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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 729

01/23/2023 Authored by Reyer, Schomacker, Bierman, Kiel, Elkins and others
The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to health occupations; creating a physical therapy interstate licensure
1.3 compact; proposing coding for new law in Minnesota Statutes, chapter 148.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. [148.675] PHYSICAL THERAPY LICENSURE COMPACT.

1.6 The physical therapy licensure compact is enacted into law and entered into with all
1.7 other jurisdictions legally joining in the compact in the form substantially specified in this
1.8 section.

1.9 ARTICLE I

1.10 PURPOSE

1.11 The purpose of this compact is to facilitate interstate practice of physical therapy with
1.12 the goal of improving public access to physical therapy services. The practice of physical
1.13 therapy occurs in the state where the patient or client is located at the time of the patient or
1.14 client encounter. The compact preserves the regulatory authority of states to protect public
1.15 health and safety through the current system of state licensure.

1.16 This compact is designed to achieve the following objectives:

1.17 (1) increase public access to physical therapy services by providing for the mutual
1.18 recognition of other member state licenses;

1.19 (2) enhance the states' ability to protect the public's health and safety;

1.20 (3) encourage the cooperation of member states in regulating multistate physical therapy
1.21 practice;

2.1 (4) support spouses of relocating military members;

2.2 (5) enhance the exchange of licensure, investigative, and disciplinary information between
2.3 member states; and

2.4 (6) allow a remote state to hold a provider of services with a compact privilege in that
2.5 state accountable to that state's practice standards.

2.6 **ARTICLE II**

2.7 **DEFINITIONS**

2.8 As used in this compact, and except as otherwise provided, the following terms have
2.9 the meanings given them.

2.10 (a) "Active duty military" means full-time duty status in the active uniformed service
2.11 of the United States, including members of the National Guard and Reserve on active duty
2.12 orders pursuant to United States Code, title 10, chapters 1209 and 1211.

2.13 (b) "Adverse action" means disciplinary action taken by a physical therapy licensing
2.14 board based upon misconduct, unacceptable performance, or a combination of both.

2.15 (c) "Alternative program" means a nondisciplinary monitoring or practice remediation
2.16 process approved by a physical therapy licensing board. Alternative program includes but
2.17 is not limited to substance abuse issues.

2.18 (d) "Compact privilege" means the authorization granted by a remote state to allow a
2.19 licensee from another member state to practice as a physical therapist or work as a physical
2.20 therapist assistant in the remote state under its laws and rules. The practice of physical
2.21 therapy occurs in the member state where the patient or client is located at the time of the
2.22 patient or client encounter.

2.23 (e) "Continuing competence" means a requirement, as a condition of license renewal,
2.24 to provide evidence of participation in, or completion of, educational and professional
2.25 activities relevant to practice or area of work.

2.26 (f) "Data system" means a repository of information about licensees, including
2.27 examination, licensure, investigative, compact privilege, and adverse action.

2.28 (g) "Encumbered license" means a license that a physical therapy licensing board has
2.29 limited in any way.

2.30 (h) "Executive board" means a group of directors elected or appointed to act on behalf
2.31 of, and within the powers granted to them by, the commission.

