



2019 ASSEMBLY BILL 438

September 12, 2019 - Introduced by Representatives STAFSHOLT, DOYLE, MAGNAFICI, HORLACHER, ANDERSON, BOWEN, DITTRICH, FELZKOWSKI, GUNDRUM, KNODL, KOLSTE, KURTZ, PETRYK, SPREITZER, C. TAYLOR, TUSLER, VANDERMEER and VRUWINK, cosponsored by Senators MARKLEIN, RINGHAND, TESTIN, DARLING, JACQUE, KOOYENGA, NASS and L. TAYLOR. Referred to Committee on Health.

1 **AN ACT to amend** 49.45 (9r) (a) 7. b., 146.81 (1) (dg), 146.997 (1) (d) 4., 154.01 (3),
2 155.01 (7), 252.14 (1) (ar) 4e., 440.03 (9) (a) (intro.), 440.03 (9) (a) 2., 440.03 (13)
3 (b) (intro.), 440.15, 446.01 (1v) (d), 448.50 (3) and (3m), 448.51, 448.56 (2),
4 448.565, 448.57 (2) (intro.), (c), (d) and (e), (4) and (5), 448.956 (1m) and (4),
5 450.10 (3) (a) 5., 451.02 (1) and 462.04; **to repeal and recreate** 440.03 (13) (b)
6 (intro.) and 440.15; and **to create** 14.88, 440.03 (11m) (c) 2m., 448.50 (1n) and
7 (1o), subchapter IX of chapter 448 [precedes 448.985] and 448.986 of the
8 statutes; **relating to:** ratification of the Physical Therapy Licensure Compact,
9 extending the time limit for emergency rule procedures, providing an
10 exemption from emergency rule procedures, and granting rule-making
11 authority.

Analysis by the Legislative Reference Bureau

This bill ratifies and enters Wisconsin into the Physical Therapy Licensure Compact (compact), which provides for the ability of a physical therapist or physical therapist assistant licensed in one member state (licensee) to obtain a “compact

ASSEMBLY BILL 438

privilege” to practice in a remote state without obtaining a license in that remote state. Significant provisions of the compact include:

1. The creation of a Physical Therapy Compact Commission (commission), which includes one member of the licensure boards of each member state. The commission has various powers and duties granted in the compact, including overseeing the administration of the compact, enforcing the compact, adopting bylaws, promulgating binding rules for the compact, employing an executive director and employees, and establishing and electing an executive board. The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff.

2. A process whereby a licensee may obtain a compact privilege to practice in another member state. A licensee’s primary state of residence is considered to be his or her home state, and any other member state in which the licensee wishes to practice is considered a remote state. A licensee providing physical therapy in a remote state under a compact privilege is subject to that state’s regulatory authority. A remote state may take action against a licensee’s compact privilege in the remote state, and the licensee is then not eligible for a compact privilege in any state until certain criteria are met. If a licensee’s compact privilege in any remote state is removed, the individual loses his or her compact privilege in any remote state until certain criteria are met. However, a home state has the exclusive power to impose adverse action against a license issued by the home state. If a home state license is encumbered (i.e., suspended), the licensee loses his or her compact privilege in any remote state until certain criteria are met. Member states may charge a fee for granting a compact privilege and may impose a jurisprudence requirement for granting a compact privilege that assesses an individual’s knowledge of the laws and rules governing the practice of physical therapy in a particular state.

3. The ability for member boards to conduct joint investigations of licensees and the ability of member states to issue subpoenas that are enforceable in other states.

4. The creation of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states. A member state must submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission.

5. Various provisions regarding resolutions of disputes between the commission and member states and between member and nonmember states, including a process for termination of a state’s membership in the compact if the state defaults on its obligations under the compact.

Having already been enacted by more than ten states, the compact becomes effective in this state upon enactment of the bill. The compact provides that it may be amended upon enactment of an amendment by all member states. A state may withdraw from the compact by repealing the statute authorizing the compact, but the compact provides that a withdrawal does not take effect until six months after the effective date of that repeal.

ASSEMBLY BILL 438

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 14.88 of the statutes is created to read:

2 **14.88 Physical therapy licensure compact.** There is created a physical
3 therapy compact commission as specified in s. 448.985. The administrator of the
4 commission representing this state shall be an individual described in s. 448.985 (7)
5 (b) 2. The commission has the powers and duties granted and imposed under s.
6 448.985.

