

SENATE SUBSTITUTE TO HB 39

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 33 of Title 43 of the Official Code of Georgia Annotated, relating to
2 physical therapists, so as to revise licensing provisions; to enter into an interstate compact
3 known as the "Physical Therapy Licensure Compact Act"; to authorize the State Board of
4 Physical Therapy to administer the compact in this state; to provide definitions; to provide
5 for criminal history records checks for licensing purposes; to provide for conditions; to
6 provide for eligibility; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 33 of Title 43 of the Official Code of Georgia Annotated, relating to physical
11 therapists, is amended by revising paragraph (3) of Code Section 43-33-3, relating to
12 definitions, as follows:

13 "(3) 'Licensee' means any person holding a license under this chapter or holding a valid
14 Physical Therapy Licensure Compact privilege pursuant to Article 2 of this chapter."

15 **SECTION 2.**

16 Said chapter is further amended by revising Code Section 43-33-10, relating to general
17 powers and duties of board, as follows:

18 "43-33-10.

19 In carrying out the provisions of this chapter, the board shall, in addition to the other
20 powers conferred upon it under this chapter, have the power to:

- 21 (1) Prepare or approve all examinations or applicants for licenses;
- 22 (2) Determine the qualifications of and authorize the issuance of licenses to qualified
- 23 physical therapists and physical therapist assistants;

- 24 (3) Determine the qualifications for and approve educational programs that prepare
 25 physical therapists and physical therapist assistants for the purpose of determining
 26 qualifications of applicants for licensure;
- 27 (4) Initiate investigations of alleged or suspected violations of the provisions of this
 28 chapter or other laws of this state pertaining to physical therapy and any rules and
 29 regulations adopted by the board. For this purpose, any board member or authorized
 30 agent of the board shall have the power and right to enter and make reasonable inspection
 31 of any place where physical therapy is practiced;
- 32 (5) Conduct all hearings in contested cases according to Chapter 13 of Title 50, known
 33 as the 'Georgia Administrative Procedure Act';
- 34 (6) Discipline any person licensed under this chapter, or refuse to grant, renew, or restore
 35 a license to any person upon any ground specified in this chapter;
- 36 (7) Adopt a seal, the imprint of which together with the authorized signature of either the
 37 division director or other member authorized by the board shall be effective to evidence
 38 its official acts;
- 39 (8) Establish licensing fees and maintain in the office of the division director a register
 40 of all persons holding a license and a record of all inspections made;
- 41 (9) Adopt and publish in print or electronically a code of ethics;
- 42 (10) Issue training permits; ~~and~~
- 43 (11) Adopt such rules and regulations as shall be reasonably necessary for the
 44 enforcement and implementation of the provisions and purposes of this chapter and other
 45 laws of this state insofar as they relate to physical therapy;
- 46 (12) Administer the Physical Therapy Licensure Compact contained in Article 2 of this
 47 chapter; and
- 48 (13) Conduct criminal history records checks as determined by the board through the
 49 Georgia Crime Information Center and Federal Bureau of Investigation for purposes of
 50 issuing licenses; provided, however, that reports from such record checks shall not be
 51 shared with entities outside of this state."

52 **SECTION 3.**

53 Said chapter is further amended by revising Code Section 43-33-12, relating to requirements
 54 for license to practice physical therapy, as follows:

55 "43-33-12.

56 A license to practice physical therapy shall be issued to any person who:

- 57 (1) Is a graduate of an educational program that prepares physical therapists and which
 58 is accredited by a recognized accrediting agency and approved by the board or, in the
 59 case of an applicant who has graduated from an educational program which prepares

60 physical therapists conducted in a foreign country, has submitted, in a manner prescribed
 61 by the board, credentials approved by the board and who has further demonstrated the
 62 ability to speak, write, and understand the English language and has satisfactorily
 63 completed a three-month board approved traineeship under the supervision of a physical
 64 therapist licensed under this chapter;

65 (2) Has satisfactorily passed an examination prepared or approved by the board and has
 66 acquired any additional education and training required by the board; ~~and~~

67 (3) Is not disqualified to receive a license under the provisions of Code Section 43-33-18
 68 or subsection (a) or (c) of Code Section 43-1-19; and

69 (4) Has successfully passed a criminal history records check as determined by the board."

