

1 ENGROSSED HOUSE
2 BILL NO. 3336

By: Roberts (Sean) and Osburn
(Mike) of the House

3 and

4 Yen of the Senate

5
6
7 An Act relating to physical therapy; creating the
8 Physical Therapy Licensure Compact; providing for
codification; and providing an effective date.

9
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11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 887.19 of Title 59, unless there
14 is created a duplication in numbering, reads as follows:

15 Physical Therapy Licensure Compact

16 ARTICLE I

17 Findings and Declaration of Purpose

18 A. The purpose of this Compact is to facilitate interstate
19 practice of physical therapy with the goal of improving public
20 access to physical therapy services. The practice of physical
21 therapy occurs in the state where the patient/client is located at
22 the time of the patient/client encounter. The Compact preserves the
23 regulatory authority of states to protect public health and safety
24 through the current system of state licensure.

1 B. This Compact is designed to achieve the following
2 objectives:

3 1. Increase public access to physical therapy services by
4 providing for the mutual recognition of other member state licenses;

5 2. Enhance the states' ability to protect the public's health
6 and safety;

7 3. Encourage the cooperation of member states in regulating
8 multistate physical therapy practice;

9 4. Support spouses of relocating military members;

10 5. Enhance the exchange of licensure, investigative and
11 disciplinary information between member states; and

12 6. Allow a remote state to hold a provider of services with a
13 compact privilege in that state accountable to that state's practice
14 standards.

15 ARTICLE II

16 Definitions

17 As used in this Compact:

18 1. "Active duty military" means full-time duty status in the
19 active uniformed service of the United States, including members of
20 the National Guard and Reserve on active duty orders pursuant to 10
21 U.S.C., Sections 1209 and 1211;

22 2. "Adverse action" means disciplinary action taken by a
23 physical therapy licensing board based upon misconduct, unacceptable
24 performance, or a combination of both;

1 3. "Alternative program" means a nondisciplinary monitoring or
2 practice remediation process approved by a physical therapy
3 licensing board. This includes, but is not limited to, substance
4 abuse issues;

5 4. "Compact privilege" means the authorization granted by a
6 remote state to allow a licensee from another member state to
7 practice as a physical therapist or work as a physical therapist
8 assistant in the remote state under its laws and rules. The
9 practice of physical therapy occurs in the member state where the
10 patient/client is located at the time of the patient/client
11 encounter;

12 5. "Continuing competence" means a requirement, as a condition
13 of license renewal, to provide evidence of participation in, and/or
14 completion of, educational and professional activities relevant to
15 practice or area of work;

16 6. "Data system" means a repository of information about
17 licensees, including examination, licensure, investigative, compact
18 privilege and adverse action;

19 7. "Encumbered license" means a license that a physical therapy
20 licensing board has limited in any way;

21 8. "Executive Board" means a group of directors elected or
22 appointed to act on behalf of, and within the powers granted to them
23 by, the Commission;

1 9. "Home state" means the member state that is the licensee's
2 primary state of residence;

3 10. "Investigative information" means information, records and
4 documents received or generated by a physical therapy licensing
5 board pursuant to an investigation;

6 11. "Jurisprudence requirement" means the assessment of an
7 individual's knowledge of the laws and rules governing the practice
8 of physical therapy in a state;

9 12. "Licensee" means an individual who currently holds an
10 authorization from the state to practice as a physical therapist or
11 to work as a physical therapist assistant;

12 13. "Member state" means a state that has enacted the Compact;

13 14. "Party state" means any member state in which a licensee
14 holds a current license or compact privilege or is applying for a
15 license or compact privilege;

16 15. "Physical therapist" means an individual who is licensed by
17 a state to practice physical therapy;

18 16. "Physical therapist assistant" means an individual who is
19 licensed/certified by a state and who assists the physical therapist
20 in selected components of physical therapy;

21 17. "Physical therapy", "physical therapy practice", and "the
22 practice of physical therapy" mean the care and services provided by
23 or under the direction and supervision of a licensed physical
24 therapist;

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

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

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

21. "Rule" means a regulation, principle or directive promulgated by the Commission that has the force of law.