7 **SECTION 2.** 49.45 (9r) (a) 7. b. of the statutes is amended to read:

8 49.45 **(9r)** (a) 7. b. A physical therapist who is licensed under subch. III of ch.
9 448 or who holds a compact privilege under subch. IX of ch. 448.

10 **SECTION 3.** 146.81 (1) (dg) of the statutes is amended to read:

11 146.81 **(1)** (dg) A physical therapist or physical therapist assistant who is
12 licensed under subch. III of ch. 448 or who holds a compact privilege under subch.
13 IX of ch. 448.

14 **SECTION 4.** 146.997 (1) (d) 4. of the statutes is amended to read:

15 146.997 **(1)** (d) 4. A physician, podiatrist, or perfusionist, physical therapist,
16 or physical therapist assistant licensed under ch. 448 or a physical therapist or
17 physical therapist assistant who holds a compact privilege under subch. IX of ch. 448.

18 **SECTION 5.** 154.01 (3) of the statutes is amended to read:

19 154.01 **(3)** “Health care professional” means a person who is licensed, certified
20 or registered under ch. 441, 448, or 455 or who holds a compact privilege under subch.
21 IX of ch. 448.

ASSEMBLY BILL 438

1 **SECTION 6.** 155.01 (7) of the statutes is amended to read:

2 155.01 (7) "Health care provider" means a nurse licensed or permitted under
3 ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a
4 physician, physician assistant, perfusionist, podiatrist, physical therapist, physical
5 therapist assistant, occupational therapist, or occupational therapy assistant
6 licensed under ch. 448, a person practicing Christian Science treatment, an
7 optometrist licensed under ch. 449, a psychologist licensed under ch. 455, a physical
8 therapist or physical therapist assistant who holds a compact privilege under subch.
9 IX of ch. 448, a partnership thereof, a corporation or limited liability company thereof
10 that provides health care services, a cooperative health care association organized
11 under s. 185.981 that directly provides services through salaried employees in its
12 own facility, or a home health agency, as defined in s. 50.49 (1) (a).

13 **SECTION 7.** 252.14 (1) (ar) 4e. of the statutes is amended to read:

14 252.14 (1) (ar) 4e. A physical therapist or physical therapist assistant who is
15 licensed under subch. III of ch. 448 or who holds a compact privilege under subch.
16 IX of ch. 448.

17 **SECTION 8.** 440.03 (9) (a) (intro.) of the statutes is amended to read:

18 440.03 (9) (a) (intro.) Subject to pars. (b) and (c) and s. 458.33 (2) (b) and (5),
19 the department shall, biennially, determine each fee for an initial credential for
20 which no examination is required, for a reciprocal credential, and for a credential
21 renewal and any fee imposed under s. 448.986 (2) by doing all of the following:

22 **SECTION 9.** 440.03 (9) (a) 2. of the statutes is amended to read:

23 440.03 (9) (a) 2. Not later than January 31 of each odd-numbered year,
24 adjusting for the succeeding fiscal biennium each fee for an initial credential for
25 which an examination is not required, for a reciprocal credential, and, subject to s.

ASSEMBLY BILL 438

1 440.08 (2) (a), for a credential renewal, and any fee imposed under s. 448.986 (2), if
2 an adjustment is necessary to reflect the approximate administrative and
3 enforcement costs of the department that are attributable to the regulation of the
4 particular occupation or business during the period in which the initial or reciprocal
5 credential ~~or~~, credential renewal, or compact privilege is in effect and, for purposes
6 of each fee for a credential renewal, to reflect an estimate of any additional moneys
7 available for the department's general program operations as a result of
8 appropriation transfers that have been or are estimated to be made under s. 20.165
9 (1) (i) during the fiscal biennium in progress at the time of the deadline for an
10 adjustment under this subdivision or during the fiscal biennium beginning on the
11 July 1 immediately following the deadline for an adjustment under this subdivision.

12 **SECTION 10.** 440.03 (11m) (c) 2m. of the statutes is created to read:

13 440.03 **(11m)** (c) 2m. The coordinated database and reporting system under s.
14 448.985 (8), if such disclosure is required under the physical therapy licensure
15 compact under s. 448.985.