- 3.1 (i) "Home state" means the member state that is the licensee's primary state of residence.
- 3.2 (j) "Investigative information" means information, records, and documents received or
3.3 generated by a physical therapy licensing board pursuant to an investigation.
- 3.4 (k) "Jurisprudence requirement" means the assessment of an individual's knowledge of
3.5 the laws and rules governing the practice of physical therapy in a state.
- 3.6 (l) "Licensee" means an individual who currently holds an authorization from the state
3.7 to practice as a physical therapist or to work as a physical therapist assistant.
- 3.8 (m) "Member state" means a state that has enacted the compact.
- 3.9 (n) "Party state" means any member state in which a licensee holds a current license or
3.10 compact privilege or is applying for a license or compact privilege.
- 3.11 (o) "Physical therapist" means an individual who is licensed by a state to practice physical
3.12 therapy.
- 3.13 (p) "Physical therapist assistant" means an individual who is licensed or certified by a
3.14 state and who assists the physical therapist in selected components of physical therapy.
- 3.15 (q) "Physical therapy," "physical therapy practice," or "the practice of physical therapy"
3.16 means the care and services provided by or under the direction and supervision of a licensed
3.17 physical therapist.
- 3.18 (r) "Physical Therapy Compact Commission" or "commission" means the national
3.19 administrative body whose membership consists of all states that have enacted the compact.
- 3.20 (s) "Physical therapy licensing board" or "licensing board" means the agency of a state
3.21 that is responsible for the licensing and regulation of physical therapists and physical therapist
3.22 assistants.
- 3.23 (t) "Remote state" means a member state other than the home state where a licensee is
3.24 exercising or seeking to exercise the compact privilege.
- 3.25 (u) "Rule" means a regulation, principle, or directive promulgated by the commission
3.26 that has the force of law.
- 3.27 (v) "State" means any state, commonwealth, district, or territory of the United States
3.28 that regulates the practice of physical therapy.

ARTICLE III

STATE PARTICIPATION IN THE COMPACT

- 3.29
- 3.30
- 3.31 (a) To participate in the compact, a state must:

4.1 (1) participate fully in the commission's data system, including using the commission's
4.2 unique identifier as defined in rules;

4.3 (2) have a mechanism in place for receiving and investigating complaints about licensees;

4.4 (3) notify the commission, in compliance with the terms of the compact and rules, of
4.5 any adverse action or the availability of investigative information regarding a licensee;

4.6 (4) fully implement a criminal background check requirement, within a time frame
4.7 established by rule, by receiving the results of the Federal Bureau of Investigation record
4.8 search on criminal background checks and use the results in making licensure decisions in
4.9 accordance with paragraph (b);

4.10 (5) comply with the rules of the commission;

4.11 (6) utilize a recognized national examination as a requirement for licensure pursuant to
4.12 the rules of the commission; and

4.13 (7) have continuing competence requirements as a condition for license renewal.

4.14 (b) Upon adoption of this compact, the member state shall have the authority to obtain
4.15 biometric-based information from each physical therapy licensure applicant and submit this
4.16 information to the Federal Bureau of Investigation for a criminal background check in
4.17 accordance with United States Code, title 28, section 534, and United States Code, title 42,
4.18 section 14616.

4.19 (c) A member state shall grant the compact privilege to a licensee holding a valid
4.20 unencumbered license in another member state in accordance with the terms of the compact
4.21 and rules.

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

4.23 ARTICLE IV

4.24 COMPACT PRIVILEGE

4.25 (a) To exercise the compact privilege under the terms and provisions of the compact,
4.26 the licensee shall:

4.27 (1) hold a license in the home state;

4.28 (2) have no encumbrance on any state license;

4.29 (3) be eligible for a compact privilege in any member state in accordance with paragraphs
4.30 (d), (g), and (h);

5.1 (4) have not had any adverse action against any license or compact privilege within the
5.2 previous two years;

5.3 (5) notify the commission that the licensee is seeking the compact privilege within a
5.4 remote state or states;

5.5 (6) pay any applicable fees, including any state fee, for the compact privilege;

5.6 (7) meet any jurisprudence requirements established by the remote state or states in
5.7 which the licensee is seeking a compact privilege; and

5.8 (8) report to the commission adverse action taken by any nonmember state within 30
5.9 days from the date the adverse action is taken.

5.10 (b) The compact privilege is valid until the expiration date of the home license. The
5.11 licensee must comply with the requirements of paragraph (a) to maintain the compact
5.12 privilege in the remote state.

5.13 (c) A licensee providing physical therapy in a remote state under the compact privilege
5.14 shall function within the laws and regulations of the remote state.

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

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

5.23 (1) the home state license is no longer encumbered; and

5.24 (2) two years have elapsed from the date of the adverse action.

