

1 SB82
2 203231-3
3 By Senator Whatley
4 RFD: Veterans and Military Affairs
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1 SB82

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4 ENROLLED, An Act,

5 Relating to the licensed practice of physical
6 therapy; to provide and adopt the Physical Therapy Licensure
7 Compact to allow interstate practice by licensed physical
8 therapists and physical therapist assistants among party
9 states; to authorize regulatory authorities in party states to
10 legally recognize, in a manner consistent with terms of the
11 compact, physical therapists and physical therapist assistants
12 licensed within those states; to provide eligibility
13 requirements for licensed physical therapists and physical
14 therapist assistants to practice pursuant to the compact; to
15 provide for a coordinated database and reporting system
16 containing licensure, adverse action, and investigative
17 information on licensees; to provide for investigations and
18 disciplinary actions; to establish the Physical Therapy
19 Compact Commission, and to provide for membership, powers, and
20 duties, and provide for rulemaking functions of the
21 commission; to provide for oversight of the compact,
22 enforcement of the compact, dispute resolution, and withdrawal
23 of party states; and to amend Section 34-24-211, Code of
24 Alabama 1975, to require applicants seeking licensure as a

1 physical therapist or physical therapist assistant to submit
2 to a criminal background check.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. PURPOSE.

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

13 (b) This compact is designed to achieve the
14 following objectives:

15 (1) Increase public access to physical therapy
16 services by providing for the mutual recognition of other
17 member state licenses.

18 (2) Enhance the states' ability to protect public
19 health and safety.

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

22 (4) Support spouses of relocating military members.

23 (5) Enhance the exchange of licensure,
24 investigative, and disciplinary information between member
25 states.

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

4 Section 2. DEFINITIONS.

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

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

11 (2) ADVERSE ACTION. Disciplinary action taken by a
12 physical therapy licensing board based upon misconduct,
13 unacceptable performance, or both.

14 (3) ALTERNATIVE PROGRAM. A non-disciplinary
15 monitoring or practice remediation process approved by a
16 physical therapy licensing board, including, but not limited
17 to, substance abuse issues.

18 (4) COMPACT PRIVILEGE. The authorization granted by
19 a remote state to allow a licensee from another member state
20 to practice as a physical therapist or work as a physical
21 therapist assistant in the remote state under its laws and
22 rules. The practice of physical therapy occurs in the member
23 state where the patient/client is located at the time of the
24 patient/client encounter.

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

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

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

10 (8) EXECUTIVE BOARD. A group of directors elected or
11 appointed to act on behalf of, and within the powers granted
12 to them by, the commission.

13 (9) HOME STATE. The member state that is the
14 licensee's primary state of residence.

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

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

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

24 (13) MEMBER STATE. A state that has enacted this
25 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.

1 (22) STATE. Any state, commonwealth, district, or
2 territory of the United States that regulates the practice of
3 physical therapy.

4 Section 3. STATE PARTICIPATION IN COMPACT.

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

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

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

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

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

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

23 (6) Utilize a recognized national examination as a
24 requirement for licensure pursuant to the rules of the
25 commission.

1 (7) Have continuing competence requirements as a
2 condition for license renewal.

3 (b) Upon adoption of this compact, the member state
4 shall have the authority to obtain biometric-based information
5 from each physical therapy licensure applicant and submit this
6 information to the Federal Bureau of Investigation for a
7 criminal background check in accordance with 28 U.S.C. § 534
8 and 42 U.S.C. § 14616.

9 (c) A member state shall grant the compact privilege
10 to a licensee holding a valid unencumbered license in another
11 member state in accordance with the terms of the compact and
12 rules.

13 (d) Member states may charge a fee for granting a
14 compact privilege.

15 Section 4. COMPACT PRIVILEGE.

16 (a) To exercise the compact privilege under the
17 terms and provisions of the compact, the licensee shall meet
18 all of the following requirements:

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

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

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

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

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

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

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

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

11 (b) The compact privilege is valid until the
12 expiration date of the home license. The licensee must comply
13 with the requirements of subsection (a) to maintain the
14 compact privilege in the remote state.

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

18 (d) A licensee providing physical therapy in a
19 remote state is subject to that state's regulatory authority.
20 A remote state, in accordance with due process and that
21 state's laws, may remove a licensee's compact privilege in the
22 remote state for a specific period of time, impose fines, or
23 take any other necessary action to protect the health and
24 safety of its residents. The licensee is not eligible for a

1 compact privilege in any state until the specific time for
2 removal has passed and all fines are paid.