16 **SECTION 11.** 440.03 (13) (b) (intro.) of the statutes is amended to read:

17 440.03 **(13)** (b) (intro.) The department may investigate whether an applicant
18 for or holder of any of the following credentials has been charged with or convicted
19 of a crime only pursuant to rules promulgated by the department under this
20 paragraph, including rules that establish the criteria that the department will use
21 to determine whether an investigation under this paragraph is necessary, except as
22 provided in par. (c) and ss. 441.51 (5) (a) 5. and, 448.980 (5) (b) 3., and 448.985 (3) (a)
23 4.:

ASSEMBLY BILL 438

1 **SECTION 12.** 440.03 (13) (b) (intro.) of the statutes, as affected by 2017
2 Wisconsin Act 135, section 14, and 2019 Wisconsin Act (this act), is repealed and
3 recreated to read:

4 440.03 (13) (b) (intro.) The department may investigate whether an applicant
5 for or holder of any of the following credentials has been charged with or convicted
6 of a crime only pursuant to rules promulgated by the department under this
7 paragraph, including rules that establish the criteria that the department will use
8 to determine whether an investigation under this paragraph is necessary, except as
9 provided in par. (c) and ss. 441.51 (5) (a) 5. and 448.985 (3) (a) 4.:

10 **SECTION 13.** 440.15 of the statutes is amended to read:

11 **440.15 No fingerprinting.** Except as provided under ss. 440.03 (13) (c),
12 441.51 (5) (a) 5., and 448.980 (5) (b) 3., and 448.985 (3) (a) 4., the department or a
13 credentialing board may not require that an applicant for a credential or a credential
14 holder be fingerprinted or submit fingerprints in connection with the department's
15 or the credentialing board's credentialing.

16 **SECTION 14.** 440.15 of the statutes, as affected by 2017 Wisconsin Act 135,
17 section 17, and 2019 Wisconsin Act (this act), is repealed and recreated to read:

18 **440.15 No fingerprinting.** Except as provided under ss. 440.03 (13) (c),
19 441.51 (5) (a) 5., and 448.985 (3) (a) 4., the department or a credentialing board may
20 not require that an applicant for a credential or a credential holder be fingerprinted
21 or submit fingerprints in connection with the department's or the credentialing
22 board's credentialing.

23 **SECTION 15.** 446.01 (1v) (d) of the statutes is amended to read:

ASSEMBLY BILL 438

1 446.01 (1v) (d) Physical therapy examining board under subch. III of ch. 448.
2 “Health care professional” also includes an individual who holds a compact privilege
3 under subch. IX of ch. 448.

4 **SECTION 16.** 448.50 (1n) and (1o) of the statutes are created to read:

5 448.50 (1n) “Compact” means the physical therapy licensure compact under
6 s. 448.985.

7 (1o) “Compact privilege” means a compact privilege, as defined in s. 448.985
8 (2) (d), that is granted under the compact to an individual to practice in this state.

9 **SECTION 17.** 448.50 (3) and (3m) of the statutes are amended to read:

10 448.50 (3) “Physical therapist” means an individual who has been graduated
11 from a school of physical therapy and holds a license to practice physical therapy
12 granted by the examining board or who holds a physical therapist compact privilege.

13 (3m) “Physical therapist assistant” means an individual who holds a license
14 as a physical therapist assistant granted by the examining board or who holds a
15 physical therapist assistant compact privilege.

16 **SECTION 18.** 448.51 of the statutes is amended to read:

17 **448.51 License required.** (1) Except as provided in s. 448.52, no person may
18 practice physical therapy unless the person is licensed as a physical therapist under
19 this subchapter or holds a valid physical therapist compact privilege.

20 (1e) No person may designate himself or herself as a physical therapist or use
21 or assume the title “physical therapist,” “physiotherapist,” “physical therapy
22 technician,” “licensed physical therapist,” “registered physical therapist,” “master of
23 physical therapy,” “master of science in physical therapy,” or “doctorate in physical
24 therapy,” or append to the person’s name the letters “P.T.,” “P.T.T.,” “L.P.T.,” “R.P.T.,”
25 “M.P.T.,” “M.S.P.T.,” or “D.P.T.,” or any other title, letters, or designation that

ASSEMBLY BILL 438

1 represents or may tend to represent the person as a physical therapist, unless the
2 person is licensed as a physical therapist under this subchapter or holds a valid
3 physical therapist compact privilege.