ARTICLE III

State Participation in the Compact

A. To participate in the Compact, a state shall:

1. Participate fully in the Commission's data system, including using the Commission's unique identifier as defined in rules;

2. Have a mechanism in place for receiving and investigating complaints about licensees;

3. Notify the Commission, in compliance with the terms of the Compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

4. Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of

1 the Federal Bureau of Investigation record search on criminal
2 background checks and use the results in making licensure decisions
3 in accordance with this Compact;

4 5. Comply with the rules of the Commission;

5 6. Utilize a recognized national examination as a requirement
6 for licensure pursuant to the rules of the Commission; and

7 7. Have continuing competence requirements as a condition for
8 license renewal.

9 B. Upon adoption of this statute, the member state shall have
10 the authority to obtain biometric-based information from each
11 physical therapy licensure applicant and submit this information to
12 the Federal Bureau of Investigation for a criminal background check
13 in accordance with 28 U.S.C., Section 534 and 42 U.S.C., Section
14 14616.

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

18 D. Member states may charge a fee for granting a compact
19 privilege.

20 ARTICLE IV

21 Compact Privilege

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

24 1. Hold a license in the home state;

2. Have no encumbrance on any state license;

3. Be eligible for a compact privilege in any member state in accordance with this Compact;

4. Have not had any adverse action against any license or compact privilege within the previous two (2) years;

5. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);

6. Pay any applicable fees, including any state fee, for the compact privilege;

7. Meet any jurisprudence requirements established by the remote state(s) in which the licensee is seeking a compact privilege; and

8. Report to the Commission adverse action taken by any nonmember state within thirty (30) days from the date the adverse action is taken.

B. The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of this Compact to maintain the compact privilege in the remote state.

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

D. A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a

1 licensee's compact privilege in the remote state for a specific
2 period of time, impose fines and/or take any other necessary actions
3 to protect the health and safety of its citizens. The licensee is
4 not eligible for a compact privilege in any state until the specific
5 time for removal has passed and all fines are paid.

6 E. If a home state license is encumbered, the licensee shall
7 lose the compact privilege in any remote state until the following
8 occur:

- 9 1. The home state license is no longer encumbered; and
- 10 2. Two (2) years have elapsed from the date of the adverse
11 action.

12 F. Once an encumbered license in the home state is restored to
13 good standing, the licensee must meet the requirements of this
14 Compact to obtain a compact privilege in any remote state.

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

- 18 1. The specific period of time for which the compact privilege
19 was removed has ended;
- 20 2. All fines have been paid; and
- 21 3. Two (2) years have elapsed from the date of the adverse
22 action.

1 H. Once the requirements of this Compact have been met, the
2 license must meet the applicable requirements in this Compact to
3 obtain a compact privilege in a remote state.

4 ARTICLE V

5 Active Duty Military Personnel or their Spouses

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

- 9 1. Home of record;
- 10 2. Permanent Change of Station (PCS); or
- 11 3. State of current residence if it is different than the PCS
12 state or home of record.

13 ARTICLE VI

14 Adverse Actions

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

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

20 C. Nothing in this Compact shall override a member state's
21 decision that participation in an alternative program may be used in
22 lieu of adverse action and that such participation shall remain
23 nonpublic if required by the member state's laws. Member states
24 shall require licensees who enter any alternative programs in lieu

1 of discipline to agree not to practice in any other member state
2 during the term of the alternative program without prior
3 authorization from such other member state.

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

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

10 1. Take adverse actions as set forth in this Compact against a
11 licensee's compact privilege in the state;

12 2. Issue subpoenas for both hearings and investigations that
13 require the attendance and testimony of witnesses, and the
14 production of evidence. Subpoenas issued by a physical therapy
15 licensing board in a party state for the attendance and testimony of
16 witnesses, and/or the production of evidence from another party
17 state, shall be enforced in the latter state by any court of
18 competent jurisdiction, according to the practice and procedure of
19 that court applicable to subpoenas issued in proceedings pending
20 before it. The issuing authority shall pay any witness fees, travel
21 expenses, mileage and other fees required by the service statutes of
22 the state where the witnesses and/or evidence is located; and
23
24

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

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

G. Member states shall share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

ARTICLE VII

Establishment of the Physical Therapy Compact Commission

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

1. The Commission shall be an instrumentality of the Compact states.

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

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

3 B. Each member state shall have and be limited to one delegate
4 selected by that member state's licensing board.

5 1. The delegate shall be a current member of the licensing
6 board, who is a physical therapist, physical therapist assistant,
7 public member or the board administrator.

8 2. Any delegate may be removed or suspended from office as
9 provided by the law of the state from which the delegate is
10 appointed.

