status in
12 the active uniformed service of the United States, including
13 members of the National Guard and Reserve on active duty
14 orders pursuant to 10 U.S.C. §§ 1209 and 1211.

15 (2) ADVERSE ACTION. Disciplinary action taken by a
16 physical therapy licensing board based upon misconduct,
17 unacceptable performance, or both.

18 (3) ALTERNATIVE PROGRAM. A non-disciplinary
19 monitoring or practice remediation process approved by a
20 physical therapy licensing board, including, but not limited
21 to, substance abuse issues.

22 (4) COMPACT PRIVILEGE. The authorization granted by
23 a remote state to allow a licensee from another member state
24 to practice as a physical therapist or work as a physical
25 therapist assistant in the remote state under its laws and
26 rules. The practice of physical therapy occurs in the member

1 state where the patient/client is located at the time of the
2 patient/client encounter.

3 (5) CONTINUING COMPETENCE. A requirement, as a
4 condition of license renewal, to provide evidence of
5 participation in, or completion of, educational and
6 professional activities relevant to practice or area of work.

7 (6) DATA SYSTEM. A repository of information about
8 licensees, including examination, licensure, investigative
9 information, compact privilege, and adverse action.

10 (7) ENCUMBERED LICENSE. A license that a physical
11 therapy licensing board has limited in any way.

12 (8) EXECUTIVE BOARD. 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. The member state that is the
16 licensee's primary state of residence.

17 (10) INVESTIGATIVE INFORMATION. Information,
18 records, and documents received or generated by a physical
19 therapy licensing board pursuant to an investigation.

20 (11) JURISPRUDENCE REQUIREMENT. The assessment of an
21 individual's knowledge of the laws and rules governing the
22 practice of physical therapy in a state.

23 (12) LICENSEE. An individual who currently holds an
24 authorization from a state to practice as a physical therapist
25 or to work as a physical therapist assistant.

26 (13) MEMBER STATE. A state that has enacted this
27 compact.

1 (14) PARTY STATE. Any member state in which a
2 licensee holds a current license or compact privilege or is
3 applying for a license or compact privilege.

4 (15) PHYSICAL THERAPIST. An individual who is
5 licensed by a state to practice physical therapy.

6 (16) PHYSICAL THERAPIST ASSISTANT. An individual who
7 is licensed or certified by a state and who assists the
8 physical therapist in selected components of physical therapy.

9 (17) PHYSICAL THERAPY COMPACT COMMISSION or
10 COMMISSION. The national administrative body whose membership
11 consists of all states that have enacted this compact.

12 (18) PHYSICAL THERAPY, PHYSICAL THERAPY PRACTICE, or
13 THE PRACTICE OF PHYSICAL THERAPY. The care and services
14 provided by or under the direction and supervision of a
15 licensed physical therapist.

16 (19) PHYSICAL THERAPY LICENSING BOARD or LICENSING
17 BOARD. The agency of a state that is responsible for the
18 licensing and regulation of physical therapists and physical
19 therapist assistants.

20 (20) REMOTE STATE. A member state other than the
21 home state where a licensee is exercising or seeking to
22 exercise the compact privilege.

23 (21) RULE. A regulation, principle, or directive
24 adopted by the commission that has the force of law.

25 (22) STATE. Any state, commonwealth, district, or
26 territory of the United States that regulates the practice of
27 physical therapy.

1 Section 3. STATE PARTICIPATION IN COMPACT.

2 (a) To participate in the compact, a state shall do
3 all of the following:

4 (1) Participate fully in the commission's data
5 system, including using the commission's unique identifier as
6 defined in rules.

7 (2) Have a mechanism in place for receiving and
8 investigating complaints about licensees.

9 (3) Notify the commission, in compliance with the
10 terms of the compact and rules, of any adverse action or the
11 availability of investigative information regarding a
12 licensee.

13 (4) Fully implement a criminal background check
14 requirement, within a time frame established by rule, by
15 receiving the results of the Federal Bureau of Investigation
16 record search on criminal background checks and use the
17 results in making licensure decisions in accordance with
18 subsection (b).

19 (5) Comply with the rules of the commission.