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

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

7 (2) Two years have elapsed from the date of the
8 adverse action.

9 (f) Once an encumbered license in the home state is
10 restored to good standing, the licensee shall meet the
11 requirements of subsection (a) to obtain a compact privilege
12 in any remote state.

13 (g) If a licensee's compact privilege in any remote
14 state is removed, the individual shall lose the compact
15 privilege in every remote state until all of the following
16 occur:

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

19 (2) All fines have been paid.

20 (3) Two years have elapsed from the date of the
21 adverse action.

22 (h) Once the requirements of subsection (g) have
23 been met, the licensee shall meet the requirements in
24 subsection (a) to obtain a compact privilege in a remote
25 state.

1 Section 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR
2 SPOUSES.

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

6 (1) Home of record.

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

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

10 Section 6. ADVERSE ACTIONS.

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

14 (b) A home state may take adverse action based on
15 the investigative information of a remote state, provided that
16 the home state follows its own procedures for imposing adverse
17 action.

18 (c) Nothing in this compact shall override a member
19 state's decision that participation in an alternative program
20 may be used in lieu of adverse action and that such
21 participation shall remain non-public if required by the
22 member state's laws. Member states shall require licensees who
23 enter any alternative programs in lieu of discipline to agree
24 not to practice in any other member state during the term of

1 the alternative program without prior authorization from such
2 other member state.

3 (d) Any member state may investigate actual or
4 alleged violations of the laws and rules authorizing the
5 practice of physical therapy in any other member state in
6 which a physical therapist or physical therapist assistant
7 holds a license or compact privilege.

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

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

12 (2) Issue subpoenas for both hearings and
13 investigations that require the attendance and testimony of
14 witnesses and the production of evidence. Subpoenas issued by
15 a physical therapy licensing board in a party state for the
16 attendance and testimony of witnesses or the production of
17 evidence from another party state shall be enforced in the
18 latter state by any court of competent jurisdiction, according
19 to the practice and procedure of that court applicable to
20 subpoenas issued in proceedings pending before it. The issuing
21 authority shall pay any witness fees, travel expenses,
22 mileage, and other fees required by the service statutes of
23 the state where the witnesses or evidence are located.

24 (3) If otherwise permitted by state law, recover
25 from the licensee the costs of investigations and disposition

1 of cases resulting from any adverse action taken against that
2 licensee.

3 (f) Joint investigations.

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

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

11 Section 7. ESTABLISHMENT OF THE PHYSICAL THERAPY
12 COMPACT COMMISSION.

13 (a) The compact member states shall create and
14 establish a joint public agency known as the Physical Therapy
15 Compact Commission.

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

18 (2) Venue is proper and judicial proceedings by or
19 against the commission shall be brought solely and exclusively
20 in a court of competent jurisdiction where the principal
21 office of the commission is located. The commission may waive
22 venue and jurisdictional defenses to the extent it adopts or
23 consents to participate in alternative dispute resolution
24 proceedings.

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

3 (b) Membership, voting, and meetings.

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

6 (2) The delegate shall be a current member of the
7 licensing board, who is a physical therapist, physical
8 therapist assistant, public member, or the board
9 administrator.

10 (3) Any delegate may be removed or suspended from
11 office as provided by the law of the state from which the
12 delegate is appointed.

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

15 (5) Each delegate shall be entitled to one vote with
16 regard to the adoption of rules and creation of bylaws and
17 shall otherwise have an opportunity to participate in the
18 business and affairs of the commission.

19 (6) A delegate shall vote in person or by such other
20 means as provided in the bylaws. The bylaws may provide for
21 delegates' participation in meetings by telephone or other
22 means of communication.

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

1 (c) The commission shall have all of the following
2 powers and duties:

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

4 (2) Establish bylaws.

5 (3) Maintain its financial records in accordance
6 with the bylaws.

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

9 (5) Adopt uniform rules to facilitate and
10 coordinate implementation and administration of this compact.
11 The rules shall have the force and effect of law and shall be
12 binding in all member states.

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

17 (7) Purchase and maintain insurance and bonds.