5.25 (f) Once an encumbered license in the home state is restored to good standing, the
5.26 licensee must meet the requirements of paragraph (a) to obtain a compact privilege in any
5.27 remote state.

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

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

5.31 (2) all fines have been paid; and

6.1 (3) two years have elapsed from the date of the adverse action.

6.2 (h) Once the requirements of paragraph (g) have been met, the licensee must meet the
6.3 requirements in paragraph (a) to obtain a compact privilege in a remote state.

6.4 **ARTICLE V**

6.5 **ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

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

6.8 (1) home of record;

6.9 (2) permanent change of station (PCS) state; or

6.10 (3) state of current residence if different than the PCS state or home of record.

6.11 **ARTICLE VI**

6.12 **ADVERSE ACTIONS**

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

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

6.18 (c) Nothing in this compact shall override a member state's decision that participation
6.19 in an alternative program may be used in lieu of adverse action and that such participation
6.20 shall remain nonpublic if required by the member state's laws. Member states must require
6.21 licensees who enter any alternative programs in lieu of discipline to agree not to practice
6.22 in any other member state during the term of the alternative program without prior
6.23 authorization from such other member state.

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

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

6.28 (1) take adverse actions as set forth in article IV, paragraph (d), against a licensee's
6.29 compact privilege in the state;

6.30 (2) issue subpoenas for both hearings and investigations that require the attendance and
6.31 testimony of witnesses and the production of evidence. Subpoenas issued by a physical

7.1 therapy licensing board in a party state for the attendance and testimony of witnesses, or
 7.2 the production of evidence from another party state, shall be enforced in the latter state by
 7.3 any court of competent jurisdiction, according to the practice and procedure of that court
 7.4 applicable to subpoenas issued in proceedings pending before it. The issuing authority shall
 7.5 pay any witness fees, travel expenses, mileage, and other fees required by the service statutes
 7.6 of the state where the witnesses or evidence are located; and

7.7 (3) if otherwise permitted by state law, recover from the licensee the costs of
 7.8 investigations and disposition of cases resulting from any adverse action taken against that
 7.9 licensee.

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

7.13 (g) Member states shall share any investigative, litigation, or compliance materials in
 7.14 furtherance of any joint or individual investigation initiated under the compact.

7.15 ARTICLE VII

7.16 ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

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

7.19 (1) the commission is an instrumentality of the compact states;

7.20 (2) venue is proper and judicial proceedings by or against the commission shall be
 7.21 brought solely and exclusively in a court of competent jurisdiction where the principal office
 7.22 of the commission is located. The commission may waive venue and jurisdictional defenses
 7.23 to the extent it adopts or consents to participate in alternative dispute resolution proceedings;
 7.24 and

7.25 (3) nothing in this compact shall be construed to be a waiver of sovereign immunity.

7.26 (b) Membership, voting, and meetings:

7.27 (1) each member state shall have and be limited to one delegate selected by that member
 7.28 state's licensing board;

7.29 (2) the delegate shall be a current member of the licensing board who is a physical
 7.30 therapist, physical therapist assistant, public member, or the board administrator;

8.1 (3) each delegate shall be entitled to one vote with regard to the promulgation of rules
8.2 and creation of bylaws and shall otherwise have an opportunity to participate in the business
8.3 and affairs of the commission;

8.4 (4) a delegate shall vote in person or by such other means as provided in the bylaws.
8.5 The bylaws may provide for delegates' participation in meetings by telephone or other means
8.6 of communication;

8.7 (5) any delegate may be removed or suspended from office as provided by the laws of
8.8 the state from which the delegate is appointed;

8.9 (6) the member state board shall fill any vacancy occurring in the commission;

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

8.12 (8) all meetings shall be open to the public and public notice of meetings shall be given
8.13 in the same manner as required under the rulemaking provisions in article IX;