70

SECTION 4.

71 Said chapter is further amended by redesignating the existing provisions of said chapter as
 72 Article 1, by replacing "this chapter" with "this article" everywhere such term occurs in the
 73 new article, and by adding a new article, to read as follows:

74

"ARTICLE 2

75 43-33-30.

76 This article shall be known and may be cited as the 'Physical Therapy Licensure Compact
 77 Act.'

78 43-33-31.

79 The Physical Therapy Licensure Compact is enacted into law and entered into by the State
 80 of Georgia with any and all other states legally joining therein in the form substantially as
 81 follows:

82

'PHYSICAL THERAPY LICENSURE COMPACT

83

SECTION 1. PURPOSE

84 (a) The purpose of this Compact is to facilitate interstate practice of physical therapy with
 85 the goal of improving public access to physical therapy services. The practice of physical
 86 therapy occurs in the state where the patient or client is located at the time of the patient
 87 or client encounter. The Compact preserves the regulatory authority of states to protect
 88 public health and safety through the current system of state licensure.

89 (b) This Compact is designed to achieve the following objectives:

90 (1) Increase public access to physical therapy services by providing for the mutual
 91 recognition of other member state licenses;

- 92 (2) Enhance the states' ability to protect the public's health and safety;
 93 (3) Encourage the cooperation of member states in regulating multi-state physical
 94 therapy practice;
 95 (4) Support spouses of relocating military members;
 96 (5) Enhance the exchange of licensure, investigative, and disciplinary information
 97 between member states; and
 98 (6) Allow a remote state to hold a provider of services with a compact privilege in that
 99 state accountable to that state's practice standards.

100 SECTION 2. DEFINITIONS

101 As used in this compact, and except as otherwise provided, the term:

- 102 (1) 'Active Duty Military' means full-time duty status in the active uniformed service of
 103 the United States, including members of the National Guard and Reserve on active duty
 104 orders pursuant to 10 U.S.C. Section 1209 and 1211.
 105 (2) 'Adverse Action' means disciplinary action taken by a physical therapy licensing
 106 board based upon misconduct, unacceptable performance, or a combination of both.
 107 (3) 'Alternative Program' means a non-disciplinary monitoring or practice remediation
 108 process approved by a physical therapy licensing board. This includes, but is not limited
 109 to, substance abuse issues.
 110 (4) 'Compact privilege' means the authorization granted by a remote state to allow a
 111 licensee from another member state to practice as a physical therapist or work as a
 112 physical therapist assistant in the remote state under its laws and rules. The practice of
 113 physical therapy occurs in the member state where the patient/client is located at the time
 114 of the patient/client encounter.
 115 (5) 'Continuing competence' means a requirement, as a condition of license renewal, to
 116 provide evidence of participation in, and/or completion of, educational and professional
 117 activities relevant to practice or area of work.
 118 (6) 'Data system' means a repository of information about licensees, including
 119 examination, licensure, investigative, compact privilege, and adverse action.
 120 (7) 'Encumbered license' means a license that a physical therapy licensing board has
 121 limited in any way.
 122 (8) 'Executive Board' means a group of directors elected or appointed to act on behalf of,
 123 and within the powers granted to them by, the Commission.
 124 (9) 'Home state' means the member state that is the licensee's primary state of residence.
 125 (10) 'Investigative information' means information, records, and documents received or
 126 generated by a physical therapy licensing board pursuant to an investigation.

- 127 (11) 'Jurisprudence Requirement' means the assessment of an individual's knowledge of
 128 the laws and rules governing the practice of physical therapy in a state.
- 129 (12) 'Licensee' means an individual who currently holds an authorization from the state
 130 to practice as a physical therapist or to work as a physical therapist assistant.
- 131 (13) 'Member state' means a state that has enacted the Compact.
- 132 (14) 'Party state' means any member state in which a licensee holds a current license or
 133 compact privilege or is applying for a license or compact privilege.
- 134 (15) 'Physical therapist' means an individual who is licensed by a state to practice
 135 physical therapy.
- 136 (16) 'Physical therapist assistant' means an individual who is licensed/certified by a state
 137 and who assists the physical therapist in selected components of physical therapy.
- 138 (17) 'Physical therapy,' 'physical therapy practice,' and 'the practice of physical therapy'
 139 mean the care and services provided by or under the direction and supervision of a
 140 licensed physical therapist.
- 141 (18) 'Physical Therapy Compact Commission' or 'Commission' means the national
 142 administrative body whose membership consists of all states that have enacted the
 143 Compact.
- 144 (19) 'Physical therapy licensing board' or 'licensing board' means the agency of a state
 145 that is responsible for the licensing and regulation of physical therapists and physical
 146 therapist assistants.
- 147 (20) 'Remote State' means a member state other than the home state, where a licensee is
 148 exercising or seeking to exercise the compact privilege.
- 149 (21) 'Rule' means a regulation, principle, or directive promulgated by the Commission
 150 that has the force of law.
- 151 (22) 'State' means any state, commonwealth, district, or territory of the United States of
 152 America that regulates the practice of physical therapy.