4 (1s) No person may designate himself or herself as a physical therapist
5 assistant, use or assume the title “physical therapist assistant,” or append to the
6 person’s name the letters “P.T.A.” or any other title, letters, or designation that
7 represents or may tend to represent the person as a physical therapist assistant
8 unless the person is licensed as a physical therapist assistant under this subchapter
9 or holds a valid physical therapist assistant compact privilege.

10 (2) Except as provided in s. 448.52 (2m), no person may claim to render physical
11 therapy or physiotherapy services unless the person is licensed as a physical
12 therapist under this subchapter or holds a valid physical therapist compact
13 privilege.

14 **SECTION 19.** 448.56 (2) of the statutes is amended to read:

15 448.56 (2) FEE SPLITTING. No licensee or compact privilege holder may give or
16 receive, directly or indirectly, to or from any other person any fee, commission,
17 rebate, or other form of compensation or anything of value for sending, referring, or
18 otherwise inducing a person to communicate with a licensee or compact privilege
19 holder in a professional capacity, or for any professional services not actually
20 rendered personally by the licensee or compact privilege holder or at the licensee’s
21 or compact privilege holder’s direction.

22 **SECTION 20.** 448.565 of the statutes is amended to read:

23 **448.565 Complaints.** The examining board shall promulgate rules
24 establishing procedures and requirements for filing complaints against licensees
25 and compact holders and shall publicize the procedures and requirements.

ASSEMBLY BILL 438

1 **SECTION 21.** 448.57 (2) (intro.), (c), (d) and (e), (4) and (5) of the statutes are
2 amended to read:

3 448.57 **(2)** (intro.) Subject to the rules promulgated under s. 440.03 (1), the
4 examining board may reprimand a licensee or compact privilege holder or may deny,
5 limit, suspend, or revoke a license granted under this subchapter or a compact
6 privilege if it finds that the applicant ~~or~~, licensee, or compact privilege holder has
7 done any of the following:

8 (c) Advertised in a manner that is false, deceptive, or misleading.

9 (d) Advertised, practiced, or attempted to practice under another's name.

10 (e) Subject to ss. 111.321, 111.322, and 111.34, practiced or assisted in the
11 practice of physical therapy while the applicant's ~~or~~, licensee's, or compact privilege
12 holder's ability to practice or assist was impaired by alcohol or other drugs.

13 **(4)** The examining board shall prepare and disseminate to the public an annual
14 report that describes final disciplinary action taken against licensees and compact
15 privilege holders during the preceding year.

16 **(5)** The examining board may report final disciplinary action taken against a
17 licensee or compact privilege holder to any national database that includes
18 information about disciplinary action taken against health care professionals.

19 **SECTION 22.** 448.956 (1m) and (4) of the statutes are amended to read:

20 448.956 **(1m)** Subject to sub. (1) (a), a licensee may provide athletic training
21 to an individual without a referral, except that a licensee may not provide athletic
22 training as described under s. 448.95 (5) (d) or (e) in an outpatient rehabilitation
23 setting unless the licensee has obtained a written referral for the individual from a
24 practitioner licensed or certified under subch. II, III, IV, V, or VII of this chapter;

ASSEMBLY BILL 438

1 under ch. 446; or under s. 441.16 (2) or from a practitioner who holds a compact
2 privilege under subch. IX of ch. 448.

3 (4) If a licensee or the consulting physician of the licensee determines that a
4 patient's medical condition is beyond the scope of practice of the licensee, the licensee
5 shall, in accordance with the protocol established under sub. (1) (a), refer the patient
6 to a health care practitioner who is licensed under ch. 446 or 447 or subch. II, III or
7 IV of ch. 448; or who holds a compact privilege under subch. IX of ch. 448 and who
8 can provide appropriate treatment to the patient.

9 **SECTION 23.** Subchapter IX of chapter 448 [precedes 448.985] of the statutes
10 is created to read:

11 **CHAPTER 448**

12 **SUBCHAPTER IX**

13 **PHYSICAL THERAPY**

14 **LICENSURE COMPACT**

15 **448.985 Physical therapy licensure compact. (1) PURPOSE.** (a) The
16 purpose of this compact is to facilitate interstate practice of physical therapy with
17 the goal of improving public access to physical therapy services. The practice of
18 physical therapy occurs in the state where the patient/client is located at the time
19 of the patient/client encounter. The compact preserves the regulatory authority of
20 states to protect public health and safety through the current system of state
21 licensure.