8.14 (9) the commission or the executive board or other committees of the commission may
8.15 convene in a closed, nonpublic meeting if the commission or executive board or other
8.16 committees of the commission must discuss:

8.17 (i) noncompliance of a member state with its obligations under the compact;

8.18 (ii) the employment, compensation, discipline, or other matters, practices, or procedures
8.19 related to specific employees or other matters related to the commission's internal personnel
8.20 practices and procedures;

8.21 (iii) current, threatened, or reasonably anticipated litigation;

8.22 (iv) negotiation of contracts for the purchase, lease, or sale of goods, services, or real
8.23 estate;

8.24 (v) accusing any person of a crime or formally censuring any person;

8.25 (vi) disclosure of trade secrets or commercial or financial information that is privileged
8.26 or confidential;

8.27 (vii) disclosure of information of a personal nature where disclosure would constitute a
8.28 clearly unwarranted invasion of personal privacy;

8.29 (viii) disclosure of investigative records compiled for law enforcement purposes;

9.1 (ix) disclosure of information related to any investigative reports prepared by or on
9.2 behalf of or for use of the commission or other committee charged with responsibility of
9.3 investigation or determination of compliance issues pursuant to the compact; or

9.4 (x) matters specifically exempted from disclosure by federal or member state statute;

9.5 (10) if a meeting, or portion of a meeting, is closed pursuant to this provision, the
9.6 commission's legal counsel or designee shall certify that the meeting may be closed and
9.7 shall reference each relevant exempting provision; and

9.8 (11) the commission shall keep minutes that fully and clearly describe all matters
9.9 discussed in a meeting and shall provide a full and accurate summary of actions taken and
9.10 the reasons therefore, including a description of the views expressed. All documents
9.11 considered in connection with an action shall be identified in such minutes. All minutes and
9.12 documents of a closed meeting shall remain under seal, subject to release by a majority vote
9.13 of the commission or order of a court of competent jurisdiction.

9.14 (c) The commission shall have the following powers and duties:

9.15 (1) establish the fiscal year of the commission;

9.16 (2) establish bylaws;

9.17 (3) maintain its financial records in accordance with the bylaws;

9.18 (4) meet and take such actions as are consistent with the provisions of this compact and
9.19 the bylaws;

9.20 (5) promulgate uniform rules to facilitate and coordinate implementation and
9.21 administration of this compact. The rules shall have the force and effect of law and shall
9.22 be binding in all member states;

9.23 (6) bring and prosecute legal proceedings or actions in the name of the commission,
9.24 provided that the standing of any state physical therapy licensing board to sue or be sued
9.25 under applicable law shall not be affected;

9.26 (7) purchase and maintain insurance and bonds;

9.27 (8) borrow, accept, or contract for services of personnel, including but not limited to
9.28 employees of a member state;

9.29 (9) hire employees; elect or appoint officers; fix compensation; define duties; grant such
9.30 individuals appropriate authority to carry out the purposes of the compact; and establish the
9.31 commission's personnel policies and programs relating to conflicts of interest, qualifications
9.32 of personnel, and other related personnel matters;

10.1 (10) accept any and all appropriate donations and grants of money, equipment, supplies,
10.2 materials, and services and receive, utilize, and dispose of the same, provided that at all
10.3 times the commission shall avoid any appearance of impropriety or conflict of interest;

10.4 (11) lease; purchase; accept appropriate gifts or donations of; or otherwise to own, hold,
10.5 improve, or use any property, real, personal, or mixed, provided that at all times the
10.6 commission shall avoid any appearance of impropriety;

10.7 (12) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
10.8 any property real, personal, or mixed;

10.9 (13) establish a budget and make expenditures;

10.10 (14) borrow money;

10.11 (15) appoint committees, including standing committees composed of members, state
10.12 regulators, state legislators or their representatives, consumer representatives, and such
10.13 other interested persons as may be designated in this compact and the bylaws;

10.14 (16) provide and receive information from, and cooperate with, law enforcement agencies;

10.15 (17) establish and elect an executive board; and

10.16 (18) perform such other functions as may be necessary or appropriate to achieve the
10.17 purposes of this compact consistent with the state regulation of physical therapy licensure
10.18 and practice.