153 SECTION 3. STATE PARTICIPATION IN THE COMPACT

- 154 (a) To participate in the compact, a state must:
- 155 (1) Participate fully in the Commission's data system, including using the Commission's
 156 unique identifier as defined in rules;
- 157 (2) Have a mechanism in place for receiving and investigating complaints about
 158 licensees;
- 159 (3) Notify the Commission, in compliance with the terms of the Compact and rules, of
 160 any adverse action or the availability of investigative information regarding a licensee;
- 161 (4) Fully implement a criminal background check requirement, within a time frame
 162 established by rule, by receiving the results of the Federal Bureau of Investigation record

- 163 search on criminal background checks and use the results in making licensure decisions
 164 in accordance with Section 3.B.:
 165 (5) Comply with the rules of the Commission;
 166 (6) Utilize a recognized national examination as a requirement for licensure pursuant to
 167 the rules of the Commission; and
 168 (7) Have continuing competence requirements as a condition for license renewal.
 169 (b) Upon adoption of this article, the member state shall have the authority to obtain
 170 biometric-based information from each physical therapy licensure applicant and submit this
 171 information to the Federal Bureau of Investigation for a criminal background check in
 172 accordance with 28 U.S.C. §534 and 42 U.S.C. §14616.
 173 (c) A member state shall grant the compact privilege to a licensee holding a valid
 174 unencumbered license in another member state in accordance with the terms of the
 175 Compact and rules.
 176 (d) Member states may charge a fee for granting a compact privilege.

177 SECTION 4. COMPACT PRIVILEGE

- 178 (a) To exercise the compact privilege under the terms and provisions of the Compact, the
 179 licensee shall:
 180 (1) Hold a license in the home state;
 181 (2) Have no encumbrance on any state license;
 182 (3) Be eligible for a compact privilege in any member state in accordance with
 183 Section 4D, G and H;
 184 (4) Have not had any adverse action against any license or compact privilege within the
 185 previous 2 years;
 186 (5) Notify the Commission that the licensee is seeking the compact privilege within a
 187 remote state(s);
 188 (6) Pay any applicable fees, including any state fee, for the compact privilege;
 189 (7) Meet any jurisprudence requirements established by the remote state(s) in which the
 190 licensee is seeking a compact privilege; and
 191 (8) Report to the Commission adverse action taken by any non-member state within 30
 192 days from the date the adverse action is taken.
 193 (b) The compact privilege is valid until the expiration date of the home license. The
 194 licensee must comply with the requirements of Section 4.A. to maintain the compact
 195 privilege in the remote state.
 196 (c) A licensee providing physical therapy in a remote state under the compact privilege
 197 shall function within the laws and regulations of the remote state.

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

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

206 (1) The home state license is no longer encumbered; and

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

208 (f) Once an encumbered license in the home state is restored to good standing, the licensee
 209 must meet the requirements of Section 4A to obtain a compact privilege in any remote
 210 state.

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

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

214 (2) All fines have been paid; and

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

216 (h) Once the requirements of Section 4G have been met, the license must meet the
 217 requirements in Section 4A to obtain a compact privilege in a remote state.

218 SECTION 5. ACTIVE MILITARY PERSONNEL OR THEIR SPOUSES

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

221 (a) Home of record;

222 (b) Permanent Change of Station (PCS); or

223 (c) State of current residence if it is different than the PCS state or home of record.