20 (6) Utilize a recognized national examination as a
21 requirement for licensure pursuant to the rules of the
22 commission.

23 (7) Have continuing competence requirements as a
24 condition for license renewal.

25 (b) Upon adoption of this compact, the member state
26 shall have the authority to obtain biometric-based information
27 from 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
3 and 42 U.S.C. § 14616.

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

8 (d) Member states may charge a fee for granting a
9 compact privilege.

10 Section 4. COMPACT PRIVILEGE.

11 (a) To exercise the compact privilege under the
12 terms and provisions of the compact, the licensee shall meet
13 all of the following requirements:

14 (1) Hold a license in the home state.

15 (2) Have no encumbrance on any state license.

16 (3) Be eligible for a compact privilege in any
17 member state in accordance with subsections (g) and (h).

18 (4) Have not had any adverse action against any
19 license or compact privilege within the previous two years.

20 (5) Notify the commission that the licensee is
21 seeking the compact privilege within a remote state or states.

22 (6) Pay any applicable fees, including any state
23 fee, for the compact privilege.

24 (7) Meet any jurisprudence requirements established
25 by the remote state or states in which the licensee is seeking
26 a compact privilege.

1 (8) Report to the commission adverse action taken by
2 any non-member state within 30 days from the date the adverse
3 action is taken.

4 (b) The compact privilege is valid until the
5 expiration date of the home license. The licensee must comply
6 with the requirements of subsection (a) to maintain the
7 compact privilege in the remote state.

8 (c) A licensee providing physical therapy in a
9 remote state under the compact privilege shall function within
10 the laws and rules of the remote state.

11 (d) A licensee providing physical therapy in a
12 remote state is subject to that state's regulatory authority.
13 A remote state, in accordance with due process and that
14 state's laws, may remove a licensee's compact privilege in the
15 remote state for a specific period of time, impose fines, or
16 take any other necessary action to protect the health and
17 safety of its residents. The licensee is not eligible for a
18 compact privilege in any state until the specific time for
19 removal has passed and all fines are paid.

20 (e) If a home state license is encumbered, the
21 licensee shall lose the compact privilege in any remote state
22 until both of the following occur:

23 (1) The home state license is no longer encumbered.

24 (2) Two years have elapsed from the date of the
25 adverse action.

26 (f) Once an encumbered license in the home state is
27 restored to good standing, the licensee shall meet the

1 requirements of subsection (a) to obtain a compact privilege
2 in any remote state.

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

7 (1) The specific period of time for which the
8 compact privilege was removed has ended.

9 (2) All fines have been paid.

10 (3) Two years have elapsed from the date of the
11 adverse action.

12 (h) Once the requirements of subsection (g) have
13 been met, the licensee shall meet the requirements in
14 subsection (a) to obtain a compact privilege in a remote
15 state.

16 Section 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR
17 SPOUSES.

18 A licensee who is active duty military or is the
19 spouse of an individual who is active duty military may
20 designate one of the following as the home state:

21 (1) Home of record.

22 (2) Permanent Change of Station (PCS).

23 (3) State of current residence if it is different
24 from the PCS state or home of record.

25 Section 6. ADVERSE ACTIONS.

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

4 (b) A home state may take adverse action based on
5 the investigative information of a remote state, provided that
6 the home state follows its own procedures for imposing adverse
7 action.

8 (c) Nothing in this compact shall override a member
9 state's decision that participation in an alternative program
10 may be used in lieu of adverse action and that such
11 participation shall remain non-public if required by the
12 member state's laws. Member states shall require licensees who
13 enter any alternative programs in lieu of discipline to agree
14 not to practice in any other member state during the term of
15 the alternative program without prior authorization from such
16 other member state.

17 (d) Any member state may investigate actual or
18 alleged violations of the laws and rules authorizing the
19 practice of physical therapy in any other member state in
20 which a physical therapist or physical therapist assistant
21 holds a license or compact privilege.

22 (e) A remote state may do all of the following:

23 (1) Take adverse action as set forth in subsection
24 (d) of Section 4 against a licensee's compact privilege in the
25 state.