10.19 (d) The executive board:

10.20 (1) the executive board shall have the power to act on behalf of the commission according
10.21 to the terms of this compact;

10.22 (2) the executive board shall be composed of nine members as follows:

10.23 (i) seven voting members who are elected by the commission from the current
10.24 membership of the commission;

10.25 (ii) one ex officio, nonvoting member from the recognized national physical therapy
10.26 professional association; and

10.27 (iii) one ex officio, nonvoting member from the recognized membership organization
10.28 of the physical therapy licensing boards;

10.29 (3) the ex officio members must be selected by their respective organizations;

10.30 (4) the commission may remove any member of the executive board as provided in the
10.31 bylaws;

- 11.1 (5) the executive board shall meet at least annually; and
- 11.2 (6) the executive board shall have the following duties and responsibilities:
- 11.3 (i) recommend to the entire commission changes to the rules or bylaws, changes to this
- 11.4 compact legislation, fees paid by compact member states such as annual dues, and any
- 11.5 commission compact fee charged to licensees for the compact privilege;
- 11.6 (ii) ensure compact administration services are appropriately provided, contractual or
- 11.7 otherwise;
- 11.8 (iii) prepare and recommend the budget;
- 11.9 (iv) maintain financial records on behalf of the commission;
- 11.10 (v) monitor compact compliance of member states and provide compliance reports to
- 11.11 the commission;
- 11.12 (vi) establish additional committees as necessary; and
- 11.13 (vii) other duties as provided in rules or bylaws.
- 11.14 (e) Financing of the commission:
- 11.15 (1) the commission shall pay, or provide for the payment of, the reasonable expenses of
- 11.16 the commission's establishment, organization, and ongoing activities;
- 11.17 (2) the commission may accept any and all appropriate revenue sources, donations, and
- 11.18 grants of money, equipment, supplies, materials, and services;
- 11.19 (3) the commission may levy on and collect an annual assessment from each member
- 11.20 state or impose fees on other parties to cover the cost of the operations and activities of the
- 11.21 commission and the commission's staff, which must be in a total amount sufficient to cover
- 11.22 its annual budget as approved each year for which revenue is not provided by other sources.
- 11.23 The aggregate annual assessment amount shall be allocated based upon a formula to be
- 11.24 determined by the commission, which shall promulgate a rule binding upon all member
- 11.25 states;
- 11.26 (4) the commission shall not incur obligations of any kind prior to securing the funds
- 11.27 adequate to meet the same; nor shall the commission pledge the credit of any of the member
- 11.28 states, except by and with the authority of the member state; and
- 11.29 (5) the commission shall keep accurate accounts of all receipts and disbursements. The
- 11.30 receipts and disbursements of the commission shall be subject to the audit and accounting
- 11.31 procedures established under the commission's bylaws. However, all receipts and

12.1 disbursements of funds handled by the commission shall be audited yearly by a certified or
 12.2 licensed public accountant and the report of the audit shall be included in and become part
 12.3 of the annual report of the commission.

12.4 (f) Qualified immunity, defense, and indemnification:

12.5 (1) the members, officers, executive director, employees, and representatives of the
 12.6 commission shall be immune from suit and liability, either personally or in their official
 12.7 capacity, for any claim for damage to or loss of property or personal injury or other civil
 12.8 liability caused by or arising out of any actual or alleged act, error, or omission that occurred,
 12.9 or that the person against whom the claim is made had a reasonable basis for believing
 12.10 occurred, within the scope of commission employment, duties, or responsibilities, provided
 12.11 that nothing in this paragraph shall be construed to protect any such person from suit or
 12.12 liability for any damage, loss, injury, or liability caused by the intentional or willful or
 12.13 wanton misconduct of that person;