224 SECTION 6. ADVERSE ACTIONS

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

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

230 (c) Nothing in this Compact shall override a member state's decision that participation in
 231 an alternative program may be used in lieu of adverse action and that such participation
 232 shall remain non-public if required by the member state's laws. Member states must

233 require licensees who enter any alternative programs in lieu of discipline to agree not to
 234 practice in any other member state during the term of the alternative program without prior
 235 authorization from such other member state.

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

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

240 (1) Take adverse actions as set forth in Section 4.D. against a licensee's compact
 241 privilege in the state;

242 (2) Issue subpoenas for both hearings and investigations that require the attendance and
 243 testimony of witnesses, and the production of evidence. Subpoenas issued by a physical
 244 therapy licensing board in a party state for the attendance and testimony of witnesses,
 245 and/or the production of evidence from another party state, shall be enforced in the latter
 246 state by any court of competent jurisdiction, according to the practice and procedure of
 247 that court applicable to subpoenas issued in proceedings pending before it. The issuing
 248 authority shall pay any witness fees, travel expenses, mileage, and other fees required by
 249 the service statutes of the state where the witness and/or evidence are located; and

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

253 (f) Joint Investigations

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

257 (2) Member states shall share any investigative, litigation, or compliance materials in
 258 furtherance of any joint or individual investigation initiated under the Compact.

259 SECTION 7. ESTABLISHMENT OF THE

260 PHYSICAL THERAPY COMPACT COMMISSION

261 (a) The Compact member states hereby create and establish a joint public agency known
 262 as the Physical Therapy Compact Commission:

263 (1) The Commission is an instrumentality of the Compact states.

264 (2) Venue is proper and judicial proceedings by or against the Commission shall be
 265 brought solely and exclusively in a court of competent jurisdiction where the principal
 266 office of the Commission is located. The Commission may waive venue and
 267 jurisdictional defenses to the extent it adopts or consents to participate in alternative
 268 dispute resolution proceedings.

- 269 (3) Nothing in this Compact shall be construed to be a waiver of sovereign immunity.
- 270 (b) Membership, Voting, and Meetings
- 271 (1) Each member state shall have and be limited to one (1) delegate selected by that
272 member state's licensing board.
- 273 (2) The delegate shall be a current member of the licensing board, who is a physical
274 therapist, physical therapist assistant, public member, or the board administrator.
- 275 (3) Any delegate may be removed or suspended from office as provided by the law of
276 the state from which the delegate is appointed.
- 277 (4) The member state board shall fill any vacancy occurring in the Commission.
- 278 (5) Each delegate shall be entitled to one (1) vote with regard to the promulgation of
279 rules and creation of bylaws and shall otherwise have an opportunity to participate in the
280 business and affairs of the Commission.
- 281 (6) A delegate shall vote in person or by such other means as provided in the bylaws.
282 The bylaws may provide for delegates' participation in meetings by telephone or other
283 means of communication.
- 284 (7) The Commission shall meet at least once during each calendar year. Additional
285 meetings shall be held as set forth in the bylaws.
- 286 (c) The Commission shall have the following powers and duties:
- 287 (1) Establish the fiscal year of the Commission;
- 288 (2) Establish bylaws;
- 289 (3) Maintain its financial records in accordance with the bylaws;
- 290 (4) Meet and take such actions as are consistent with the provisions of this Compact and
291 the bylaws;
- 292 (5) Promulgate uniform rules to facilitate and coordinate implementation and
293 administration of this Compact. The rules shall have the force and effect of law and shall
294 be binding in all member states;
- 295 (6) Bring and prosecute legal proceedings or actions in the name of the Commission,
296 provided that the standing of any state physical therapy licensing board to sue or be sued
297 under applicable law shall not be affected;
- 298 (7) Purchase and maintain insurance and bonds;
- 299 (8) Borrow, accept, or contract for services of personnel, including, but not limited to,
300 employees of a member state;
- 301 (9) Hire employees, elect or appoint officers, fix compensation, define duties, grant such
302 individuals appropriate authority to carry out the purposes of the Compact, and to
303 establish the Commission's personnel policies and programs relating to conflicts of
304 interest, qualifications of personnel, and other related personnel matters;