11 3. The member state board shall fill any vacancy occurring in
12 the Commission.

13 4. Each delegate shall be entitled to one vote with regard to
14 the promulgation of rules and creation of bylaws and shall otherwise
15 have an opportunity to participate in the business and affairs of
16 the Commission.

17 5. A delegate shall vote in person or by such other means as
18 provided in the bylaws. The bylaws may provide for delegates'
19 participation in meetings by telephone or other means of
20 communication.

21 6. The Commission shall meet at least once during each calendar
22 year. Additional meetings shall be held as set forth in the bylaws.

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

24 1. Establish the fiscal year of the Commission;

1 2. Establish bylaws;

2 3. Maintain its financial records in accordance with the
3 bylaws;

4 4. Meet and take such actions as are consistent with the
5 provisions of this Compact and the bylaws;

6 5. Promulgate uniform rules to facilitate and coordinate
7 implementation and administration of this Compact. The rules shall
8 have the force and effect of law and shall be binding in all member
9 states;

10 6. Bring and prosecute legal proceedings or actions in the name
11 of the Commission; provided, that the standing of any state physical
12 therapy licensing board to sue or be sued under applicable law shall
13 not be affected;

14 7. Purchase and maintain insurance and bonds;

15 8. Borrow, accept or contract for services of personnel,
16 including, but not limited to, employees of a member state;

17 9. Hire employees, elect or appoint officers, fix compensation,
18 define duties, grant such individuals appropriate authority to carry
19 out the purposes of the Compact, and to establish the Commission's
20 personnel policies and programs relating to conflicts of interest,
21 qualifications of personnel and other related personnel matters;

22 10. Accept any and all appropriate donations and grants of
23 money, equipment, supplies, materials and services, and to receive,
24 utilize and dispose of the same; provided, that at all times the

1 Commission shall avoid any appearance of impropriety and/or conflict
2 of interest;

3 11. Lease, purchase, accept appropriate gifts or donations of,
4 or otherwise to own, hold, improve or use, any property, real,
5 personal or mixed; provided, that at all times the Commission shall
6 avoid any appearance of impropriety;

7 12. Sell, convey, mortgage, pledge, lease, exchange, abandon or
8 otherwise dispose of any property real, personal or mixed;

9 13. Establish a budget and make expenditures;

10 14. Borrow money;

11 15. Appoint committees, including standing committees comprised
12 of members, state regulators, state legislators or their
13 representatives, and consumer representatives, and such other
14 interested persons as may be designated in this Compact and the
15 bylaws;

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

18 17. Establish and elect an Executive Board; and

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

22 D. The Executive Board shall have the power to act on behalf of
23 the Commission according to the terms of this Compact.

24 1. The Executive Board shall be comprised of nine (9) members:

- a. seven voting members who are elected by the Commission from the current membership of the Commission,
- b. one ex officio, nonvoting member from the recognized national physical therapy professional association, and
- c. one ex officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

2. The ex officio members shall be selected by their respective organizations.

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

4. The Executive Board shall meet at least annually.

5. The Executive Board shall have the following duties and responsibilities:

- a. recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such as annual dues, and any commission Compact fee charged to licensees for the compact privilege,
- b. ensure Compact administration services are appropriately provided, contractual or otherwise,
- c. prepare and recommend the budget,

- d. maintain financial records on behalf of the Commission,
- e. monitor Compact compliance of member states and provide compliance reports to the Commission,
- f. establish additional committees as necessary, and
- g. other duties as provided in rules or bylaws.

E. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in this Compact.

1. The Commission or the Executive Board or other committees of the Commission may convene in a closed, nonpublic meeting if the Commission or Executive Board or other committees of the Commission must discuss:

- a. noncompliance of a member state with its obligations under the Compact,
- b. the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures,
- c. current, threatened or reasonably anticipated litigation,
- d. negotiation of contracts for the purchase, lease or sale of goods, services or real estate,

- e. accusing any person of a crime or formally censuring any person,
- f. disclosure of trade secrets or commercial or financial information that is privileged or confidential,
- g. disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy,
- h. disclosure of investigative records compiled for law enforcement purposes,
- i. disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact, or
- j. matters specifically exempted from disclosure by federal or member state statute.

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

3. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents

1 considered in connection with an action shall be identified in such
2 minutes. All minutes and documents of a closed meeting shall remain
3 under seal, subject to release by a majority vote of the Commission
4 or order of a court of competent jurisdiction.