18 (8) Borrow, accept, or contract for services of
19 personnel, including, but not limited to, employees of a
20 member state.

21 (9) Hire employees, elect or appoint officers, fix
22 compensation, define duties, grant such individuals
23 appropriate authority to carry out the purposes of this
24 compact, and to establish the commission's personnel policies

1 and programs relating to conflicts of interest, qualifications
2 of personnel, and other related personnel matters.

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

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

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

15 (13) Establish a budget and make expenditures.

16 (14) Borrow money.

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

22 (16) Provide and receive information from, and
23 cooperate with, law enforcement agencies.

24 (17) Establish and elect an executive board.

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

5 (d) The executive board.

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

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

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

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

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

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

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

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

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

1 a. Recommend to the entire commission changes to the
2 rules or bylaws, to this compact, to legislation, to fees paid
3 by compact member states such as annual dues, and to any
4 commission compact fee charged to licensees for the compact
5 privilege.

6 b. Ensure compact administration services are
7 appropriately provided, contractual or otherwise.

8 c. Prepare and recommend the budget.

9 d. Maintain financial records on behalf of the
10 commission.

11 e. Monitor compact compliance of member states and
12 provide compliance reports to the commission.

13 f. Establish additional committees as necessary.

14 g. Perform other duties as provided in rules or
15 bylaws.

16 (e) Meetings of the commission.

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

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

1 a. Non-compliance of a member state with its
2 obligations under the compact.

3 b. The employment, compensation, discipline, or
4 other matters, practices, or procedures related to specific
5 employees or other matters related to the commission's
6 internal personnel practices and procedures.

7 c. Current, threatened, or reasonably anticipated
8 litigation.

9 d. Negotiation of contracts for the purchase, lease,
10 or sale of goods, services, or real estate.

11 e. Accusing any person of a crime or formally
12 censuring any person.

13 f. Disclosure of trade secrets or commercial or
14 financial information that is privileged or confidential.

15 g. Disclosure of information of a personal nature
16 where disclosure would constitute a clearly unwarranted
17 invasion of personal privacy.

18 h. Disclosure of investigative records compiled for
19 law enforcement purposes.

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

1 j. Matters specifically exempted from disclosure by
2 federal or member state statute.

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

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

16 (f) Financing of the commission.

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

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

23 (3) The commission may levy and collect an annual
24 assessment from each member state or impose fees on other
25 parties to cover the cost of the operations and activities of

1 the commission and its staff, which must be in a total amount
2 sufficient to cover its annual budget as approved each year
3 for which revenue is not provided by other sources. The
4 aggregate annual assessment amount shall be allocated based
5 upon a formula adopted by rule of the commission, and binding
6 upon all member states.

7 (4) The commission shall not incur obligations of
8 any kind prior to securing the funds adequate to meet the
9 same; nor shall the commission pledge the credit of any of the
10 member states, except by and with the authority of the member
11 state.

12 (5) The commission shall keep accurate accounts of
13 all receipts and disbursements. The receipts and disbursements
14 of the commission shall be subject to the audit and accounting
15 procedures established under its bylaws. All receipts and
16 disbursements of funds handled by the commission shall be
17 audited yearly by a certified or licensed public accountant,
18 and the report of the audit shall be included in and become
19 part of the annual report of the commission.

20 (g) Qualified immunity, defense, and
21 indemnification.

22 (1) The members, officers, executive director,
23 employees, and representatives of the commission shall be
24 immune from suit and liability, either personally or in their
25 official capacity, for any claim for damage to or loss of

1 property or personal injury or other civil liability caused by
2 or arising out of any actual or alleged act, error, or
3 omission that occurred, or that the person against whom the
4 claim is made had a reasonable basis for believing occurred
5 within the scope of commission employment, duties, or
6 responsibilities, provided that nothing in this subsection
7 shall be construed to protect any such person from suit or
8 liability for any damage, loss, injury, or liability caused by
9 the intentional or willful or wanton misconduct of that
10 person.

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

24 (3) The commission shall indemnify and hold harmless
25 any member, officer, executive director, employee, or

1 representative of the commission for the amount of any
2 settlement or judgment obtained against that person arising
3 out of any actual or alleged act, error, or omission that
4 occurred within the scope of commission employment, duties, or
5 responsibilities, or that such person had a reasonable basis
6 for believing occurred within the scope of commission
7 employment, duties, or responsibilities, provided that the
8 actual or alleged act, error, or omission did not result from
9 the intentional or willful or wanton misconduct of that
10 person.