12.14 (2) the commission shall defend any member, officer, executive director, employee, or
 12.15 representative of the commission in any civil action seeking to impose liability arising out
 12.16 of any actual or alleged act, error, or omission that occurred within the scope of commission
 12.17 employment, duties, or responsibilities, or that the person against whom the claim is made
 12.18 had a reasonable basis for believing occurred within the scope of commission employment,
 12.19 duties, or responsibilities, provided that nothing herein shall be construed to prohibit that
 12.20 person from retaining his or her own counsel, and provided further that the actual or alleged
 12.21 act, error, or omission did not result from the intentional or willful or wanton misconduct
 12.22 of that person; and

12.23 (3) the commission shall indemnify and hold harmless any member, officer, executive
 12.24 director, employee, or representative of the commission for the amount of any settlement
 12.25 or judgment obtained against that person arising out of any actual or alleged act, error, or
 12.26 omission that occurred within the scope of commission employment, duties, or
 12.27 responsibilities, or that such person had a reasonable basis for believing occurred within
 12.28 the scope of commission employment, duties, or responsibilities, provided that the actual
 12.29 or alleged act, error, or omission did not result from the intentional or willful or wanton
 12.30 misconduct of that person.

12.31 **ARTICLE VIII**

12.32 **DATA SYSTEM**

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

13.4 (b) Notwithstanding any other provision of state law to the contrary, a member state
13.5 shall submit a uniform data set to the data system on all individuals to whom this compact
13.6 is applicable as required by the rules of the commission, including:

13.7 (1) identifying information;

13.8 (2) licensure data;

13.9 (3) adverse actions against a license or compact privilege;

13.10 (4) nonconfidential information related to alternative program participation;

13.11 (5) any denial of application for licensure and the reason or reasons for the denial; and

13.12 (6) other information that may facilitate the administration of this compact, as determined
13.13 by the rules of the commission.

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

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

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

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

13.25 ARTICLE IX

13.26 RULEMAKING

13.27 (a) The commission shall exercise its rulemaking powers pursuant to the criteria set
13.28 forth in this article and the rules adopted thereunder. Rules and amendments shall become
13.29 binding as of the date specified in each rule or amendment.

13.30 (b) If a majority of the legislatures of the member states rejects a rule, by enactment of
13.31 a statute or resolution in the same manner used to adopt the compact within four years of

14.1 the date of adoption of the rule, then such rule shall have no further force and effect in any
14.2 member state.

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

14.5 (d) Prior to promulgation and adoption of a final rule or rules by the commission and at
14.6 least 30 days in advance of the meeting at which the rule will be considered and voted upon,
14.7 the commission shall file a notice of proposed rulemaking:

14.8 (1) on the website of the commission or other publicly accessible platform; and

14.9 (2) on the website of each member state physical therapy licensing board or other publicly
14.10 accessible platform or the publication in which each state would otherwise publish proposed
14.11 rules.

14.12 (e) The notice of proposed rulemaking shall include:

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

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

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

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

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

14.21 (g) The commission shall grant an opportunity for a public hearing before it adopts a
14.22 rule or amendment if a hearing is requested by:

14.23 (1) at least 25 persons;

14.24 (2) a state or federal governmental subdivision or agency; or

14.25 (3) an association having at least 25 members.

14.26 (h) If a hearing is held on the proposed rule or amendment, the commission shall publish
14.27 the place, time, and date of the scheduled public hearing. If the hearing is held via electronic
14.28 means, the commission shall publish the mechanism for access to the electronic hearing:

14.29 (1) all persons wishing to be heard at the hearing shall notify the executive director of
14.30 the commission or other designated member in writing of their desire to appear and testify
14.31 at the hearing not less than five business days before the scheduled date of the hearing;

15.1 (2) hearings shall be conducted in a manner providing each person who wishes to
15.2 comment a fair and reasonable opportunity to comment orally or in writing;

15.3 (3) all hearings will be recorded. A copy of the recording will be made available on
15.4 request; and

15.5 (4) nothing in this section shall be construed as requiring a separate hearing on each
15.6 rule. Rules may be grouped for the convenience of the commission at hearings required by
15.7 this section.