305 (10) Accept any and all appropriate donations and grants of money, equipment, supplies,
306 materials and services, and to receive, utilize and dispose of the same; provided that at
307 all times the Commission shall avoid any appearance of impropriety and/or conflict of
308 interest;

309 (11) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold,
310 improve or use, any property, real, personal or mixed; provided that at all times the
311 Commission shall avoid any appearance of impropriety;

312 (12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
313 any property real, personal, or mixed;

314 (13) Establish a budget and make expenditures;

315 (14) Borrow money;

316 (15) Appoint committees, including standing committees composed of members, state
317 regulators, state legislators or their representatives, and consumer representatives, and
318 such other interested persons as may be designated in this Compact and the bylaws;

319 (16) Provide and receive information from, and cooperate with, law enforcement
320 agencies;

321 (17) Establish and elect an Executive Board; and

322 (18) Perform such other functions as may be necessary or appropriate to achieve the
323 purposes of this Compact consistent with the state regulation of physical therapy
324 licensure and practice.

325 (d) The Executive Board

326 The Executive Board shall have the power to act on behalf of the Commission according
327 to the terms of this Compact.

328 (1) The Executive Board shall be composed of nine members:

329 (A) Seven voting members who are elected by the Commission from the current
330 membership of the Commission;

331 (B) One ex-officio, nonvoting member from the recognized national physical therapy
332 professional association; and

333 (C) One ex-officio, nonvoting member from the recognized membership organization
334 of the physical therapy licensing boards.

335 (2) The ex-officio members will be selected by their respective organizations.

336 (3) The Commission may remove any member of the Executive Board as provided in
337 bylaws.

338 (4) The Executive Board shall meet at least annually.

339 (5) The Executive Board shall have the following duties and responsibilities:

340 (A) Recommend to the entire Commission changes to the rules or bylaws, changes to
 341 this Compact legislation, fees paid by Compact member states such as annual dues, and
 342 any commission Compact fee charged to licensees for the compact privilege;

343 (B) Ensure Compact administration services are appropriately provided, contractual
 344 or otherwise;

345 (C) Prepare and recommend the budget;

346 (D) Maintain financial records on behalf of the Commission;

347 (E) Monitor Compact compliance of member states and provide compliance reports to
 348 the Commission;

349 (F) Establish additional committees as necessary; and

350 (G) Other duties as provided in rules or bylaws.

351 (e) Meetings of the Commission

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

354 (2) The Commission or the Executive Board or other committees of the Commission
 355 may convene in a closed, non-public meeting if the Commission or Executive Board or
 356 other committees of the Commission must discuss:

357 (A) Noncompliance of a member state with its obligations under the Compact;

358 (B) The employment, compensation, discipline or other matters, practices or
 359 procedures related to specific employees or other matters related to the Commission's
 360 internal personnel practices and procedures;

361 (C) Current, threatened, or reasonably anticipated litigation;

362 (D) Negotiation of the contracts for the purchase, lease, or sale of goods, services, or
 363 real estate;

364 (E) Accusing any person of a crime or formally censuring any person;

365 (F) Disclosure of trade secrets or commercial or financial information that is privileged
 366 or confidential;

367 (G) Disclosure of information of a personal nature where disclosure would constitute
 368 a clearly unwarranted invasion of personal privacy;

369 (H) Disclosure of investigative records compiled for law enforcement purposes;

370 (I) Disclosure of information related to any investigative reports prepared by or on
 371 behalf of or for use of the Commission or other committee charged with responsibility
 372 of investigation or determination of compliance issues pursuant to the Compact; or

373 (J) Matters specifically exempted from disclosure by federal or member state statute.

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

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

383 (f) Financing of the Commission

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

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

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

395 (4) The Commission shall not incur obligations of any kind prior to securing the funds
396 adequate to meet the same; nor shall the Commission pledge the credit of any of the
397 member states, except by and with the authority of the member state.

398 (5) The Commission shall keep accurate accounts of all receipts and disbursements. The
399 receipts and disbursements of the Commission shall be subject to the audit and
400 accounting procedures established under its bylaws. However, all receipts and
401 disbursements of funds handled by the Commission shall be audited yearly by a certified
402 or licensed public accountant, and the report of the audit shall be included in and become
403 part of the annual report of the Commission.