26 (2) Issue subpoenas for both hearings and
27 investigations that require the attendance and testimony of

1 witnesses and the production of evidence. Subpoenas issued by
2 a physical therapy licensing board in a party state for the
3 attendance and testimony of witnesses or the production of
4 evidence from another party state shall be enforced in the
5 latter state by any court of competent jurisdiction, according
6 to the practice and procedure of that court applicable to
7 subpoenas issued in proceedings pending before it. The issuing
8 authority shall pay any witness fees, travel expenses,
9 mileage, and other fees required by the service statutes of
10 the state where the witnesses or evidence are located.

11 (3) If otherwise permitted by state law, recover
12 from the licensee the costs of investigations and disposition
13 of cases resulting from any adverse action taken against that
14 licensee.

15 (f) Joint investigations.

16 (1) In addition to the authority granted to a member
17 state by its respective physical therapy practice act or other
18 applicable state law, a member state may participate with
19 other member states in joint investigations of licensees.

20 (2) Member states shall share any investigative,
21 litigation, or compliance materials in furtherance of any
22 joint or individual investigation initiated under the compact.

23 Section 7. ESTABLISHMENT OF THE PHYSICAL THERAPY
24 COMPACT COMMISSION.

25 (a) The compact member states shall create and
26 establish a joint public agency known as the Physical Therapy
27 Compact Commission.

1 (1) The commission is an instrumentality of the
2 compact member states.

3 (2) Venue is proper and judicial proceedings by or
4 against the commission shall be brought solely and exclusively
5 in a court of competent jurisdiction where the principal
6 office of the commission is located. The commission may waive
7 venue and jurisdictional defenses to the extent it adopts or
8 consents to participate in alternative dispute resolution
9 proceedings.

10 (3) Nothing in this compact shall be construed to be
11 a waiver of sovereign immunity.

12 (b) Membership, voting, and meetings.

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

15 (2) The delegate shall be a current member of the
16 licensing board, who is a physical therapist, physical
17 therapist assistant, public member, or the board
18 administrator.

19 (3) Any delegate may be removed or suspended from
20 office as provided by the law of the state from which the
21 delegate is appointed.

22 (4) The member state board shall fill any vacancy
23 occurring in the commission.

24 (5) Each delegate shall be entitled to one vote with
25 regard to the adoption of rules and creation of bylaws and
26 shall otherwise have an opportunity to participate in the
27 business and affairs of the commission.

1 (6) A delegate shall vote in person or by such other
2 means as provided in the bylaws. The bylaws may provide for
3 delegates' participation in meetings by telephone or other
4 means of communication.

5 (7) The commission shall meet at least once during
6 each calendar year. Additional meetings shall be held as set
7 forth in the bylaws.

8 (c) The commission shall have all of the following
9 powers and duties:

10 (1) Establish the fiscal year of the commission.

11 (2) Establish bylaws.

12 (3) Maintain its financial records in accordance
13 with the bylaws.

14 (4) Meet and take such actions as are consistent
15 with this compact and the bylaws.

16 (5) Adopt uniform rules to facilitate and
17 coordinate implementation and administration of this compact.
18 The rules shall have the force and effect of law and shall be
19 binding in all member states.

20 (6) Bring and prosecute legal proceedings or actions
21 in the name of the commission, provided that the standing of
22 any state physical therapy licensing board to sue or be sued
23 under applicable law shall not be affected.

24 (7) Purchase and maintain insurance and bonds.

25 (8) Borrow, accept, or contract for services of
26 personnel, including, but not limited to, employees of a
27 member state.

1 (9) Hire employees, elect or appoint officers, fix
2 compensation, define duties, grant such individuals
3 appropriate authority to carry out the purposes of this
4 compact, and to establish the commission's personnel policies
5 and programs relating to conflicts of interest, qualifications
6 of personnel, and other related personnel matters.

7 (10) Accept any and all appropriate donations and
8 grants of money, equipment, supplies, materials, and services,
9 and to receive, utilize, and dispose of the same, provided
10 that at all times the commission shall avoid any appearance of
11 impropriety or conflict of interest.

12 (11) Lease, purchase, accept appropriate gifts or
13 donations of, or otherwise own, hold, improve, or use, any
14 property, real, personal, or mixed, provided that at all times
15 the commission shall avoid any appearance of impropriety.