15.8 (i) Following the scheduled hearing date, or by the close of business on the scheduled
15.9 hearing date if the hearing was not held, the commission shall consider all written and oral
15.10 comments received.

15.11 (j) If no written notice of intent to attend the public hearing by interested parties is
15.12 received, the commission may proceed with promulgation of the proposed rule without a
15.13 public hearing.

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

15.17 (l) Upon determination that an emergency exists, the commission may consider and
15.18 adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided
15.19 that the usual rulemaking procedures provided in the compact and in this section shall be
15.20 retroactively applied to the rule as soon as reasonably possible, in no event later than 90
15.21 days after the effective date of the rule. For the purposes of this provision, an emergency
15.22 rule is one that must be adopted immediately in order to:

15.23 (1) meet an imminent threat to public health, safety, or welfare;

15.24 (2) prevent a loss of commission or member state funds;

15.25 (3) meet a deadline for the promulgation of an administrative rule that is established by
15.26 federal law or rule; or

15.27 (4) protect public health and safety.

15.28 (m) The commission or an authorized committee of the commission may direct revisions
15.29 to a previously adopted rule or amendment for purposes of correcting typographical errors,
15.30 errors in format, errors in consistency, or grammatical errors. Public notice of any revisions
15.31 shall be posted on the website of the commission. The revision shall be subject to challenge
15.32 by any person for a period of 30 days after posting. The revision may be challenged only

16.1 on grounds that the revision results in a material change to a rule. A challenge shall be made
16.2 in writing and delivered to the chair of the commission prior to the end of the notice period.
16.3 If no challenge is made, the revision will take effect without further action. If the revision
16.4 is challenged, the revision may not take effect without the approval of the commission.

16.5 ARTICLE X

16.6 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

16.7 (a) Oversight:

16.8 (1) the executive, legislative, and judicial branches of state government in each member
16.9 state shall enforce this compact and take all actions necessary and appropriate to effectuate
16.10 the compact's purposes and intent. The provisions of this compact and the rules promulgated
16.11 hereunder shall have standing as statutory law;

16.12 (2) all courts shall take judicial notice of the compact and the rules in any judicial or
16.13 administrative proceeding in a member state pertaining to the subject matter of this compact
16.14 which may affect the powers, responsibilities, or actions of the commission; and

16.15 (3) the commission shall be entitled to receive service of process in any such proceeding
16.16 and shall have standing to intervene in such a proceeding for all purposes. Failure to provide
16.17 service of process to the commission shall render a judgment or order void as to the
16.18 commission, this compact, or promulgated rules.

16.19 (b) Default, technical assistance, and termination:

16.20 (1) if the commission determines that a member state has defaulted in the performance
16.21 of its obligations or responsibilities under this compact or the promulgated rules, the
16.22 commission shall:

16.23 (i) provide written notice to the defaulting state and other member states of the nature
16.24 of the default, the proposed means of curing the default, or any other action to be taken by
16.25 the commission; and

16.26 (ii) provide remedial training and specific technical assistance regarding the default;

16.27 (2) if a state in default fails to cure the default, the defaulting state may be terminated
16.28 from the compact upon an affirmative vote of a majority of the member states, and all rights,
16.29 privileges, and benefits conferred by this compact may be terminated on the effective date
16.30 of termination. A cure of the default does not relieve the offending state of obligations or
16.31 liabilities incurred during the period of default;

17.1 (3) termination of membership in the compact shall be imposed only after all other means
17.2 of securing compliance have been exhausted. Notice of intent to suspend or terminate shall
17.3 be given by the commission to the governor, the majority and minority leaders of the
17.4 defaulting state's legislature, and each of the member states;

17.5 (4) a state that has been terminated is responsible for all assessments, obligations, and
17.6 liabilities incurred through the effective date of termination, including obligations that
17.7 extend beyond the effective date of termination;

17.8 (5) the commission shall not bear any costs related to a state that is found to be in default
17.9 or that has been terminated from the compact, unless agreed upon in writing between the
17.10 commission and the defaulting state; and

17.11 (6) the defaulting state may appeal the action of the commission by petitioning the United
17.12 States District Court for the District of Columbia or the federal district where the commission
17.13 has its principal offices. The prevailing member shall be awarded all costs of such litigation,
17.14 including reasonable attorney fees.