11 Section 8. DATA SYSTEM.

12 (a) The commission shall provide for the
13 development, maintenance, and utilization of a coordinated
14 database and reporting system containing licensure, adverse
15 action, and investigative information on all licensees in
16 member states.

17 (b) Notwithstanding any other provision of state law
18 to the contrary, a member state shall submit a uniform data
19 set to the data system on all licensees to whom this compact
20 is applicable as required by the rules of the commission,
21 including all of the following:

22 (1) Identifying information.

23 (2) Licensure data.

24 (3) Adverse actions against a license or compact
25 privilege.

1 (4) Non-confidential information related to
2 alternative program participation.

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

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

8 (c) Investigative information pertaining to a
9 licensee in any member state shall only be available to other
10 party states.

11 (d) The commission shall promptly notify all member
12 states of any adverse action taken against a licensee or an
13 individual applying for a license. Adverse action information
14 pertaining to a licensee in any member state shall be
15 available to any other member state.

16 (e) Member states contributing information to the
17 data system may designate information that may not be shared
18 with the public without the express permission of the
19 contributing state.

20 (f) Any information submitted to the data system
21 that is subsequently required to be expunged by the laws of
22 the member state contributing the information shall be removed
23 from the data system.

24 Section 9. RULEMAKING.

1 (a) The commission shall exercise its rulemaking
2 powers pursuant to the criteria set forth in this section and
3 the rules adopted thereunder. Rules and amendments shall
4 become binding as of the date specified in each rule or
5 amendment.

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

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

13 (d) Prior to adoption of a final rule or rules by
14 the commission, and at least 30 days in advance of the meeting
15 at which the rule shall be considered and voted upon, the
16 commission shall file a Notice of Proposed Rulemaking on both
17 of the following:

18 (1) The website of the commission or other publicly
19 accessible platform.

20 (2) The website of each member state physical
21 therapy licensing board or other publicly accessible platform
22 or the publication in which each state would otherwise publish
23 proposed rules.

24 (e) The Notice of Proposed Rulemaking shall include
25 all of the following:

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

3 (2) The text of the proposed rule or amendment and
4 the reason for the proposed rule or amendment.

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

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

10 (f) Prior to adoption of a proposed rule, the
11 commission shall allow persons to submit written data, facts,
12 opinions, and arguments, which shall be made available to the
13 public.

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

17 (1) At least 25 persons.

18 (2) A state or federal governmental subdivision or
19 agency.

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

21 (h) If a hearing is held on the proposed rule or
22 amendment, the commission shall publish the place, time, and
23 date of the scheduled public hearing. If the hearing is held
24 via electronic means, the commission shall publish the
25 mechanism for access to the electronic hearing.

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

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

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

11 (4) Nothing in this section shall be construed as
12 requiring a separate hearing on each rule. Rules may be
13 grouped for the convenience of the commission at hearings
14 required by this section.

15 (i) Following the scheduled hearing date, or by the
16 close of business on the scheduled hearing date if the hearing
17 is not held, the commission shall consider all written and
18 oral comments received.

19 (j) If no written notice of intent to attend the
20 public hearing by interested parties is received, the
21 commission may proceed with adoption of the proposed rule
22 without a public hearing.

23 (k) The commission, by majority vote of all members,
24 shall take final action on the proposed rule and shall

1 determine the effective date of the rule, if any, based on the
2 rulemaking record and the full text of the rule.

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

12 (1) Meet an imminent threat to public health,
13 safety, or welfare.

14 (2) Prevent a loss of commission or member state
15 funds.

16 (3) Meet a deadline for the adoption of an
17 administrative rule that is established by federal law or
18 rule.

19 (4) Protect public health and safety.

20 (m) The commission or an authorized committee of the
21 commission may direct revisions to a previously adopted rule
22 or amendment for purposes of correcting typographical errors,
23 errors in format, errors in consistency, or grammatical
24 errors. Public notice of any revisions shall be posted on the
25 website of the commission. The revision shall be subject to

1 challenge by any person for a period of 30 days after posting.
2 The revision may be challenged only on grounds that the
3 revision results in a material change to a rule. A challenge
4 shall be made in writing, and delivered to the chair of the
5 commission prior to the end of the notice period. If no
6 challenge is made, the revision shall take effect without
7 further action. If the revision is challenged, the revision
8 may not take effect without the approval of the commission.