16 (12) Sell, convey, mortgage, pledge, lease,
17 exchange, abandon, or otherwise dispose of any property, real,
18 personal, or mixed.

19 (13) Establish a budget and make expenditures.

20 (14) Borrow money.

21 (15) Appoint committees, including standing
22 committees, composed of members, state regulators, state
23 legislators or their representatives, and consumer
24 representatives, and such other interested persons as may be
25 designated in this compact and the bylaws.

26 (16) Provide and receive information from, and
27 cooperate with, law enforcement agencies.

1 (17) Establish and elect an executive board.

2 (18) Perform such other functions as may be
3 necessary or appropriate to achieve the purposes of this
4 compact consistent with state regulation of physical therapy
5 licensure and practice.

6 (d) The executive board.

7 (1) The executive board may act on behalf of the
8 commission according to the terms of this compact.

9 (2) The executive board shall be composed of nine
10 members as follows:

11 a. Seven voting members who are elected by the
12 commission from the current membership of the commission.

13 b. One ex officio, nonvoting member from the
14 recognized national physical therapy professional association.

15 c. One ex officio, nonvoting member from the
16 recognized membership organization of the physical therapy
17 licensing boards.

18 (3) The ex officio members shall be selected by
19 their respective organizations.

20 (4) The commission may remove any member of the
21 executive board as provided in the bylaws.

22 (5) The executive board shall meet at least
23 annually.

24 (6) The executive board shall have all of the
25 following duties and responsibilities:

26 a. Recommend to the entire commission changes to the
27 rules or bylaws, to this compact, to legislation, to fees paid

1 by compact member states such as annual dues, and to any
2 commission compact fee charged to licensees for the compact
3 privilege.

4 b. Ensure compact administration services are
5 appropriately provided, contractual or otherwise.

6 c. Prepare and recommend the budget.

7 d. Maintain financial records on behalf of the
8 commission.

9 e. Monitor compact compliance of member states and
10 provide compliance reports to the commission.

11 f. Establish additional committees as necessary.

12 g. Perform other duties as provided in rules or
13 bylaws.

14 (e) Meetings of the commission.

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

18 (2) The commission or the executive board or other
19 committee of the commission may convene in a closed,
20 non-public meeting if the commission or executive board or
21 other committee of the commission must discuss any of the
22 following:

23 a. Non-compliance of a member state with its
24 obligations under the compact.

25 b. The employment, compensation, discipline, or
26 other matters, practices, or procedures related to specific

1 employees or other matters related to the commission's
2 internal personnel practices and 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 confidential.

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

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

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

21 j. Matters specifically exempted from disclosure by
22 federal or member state statute.

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

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

10 (f) Financing of the commission.

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

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

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

26 (4) The commission shall not incur obligations of
27 any kind prior to securing the funds adequate to meet the

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

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

12 (g) Qualified immunity, defense, and
13 indemnification.

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

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

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

26 Section 8. DATA SYSTEM.

1 (a) The commission shall provide for the
2 development, maintenance, and utilization of a coordinated
3 database and reporting system containing licensure, adverse
4 action, and investigative information on all licensees in
5 member states.

6 (b) Notwithstanding any other provision of state law
7 to the contrary, a member state shall submit a uniform data
8 set to the data system on all licensees to whom this compact
9 is applicable as required by the rules of the commission,
10 including all of the following:

11 (1) Identifying information.

12 (2) Licensure data.

13 (3) Adverse actions against a license or compact
14 privilege.

15 (4) Non-confidential information related to
16 alternative program participation.

17 (5) Any denial of application for licensure, and the
18 reason or reasons for the denial.

19 (6) Other information that may facilitate the
20 administration of this compact, as determined by the rules of
21 the commission.

22 (c) Investigative information pertaining to a
23 licensee in any member state shall only be available to other
24 party states.

25 (d) The commission shall promptly notify all member
26 states of any adverse action taken against a licensee or an
27 individual applying for a license. Adverse action information

1 pertaining to a licensee in any member state shall be
2 available to any other member state.