17.15 (c) Dispute resolution:

17.16 (1) upon request by a member state, the commission shall attempt to resolve disputes
17.17 related to the compact that arise among member states and between member and nonmember
17.18 states; and

17.19 (2) the commission shall promulgate a rule providing for both mediation and binding
17.20 dispute resolution for disputes as appropriate.

17.21 (d) Enforcement:

17.22 (1) the commission, in the reasonable exercise of its discretion, shall enforce the
17.23 provisions and rules of this compact;

17.24 (2) by majority vote, the commission may initiate legal action in the United States District
17.25 Court for the District of Columbia or the federal district where the commission has its
17.26 principal offices against a member state in default to enforce compliance with the provisions
17.27 of the compact and its promulgated rules and bylaws. The relief sought may include both
17.28 injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing
17.29 member shall be awarded all costs of such litigation, including reasonable attorney fees;
17.30 and

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

18.1

ARTICLE XI

18.2

DATE OF IMPLEMENTATION OF THE INTERSTATE COMPACT FOR

18.3

PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL,

18.4

AND AMENDMENTS

18.5

(a) The compact shall come into effect on the date on which the compact statute is

18.6

enacted into law in the tenth member state. The provisions, which become effective at that

18.7

time, shall be limited to the powers granted to the commission relating to assembly and the

18.8

promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking

18.9

powers necessary to the implementation and administration of the compact.

18.10

(b) Any state that joins the compact subsequent to the commission's initial adoption of

18.11

the rules shall be subject to the rules as they exist on the date on which the compact becomes

18.12

law in that state. Any rule that has been previously adopted by the commission shall have

18.13

the full force and effect of law on the day the compact becomes law in that state.

18.14

(c) Any member state may withdraw from this compact by enacting a statute repealing

18.15

the same:

18.16

(1) a member state's withdrawal shall not take effect until six months after enactment

18.17

of the repealing statute; and

18.18

(2) withdrawal shall not affect the continuing requirement of the withdrawing state's

18.19

physical therapy licensing board to comply with the investigative and adverse action reporting

18.20

requirements of this act prior to the effective date of withdrawal.

18.21

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

18.22

physical therapy licensure agreement or other cooperative arrangement between a member

18.23

state and a nonmember state that does not conflict with the provisions of this compact.

18.24

(e) This compact may be amended by the member states. No amendment to this compact

18.25

shall become effective and binding upon any member state until it is enacted into the laws

18.26

of all member states.

18.27

ARTICLE XII

18.28

CONSTRUCTION AND SEVERABILITY

18.29

This compact shall be liberally construed so as to effectuate the purposes thereof. The

18.30

provisions of this compact shall be severable and if any phrase, clause, sentence, or provision

18.31

of this compact is declared to be contrary to the constitution of any party state or of the

18.32

United States or the applicability thereof to any government, agency, person, or circumstance

19.1 is held invalid, the validity of the remainder of this compact and the applicability thereof
19.2 to any government, agency, person, or circumstance shall not be affected thereby. If this
19.3 compact shall be held contrary to the constitution of any party state, the compact shall
19.4 remain in full force and effect as to the remaining party states and in full force and effect
19.5 as to the party state affected as to all severable matters.

19.6 **EFFECTIVE DATE.** This section is effective the day following final enactment. The
19.7 Board of Physical Therapy must publish the effective date of the compact in the State
19.8 Register and on the board's website.