5 F. The Commission shall pay, or provide for the payment of, the
6 reasonable expenses of its establishment, organization and ongoing
7 activities.

8 1. The Commission may accept any and all appropriate revenue
9 sources, donations, and grants of money, equipment, supplies,
10 materials and services.

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

20 3. The Commission shall not incur obligations of any kind prior
21 to securing the funds adequate to meet the same, nor shall the
22 Commission pledge the credit of any of the member states, except by
23 and with the authority of the member state.
24

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

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

20 1. The Commission shall defend any member, officer, executive
21 director, employee or representative of the Commission in any civil
22 action seeking to impose liability arising out of any actual or
23 alleged act, error or omission that occurred within the scope of
24 Commission employment, duties or responsibilities, or that the

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

8 2. The Commission shall indemnify and hold harmless any member,
9 officer, executive director, employee or representative of the
10 Commission for the amount of any settlement or judgment obtained
11 against that person arising out of any actual or alleged act, error
12 or omission that occurred within the scope of Commission employment,
13 duties or responsibilities, or that such person had a reasonable
14 basis for believing occurred within the scope of Commission
15 employment, duties or responsibilities, provided that the actual or
16 alleged act, error or omission did not result from the intentional
17 or willful or wanton misconduct of that person.

18 ARTICLE VIII

19 Data System

20 A. The Commission shall provide for the development,
21 maintenance and utilization of a coordinated database and reporting
22 system containing licensure, adverse action and investigative
23 information on all licensed individuals in member states.

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

5 1. Identifying information;
6 2. Licensure data;
7 3. Adverse actions against a license or compact privilege;
8 4. Nonconfidential information related to alternative program
9 participation;

10 5. Any denial of application for licensure, and the reason(s)
11 for such denial; and

12 6. Other information that may facilitate the administration of
13 this Compact, as determined by the rules of the Commission.

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

16 D. The Commission shall promptly notify all member states of
17 any adverse action taken against a licensee or an individual
18 applying for a license. Adverse action information pertaining to a
19 licensee in any member state will be available to any other member
20 state.

21 E. Member states contributing information to the data system
22 may designate information that may not be shared with the public
23 without the express permission of the contributing state.
24

1 F. Any information submitted to the data system that is
2 subsequently required to be expunged by the laws of the member state
3 contributing the information shall be removed from the data system.

4 ARTICLE IX

5 Rulemaking

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

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

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

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

21 1. On the website of the Commission or other publicly
22 accessible platform; and

23 2. On the website of each member state physical therapy
24 licensing board or other publicly accessible platform or the

1 publication in which each state would otherwise publish proposed
2 rules.

3 E. The Notice of Proposed Rulemaking shall include:

4 1. The proposed time, date and location of the meeting in which
5 the rule will be considered and voted upon;

6 2. The text of the proposed rule or amendment and the reason
7 for the proposed rule;

8 3. A request for comments on the proposed rule from any
9 interested person; and

10 4. The manner in which interested persons may submit notice to
11 the Commission of their intention to attend the public hearing and
12 any written comments.

13 F. Prior to adoption of a proposed rule, the Commission shall
14 allow persons to submit written data, facts, opinions and arguments,
15 which shall be made available to the public.

16 G. The Commission shall grant an opportunity for a public
17 hearing before it adopts a rule or amendment if a hearing is
18 requested by:

19 1. At least twenty-five persons;

20 2. A state or federal governmental subdivision or agency; or

21 3. An association having at least twenty-five members.

22 H. If a hearing is held on the proposed rule or amendment, the
23 Commission shall publish the place, time and date of the scheduled
24 public hearing. If the hearing is held via electronic means, the

1 Commission shall publish the mechanism for access to the electronic
2 hearing.

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

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

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

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

16 I. Following the scheduled hearing date, or by the close of
17 business on the scheduled hearing date if the hearing was not held,
18 the Commission shall consider all written and oral comments
19 received.

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

23 K. The Commission shall, by majority vote of all members, take
24 final action on the proposed rule and shall determine the effective

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

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

- 11 1. Meet an imminent threat to public health, safety or welfare;
- 12 2. Prevent a loss of Commission or member state funds;
- 13 3. Meet a deadline for the promulgation of an administrative
14 rule that is established by federal law or rule; or
- 15 4. Protect public health and safety.