3 (e) Member states contributing information to the
4 data system may designate information that may not be shared
5 with the public without the express permission of the
6 contributing state.

7 (f) Any information submitted to the data system
8 that is subsequently required to be expunged by the laws of
9 the member state contributing the information shall be removed
10 from the data system.

11 Section 9. RULEMAKING.

12 (a) The commission shall exercise its rulemaking
13 powers pursuant to the criteria set forth in this section and
14 the rules adopted thereunder. Rules and amendments shall
15 become binding as of the date specified in each rule or
16 amendment.

17 (b) If a majority of the legislatures of the member
18 states rejects a rule, by enactment of a statute or resolution
19 in the same manner used to adopt this compact within four
20 years after the date of adoption of the rule, then the rule
21 shall have no further force and effect in any member state.

22 (c) Rules or amendments to rules shall be adopted at
23 a regular or special meeting of the commission.

24 (d) Prior to adoption of a final rule or rules by
25 the commission, and at least 30 days in advance of the meeting
26 at which the rule shall be considered and voted upon, the

1 commission shall file a Notice of Proposed Rulemaking on both
2 of the following:

3 (1) The website of the commission or other publicly
4 accessible platform.

5 (2) The website of each member state physical
6 therapy licensing board or other publicly accessible platform
7 or the publication in which each state would otherwise publish
8 proposed rules.

9 (e) The Notice of Proposed Rulemaking shall include
10 all of the following:

11 (1) The proposed time, date, and location of the
12 meeting in which the rule will be considered and voted upon.

13 (2) The text of the proposed rule or amendment and
14 the reason for the proposed rule or amendment.

15 (3) A request for comments on the proposed rule from
16 any interested person.

17 (4) The manner in which interested persons may
18 submit notice to the commission of their intention to attend
19 the public hearing and any written comments.

20 (f) Prior to adoption of a proposed rule, the
21 commission shall allow persons to submit written data, facts,
22 opinions, and arguments, which shall be made available to the
23 public.

24 (g) The commission shall grant an opportunity for a
25 public hearing before it adopts a rule or amendment if a
26 hearing is requested by any of the following:

27 (1) At least 25 persons.

1 (2) A state or federal governmental subdivision or
2 agency.

3 (3) An association having at least 25 members.

4 (h) If a hearing is held on the proposed rule or
5 amendment, the commission shall publish the place, time, and
6 date of the scheduled public hearing. If the hearing is held
7 via electronic means, the commission shall publish the
8 mechanism for access to the electronic hearing.

9 (1) All persons wishing to be heard at the hearing
10 shall notify the executive director of the commission or other
11 designated member in writing of their desire to appear and
12 testify at the hearing not less than five business days before
13 the scheduled date of the hearing.

14 (2) Hearings shall be conducted in a manner
15 providing each person who wishes to comment a fair and
16 reasonable opportunity to comment orally or in writing.

17 (3) All hearings shall be recorded. A copy of the
18 recording shall be made available on request.

19 (4) Nothing in this section shall be construed as
20 requiring a separate hearing on each rule. Rules may be
21 grouped for the convenience of the commission at hearings
22 required by this section.

23 (i) Following the scheduled hearing date, or by the
24 close of business on the scheduled hearing date if the hearing
25 is not held, the commission shall consider all written and
26 oral comments received.

1 (j) If no written notice of intent to attend the
2 public hearing by interested parties is received, the
3 commission may proceed with adoption of the proposed rule
4 without a public hearing.

5 (k) The commission, by majority vote of all members,
6 shall take final action on the proposed rule and shall
7 determine the effective date of the rule, if any, based on the
8 rulemaking record and the full text of the rule.

9 (l) Upon determination that an emergency exists, the
10 commission may consider and adopt an emergency rule without
11 prior notice, opportunity for comment, or hearing, provided
12 that the usual rulemaking procedures provided in this compact
13 and in this section shall be retroactively applied to the rule
14 as soon as reasonably possible, in no event later than 90 days
15 after the effective date of the rule. For the purposes of this
16 subdivision, an emergency rule is one that must be adopted
17 immediately in order to do any of the following:

18 (1) Meet an imminent threat to public health,
19 safety, or welfare.