9 Section 10. OVERSIGHT, DISPUTE RESOLUTION, AND
10 ENFORCEMENT.

11 (a) Oversight.

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

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

23 (3) The commission shall be entitled to receive
24 service of process in any proceeding and shall have standing
25 to intervene in a proceeding for all purposes. Failure to

1 provide service of process to the commission shall render a
2 judgment or order void as to the commission, this compact, or
3 adopted rules.

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

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

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

13 b. Provide remedial training and specific technical
14 assistance regarding the default.

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

23 (3) Termination of membership in the compact shall
24 be imposed only after all other means of securing compliance
25 have been exhausted. Notice of intent to suspend or terminate

1 shall be given by the commission to the governor, the majority
2 and minority leaders of the defaulting state's legislature,
3 and each of the member states.

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

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

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

19 (c) Dispute resolution.

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

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

4 (d) Enforcement.

5 (1) The commission, in the reasonable exercise of
6 its discretion, shall enforce the provisions and rules of this
7 compact.

8 (2) By majority vote, the commission may initiate
9 legal action in the United States District Court for the
10 District of Columbia or the federal district where the
11 commission has its principal offices against a member state in
12 default to enforce compliance with this compact and its
13 adopted 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 be
16 awarded all costs of litigation, including reasonable
17 attorney's fees.

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

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

24 (a) This compact shall come into effect on the date
25 on which the compact statute is enacted into law in the tenth

1 member state. The provisions, which become effective at that
2 time, shall be limited to the powers granted to the commission
3 relating to assembly and the adoption of rules. Thereafter,
4 the commission shall meet and exercise rulemaking powers
5 necessary to the implementation and administration of the
6 compact.

7 (b) Any state that joins this compact subsequent to
8 the commission's initial adoption of the rules shall be
9 subject to the rules as they exist on the date on which this
10 compact becomes law in that state. Any rule that has been
11 previously adopted by the commission shall have the full force
12 and effect of law on the day this compact becomes law in that
13 state.

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

16 (1) A member state's withdrawal shall not take
17 effect until six months after enactment of the repealing
18 statute.

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

24 (d) Nothing contained in this compact shall be
25 construed to invalidate or prevent any physical therapy

1 licensure agreement or other cooperative arrangement between a
2 member state and a non-member state that does not conflict
3 with this compact.

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

8 Section 12. CONSTRUCTION AND SEVERABILITY.

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

23 Section 13. Section 34-24-211, Code of Alabama 1975,
24 is amended to read as follows:

1 "(a) An applicant for licensure as a physical
2 therapist or for a license as a physical therapist assistant
3 shall file a written application on forms provided by the
4 board together with a fee as set by the board, no part of
5 which shall be returned. The applicant shall present evidence
6 satisfactory to the board that he or she is of good moral
7 character and has completed a program of physical therapy
8 education appropriate for training a physical therapist or a
9 physical therapist assistant, as the case may be, approved by
10 the board or a nationally recognized accrediting agency. Each
11 applicant shall also be a citizen of the United States or, if
12 not a citizen of the United States, a person who is legally
13 present in the United States with appropriate documentation
14 from the federal government.

15 "(b) On and after the effective date of the act
16 adding this amendatory language, an applicant for licensure as
17 a physical therapist or a physical therapist assistant shall
18 submit to the board, on a form sworn to by the applicant, his
19 or her name, date of birth, Social Security number, and two
20 complete sets of fingerprints for completion of a criminal
21 history background check. The board shall submit the
22 fingerprints to the Alabama State Law Enforcement Agency for a
23 state criminal history background check. The fingerprints
24 shall be forwarded by the agency to the Federal Bureau of
25 Investigation for a national criminal history background

1 check. Costs associated with conducting a criminal history
2 background check shall be paid by the applicant."

3 Section 14. Except as to judicial proceedings for
4 the enforcement of this compact among member states,
5 individuals may pursue judicial proceedings related to this
6 compact in any Alabama state or federal court that would
7 otherwise have competent jurisdiction.

8 Section 15. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB82

Senate 04-FEB-21

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed 04-MAR-21

Senate concurred in House amendment 09-MAR-21

By: Senator Whatley