404 (g) Qualified Immunity, Defense, and Indemnification

405 (1) The members, officers, executive director, employees and representatives of the
406 Commission shall be immune from suit and liability, either personally or in their official
407 capacity, for any claim for damage to or loss of property or personal injury or other civil
408 liability caused by or arising out of any actual or alleged act, error or omission that
409 occurred, or that the person against whom the claim is made had a reasonable basis for
410 believing occurred within the scope of Commission employment, duties or
411 responsibilities; provided that nothing in this paragraph shall be construed to protect any
412 such person from suit and/or liability for any damage, loss, injury, or liability caused by
413 the intentional or willful or wanton misconduct of that person.

414 (2) The Commission shall defend any member, officer, executive director, employee or
 415 representative of the Commission in any civil action seeking to impose liability arising
 416 out of any actual or alleged act, error, or omission that occurred within the scope of
 417 Commission employment, duties, or responsibilities, or that the person against whom the
 418 claim is made had a reasonable basis for believing occurred within the scope of
 419 Commission employment, duties, or responsibilities; provided that nothing herein shall
 420 be construed to prohibit that person from retaining his or her own counsel; and provided
 421 further, that the actual or alleged act, error, or omission did not result from that person's
 422 intentional or willful or wanton misconduct.

423 (3) The Commission shall indemnify and hold harmless any member, officer, executive
 424 director, employee, or representative of the Commission for the amount of any settlement
 425 or judgment obtained against that person arising out of any actual or alleged act, error or
 426 omission that occurred within the scope of Commission employment, duties, or
 427 responsibilities, or that such person had a reasonable basis for believing occurred within
 428 the scope of Commission employment, duties, or responsibilities, provided that the actual
 429 or alleged act, error, or omission did not result from the intentional or willful or wanton
 430 misconduct of that person.

431 SECTION 8. DATA SYSTEM

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

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

438 (1) Identifying information;

439 (2) Licensure data;

440 (3) Adverse actions against a license or compact privilege;

441 (4) Nonconfidential information related to alternative program participation;

442 (5) Any denial of application for licensure; and the reason(s) for such denial; and

443 (6) Other information that may facilitate the administration of this Compact, as
 444 determined by the rules of the Commission.

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

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

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

453 (f) Any information submitted to the data system that is subsequently required to be
 454 expunged by the laws of the member state contributing the information shall be removed
 455 from the data system.

456 SECTION 9. RULEMAKING

457 (a) The Commission shall exercise its rulemaking powers pursuant to the criteria set forth
 458 in this Section and the rules adopted thereunder. Rules and amendments shall become
 459 binding as of the date specified in each rule or amendment.

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

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

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

469 (1) On the website of the Commission or other publicly accessible platform; and

470 (2) On the website of each member state physical therapy licensing board or other
 471 publicly accessible platform or the publication in which each state would otherwise
 472 publish proposed rules.

473 (e) The Notice of Proposed Rulemaking shall include:

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

476 (2) The text of the proposed rule or amendment and the reason for the proposed rule;

477 (3) A request for the comments on the proposed rule from any interested person; and

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

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

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

484 (1) At least twenty-five (25) persons;

485 (2) A state or federal governmental subdivision or agency; or

486 (3) An Association having at least twenty-five (25) members.

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

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

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

497 (3) All hearings will be recorded. A copy of the recording will be made available on
498 request.

499 (4) Nothing in this section shall be construed as requiring a separate hearing on each
500 rule. Rules may be grouped for the convenience of the Commission at hearings required
501 by this section.

502 (i) Following the scheduled hearing date, or by the close of business on the scheduled
503 hearing date if the hearing was not held, the Commission shall consider all written and oral
504 comments received.

505 (j) If no written notice of intent to attend the public hearing by interested parties is
506 received, the Commission may proceed with promulgation of the proposed rule without a
507 public hearing.

508 (k) The Commission shall, by majority vote of all members, take final action on the
509 proposed rule and shall determine the effective date of the rule, if any, based on the
510 rulemaking record and the full text of the rule.