20 (2) Prevent a loss of commission or member state
21 funds.

22 (3) Meet a deadline for the adoption of an
23 administrative rule that is established by federal law or
24 rule.

25 (4) Protect public health and safety.

26 (m) The commission or an authorized committee of the
27 commission may direct revisions to a previously adopted rule

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

13 Section 10. OVERSIGHT, DISPUTE RESOLUTION, AND
14 ENFORCEMENT.

15 (a) Oversight.

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

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

1 (3) The commission shall be entitled to receive
2 service of process in any proceeding and shall have standing
3 to intervene in a proceeding for all purposes. Failure to
4 provide service of process to the commission shall render a
5 judgment or order void as to the commission, this compact, or
6 adopted rules.

7 (b) Default, technical assistance, and termination.

8 (1) If the commission determines that a member state
9 has defaulted in the performance of its obligations or
10 responsibilities under this compact or adopted rules, the
11 commission shall do both of the following:

12 a. Provide written notice to the defaulting state
13 and other member states of the nature of the default, the
14 proposed means of curing the default, or any other action to
15 be taken by the commission.

16 b. Provide remedial training and specific technical
17 assistance regarding the default.

18 (2) If a state in default fails to cure the default,
19 the defaulting state may be terminated from the compact upon
20 an affirmative vote of a majority of the member states, and
21 all rights, privileges, and benefits conferred by this compact
22 may be terminated on the effective date of termination. A cure
23 of the default does not relieve the offending state of
24 obligations or liabilities incurred during the period of
25 default.

26 (3) Termination of membership in the compact shall
27 be imposed only after all other means of securing compliance

1 have been exhausted. Notice of intent to suspend or terminate
2 shall be given by the commission to the governor, the majority
3 and minority leaders of the defaulting state's legislature,
4 and each of the member states.

5 (4) A state that has been terminated is responsible
6 for all assessments, obligations, and liabilities incurred
7 through the effective date of termination, including
8 obligations that extend beyond the effective date of
9 termination.

10 (5) The commission shall not bear any costs related
11 to a state that is found to be in default or that has been
12 terminated from the compact, unless agreed upon in writing
13 between the commission and the defaulting state.

14 (6) The defaulting state may appeal the action of
15 the commission by petitioning the U.S. District Court for the
16 District of Columbia or the federal district where the
17 commission has its principal offices. The prevailing member
18 shall be awarded all costs of litigation, including reasonable
19 attorney's fees.

20 (c) Dispute resolution.

21 (1) Upon request by a member state, the commission
22 shall attempt to resolve disputes related to the compact that
23 arise among member states and between member and non-member
24 states.

25 (2) The commission shall adopt a rule providing for
26 both mediation and binding dispute resolution for disputes, as
27 appropriate.

1 (d) Enforcement.

2 (1) The commission, in the reasonable exercise of
3 its discretion, shall enforce the provisions and rules of this
4 compact.

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

15 (3) The remedies herein shall not be the exclusive
16 remedies of the commission. The commission may pursue any
17 other remedies available under federal or state law.

18 Section 11. DATE OF IMPLEMENTATION OF THE INTERSTATE
19 COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES,
20 WITHDRAWAL, AND AMENDMENT.

21 (a) This compact shall come into effect on the date
22 on which the compact statute is enacted into law in the tenth
23 member state. The provisions, which become effective at that
24 time, shall be limited to the powers granted to the commission
25 relating to assembly and the adoption of rules. Thereafter,
26 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 this compact subsequent to
4 the commission's initial adoption of the rules shall be
5 subject to the rules as they exist on the date on which this
6 compact becomes law in that state. Any rule that has been
7 previously adopted by the commission shall have the full force
8 and effect of law on the day this compact becomes law in that
9 state.

10 (c) Any member state may withdraw from this compact
11 by enacting a statute repealing the same.

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

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

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

25 (e) This compact may be amended by the member
26 states. No amendment to this compact shall become effective

1 and binding upon any member state until it is enacted into the
2 laws of all member states.

3 Section 12. CONSTRUCTION AND SEVERABILITY.

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

18 Section 13. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.