16 M. The Commission or an authorized committee of the Commission
17 may direct revisions to a previously adopted rule or amendment for
18 purposes of correcting typographical errors, errors in format,
19 errors in consistency or grammatical errors. Public notice of any
20 revisions shall be posted on the website of the Commission. The
21 revision shall be subject to challenge by any person for a period of
22 thirty (30) days after posting. The revision may be challenged only
23 on grounds that the revision results in a material change to a rule.
24 A challenge shall be made in writing, and delivered to the chair of

1 the Commission prior to the end of the notice period. If no
2 challenge is made, the revision will take effect without further
3 action. If the revision is challenged, the revision may not take
4 effect without the approval of the Commission.

5 ARTICLE X

6 Oversight, Dispute Resolution, and Enforcement

7 A. The executive, legislative and judicial branches of state
8 government in each member state shall enforce this Compact and take
9 all actions necessary and appropriate to effectuate the Compact's
10 purposes and intent. The provisions of this Compact and the rules
11 promulgated hereunder shall have standing as statutory law.

12 B. All courts shall take judicial notice of the Compact and the
13 rules in any judicial or administrative proceeding in a member state
14 pertaining to the subject matter of this Compact which may affect
15 the powers, responsibilities or actions of the Commission.

16 C. The Commission shall be entitled to receive service of
17 process in any such proceeding, and shall have standing to intervene
18 in such a proceeding for all purposes. Failure to provide service
19 of process to the Commission shall render a judgment or order void
20 as to the Commission, this Compact, or promulgated rules.

21 D. 1. If the Commission determines that a member state has
22 defaulted in the performance of its obligations or responsibilities
23 under this Compact or the promulgated rules, the Commission shall:
24

- a. provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission, and
- b. provide remedial training and specific technical assistance regarding the default.

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

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

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

1 5. The Commission shall not bear any costs related to a state
2 that is found to be in default or that has been terminated from the
3 Compact, unless agreed upon in writing between the Commission and
4 the defaulting state.

5 6. The defaulting state may appeal the action of the Commission
6 by petitioning the U.S. District Court for the District of Columbia
7 or the federal district where the Commission has its principal
8 offices. The prevailing member shall be awarded all costs of such
9 litigation, including reasonable attorney fees.

10 E. 1. Upon request by a member state, the Commission shall
11 attempt to resolve disputes related to the Compact that arise among
12 member states and between member and nonmember states.

13 2. The Commission shall promulgate a rule providing for both
14 mediation and binding dispute resolution for disputes as
15 appropriate.

16 F. 1. The Commission, in the reasonable exercise of its
17 discretion, shall enforce the provisions and rules of this Compact.

18 2. By majority vote, the Commission may initiate legal action
19 in the United States District Court for the District of Columbia or
20 the federal district where the Commission has its principal offices
21 against a member state in default to enforce compliance with the
22 provisions of the Compact and its promulgated rules and bylaws. The
23 relief sought may include both injunctive relief and damages. In
24 the event judicial enforcement is necessary, the prevailing member

1 shall be awarded all costs of such litigation, including reasonable
2 attorney fees.

3 3. The remedies herein shall not be the exclusive remedies of
4 the Commission. The Commission may pursue any other remedies
5 available under federal or state law.

6 ARTICLE XI

7 Date of Implementation, Associated Rules, Withdrawal or Amendment

8 A. The Compact shall come into effect on the date on which the
9 Compact statute is enacted into law in the tenth member state. The
10 provisions, which become effective at that time, shall be limited to
11 the powers granted to the Commission relating to assembly and the
12 promulgation of rules. Thereafter, the Commission shall meet and
13 exercise rulemaking powers necessary to the implementation and
14 administration of the Compact.

15 B. Any state that joins the Compact subsequent to the
16 Commission's initial adoption of the rules shall be subject to the
17 rules as they exist on the date on which the Compact becomes law in
18 that state. Any rule that has been previously adopted by the
19 Commission shall have the full force and effect of law on the day
20 the Compact becomes law in that state.

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

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

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

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

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

ARTICLE XII

Construction and Severability

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any party state, the Compact shall remain in full

1 force and effect as to the remaining party states and in full force
2 and effect as to the party state affected as to all severable
3 matters.

4 SECTION 2. This act shall become effective November 1, 2018.

5 Passed the House of Representatives the 8th day of March, 2018.

6
7
8 Presiding Officer of the House
of Representatives

9 Passed the Senate the ____ day of _____, 2018.

10
11
12 Presiding Officer of the Senate