511 (l) Upon determination that an emergency exists, the Commission may consider and adopt
512 an emergency rule without prior notice, opportunity for comment, or hearing, provided that
513 the usual rulemaking procedures provided in the Compact and in this section shall be
514 retroactively applied to the rule as soon as reasonably possible, in no event later than ninety
515 (90) days after the effective date of the rule. For the purposes of this provision, an
516 emergency rule is one that must be adopted immediately in order to:

517 (1) Meet an imminent threat to public health, safety, or welfare;

518 (2) Prevent a loss of Commission or member state funds;

519 (3) Meet a deadline for the promulgation of an administrative rule that is established by
520 federal law or rule; or

521 (4) Protect public health and safety.

522 (m) The Commission or an authorized committee of the Commission may direct revisions
 523 to a previously adopted rule or amendment for purposes of correcting typographical errors,
 524 errors in format, errors in consistency, or grammatical errors. Public notice of any
 525 revisions shall be posted on the website of the Commission. The revision shall be subject
 526 to challenge by any person for a period of thirty (30) days after posting. The revision may
 527 be challenged only on grounds that the revision results in a material change to a rule. A
 528 challenge shall be made in writing, and delivered to the chair of the Commission prior to
 529 the end of the notice period. If no challenge is made, the revision will take effect without
 530 further action. If the revision is challenged, the revision may not take effect without the
 531 approval of the Commission.

532 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

533 (a) Oversight

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

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

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

545 (b) Default, Technical Assistance, and termination

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

549 (A) Provide written notice to the defaulting state and other member states of the nature
 550 of the default, the proposed means of curing the default and/or any other action to be
 551 taken by the Commission; and

552 (B) Provide remedial training and specific technical assistance regarding the default.

553 (2) If a state in default fails to cure the default, the defaulting state may be terminated
 554 from the Compact upon an affirmative vote of a majority of the member states, and all
 555 rights, privileges and benefits conferred by this Compact may be terminated on the
 556 effective date of termination. A cure of the default does not relieve the offending state
 557 of obligations or liabilities incurred during the period of default.

558 (3) Termination of membership in the Compact shall be imposed only after all other
559 means of securing compliance have been exhausted. Notice of intent to suspend or
560 terminate shall be given by the Commission to the governor, the majority and minority
561 leaders of the defaulting state's legislature, and each of the member states.

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

565 (5) The Commission shall not bear any costs related to a state that is found to be in
566 default or that has been terminated from the Compact, unless agreed upon in writing
567 between the Commission and the defaulting state.

568 (6) The defaulting state may appeal the action of the Commission by petitioning the U.S.
569 District Court for the District of Columbia or the federal district where the Commission
570 has its principal offices. The prevailing member shall be awarded all costs of such
571 litigation, including reasonable attorney's fees.

572 (c) Dispute Resolution

573 (1) Upon request by a member state, the Commission shall attempt to resolve disputes
574 related to the Compact that arise among member states and between member and
575 nonmember states.

576 (2) The Commission shall promulgate a rule providing for both mediation and binding
577 dispute resolution for disputes as appropriate.

578 (d) Enforcement

579 (1) The Commission, in the reasonable exercise of its discretion, shall enforce the
580 provisions and rules of this Compact.

581 (2) By majority vote, the Commission may initiate legal action in the United States
582 District Court for the District of Columbia or the federal district where the Commission
583 has its principal offices against a member state in default to enforce compliance with the
584 provisions of the Compact and its promulgated rules and bylaws. The relief sought may
585 include both injunctive relief and damages. In the event judicial enforcement is
586 necessary, the prevailing member shall be awarded all costs of such litigation, including
587 reasonable attorney's fees.

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

590 SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE
591 COMMISSION FOR PHYSICAL THERAPY PRACTICE
592 AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

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

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

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

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

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

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

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

615 SECTION 12. CONSTRUCTION AND SEVERABILITY

616 This Compact shall be liberally construed so as to effectuate the purposes thereof. The
617 provisions of this Compact shall be severable and if any phrase, clause, sentence or
618 provision of this Compact is declared to be contrary to the constitution of any party state
619 or of the United States or the applicability thereof to any government, agency, person or
620 circumstance is held invalid, the validity of the remainder of this Compact and the
621 applicability thereof to any government, agency, person or circumstance shall not be
622 affected thereby. If this Compact shall be held contrary to the constitution of any party
623 state, the Compact shall remain in full force and effect as to the remaining party states and
624 in full force and effect as to the party state affected as to all severable matters.

625

SECTION 5.

626 All laws and parts of laws in conflict with this Act are repealed.