22 (b) This compact is designed to achieve all of the following objectives:

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

25 2. Enhance the states' ability to protect the public's health and safety.

ASSEMBLY BILL 438

1 3. Encourage the cooperation of member states in regulating multistate
2 physical therapy practice.

3 4. Support spouses of relocating military members.

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

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

8 **(2) DEFINITIONS.** As used in this compact, and except as otherwise provided, the
9 following definitions shall apply:

10 (a) "Active duty military" means full-time duty status in the active uniformed
11 service of the United States, including members of the National Guard and Reserve
12 on active duty orders pursuant to 10 USC 1209 and 1211.

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

16 (c) "Alternative program" means a nondisciplinary monitoring or practice
17 remediation process approved by a physical therapy licensing board. This includes,
18 but is not limited to, substance abuse issues.

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

ASSEMBLY BILL 438

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

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

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

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

10 (i) "Home state" means the member state that is the licensee's primary state
11 of residence.

12 (j) "Investigative information" means information, records, and documents
13 received or generated by a physical therapy licensing board pursuant to an
14 investigation.

15 (k) "Jurisprudence requirement" means the assessment of an individual's
16 knowledge of the laws and rules governing the practice of physical therapy in a state.

17 (L) "Licensee" means an individual who currently holds an authorization from
18 the state to practice as a physical therapist or to work as a physical therapist
19 assistant.

20 (m) "Member state" means a state that has enacted the compact.

21 (n) "Party state" means any member state in which a licensee holds a current
22 license or compact privilege or is applying for a license or compact privilege.

23 (o) "Physical therapist" means an individual who is licensed by a state to
24 practice physical therapy.

ASSEMBLY BILL 438

1 (p) "Physical therapist assistant" means an individual who is licensed/certified
2 by a state and who assists the physical therapist in selected components of physical
3 therapy.

4 (q) "Physical therapy," "physical therapy practice," and "the practice of physical
5 therapy" mean the care and services provided by or under the direction and
6 supervision of a licensed physical therapist.

7 (r) "Physical therapy compact commission" or "commission" means the national
8 administrative body whose membership consists of all states that have enacted the
9 compact.

10 (s) "Physical therapy licensing board" or "licensing board" means the agency
11 of a state that is responsible for the licensing and regulation of physical therapists
12 and physical therapist assistants.

13 (t) "Remote state" means a member state other than the home state, where a
14 licensee is exercising or seeking to exercise the compact privilege.

15 (u) "Rule" means a regulation, principle, or directive promulgated by the
16 commission that has the force of law.

17 (v) "State" means any state, commonwealth, district, or territory of the United
18 States of America that regulates the practice of physical therapy.

19 **(3) STATE PARTICIPATION IN THE COMPACT.** (a) To participate in the compact, a
20 state must do all of the following:

21 1. Participate fully in the commission's data system, including using the
22 commission's unique identifier as defined in rules.

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

ASSEMBLY BILL 438

1 3. Notify the commission, in compliance with the terms of the compact and
2 rules, of any adverse action or the availability of investigative information regarding
3 a licensee.

4 4. Fully implement a criminal background check requirement, within a time
5 frame established by rule, by receiving the results of the federal bureau of
6 investigation record search on criminal background checks and use the results in
7 making licensure decisions in accordance with par. (b).

8 5. Comply with the rules of the commission.

9 6. Utilize a recognized national examination as a requirement for licensure
10 pursuant to the rules of the commission.

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

13 (b) Upon adoption of this statute, the member state shall have the authority
14 to obtain biometric-based information from each physical therapy licensure
15 applicant and submit this information to the federal bureau of investigation for a
16 criminal background check in accordance with 28 USC 534 and 42 USC 14616.

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

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

21 **(4) COMPACT PRIVILEGE.** (a) To exercise the compact privilege under the terms
22 and provisions of the compact, the licensee shall satisfy all of the following:

23 1. Hold a license in the home state.

24 2. Have no encumbrance on any state license.

ASSEMBLY BILL 438

1 3. Be eligible for a compact privilege in any member state in accordance with
2 pars. (d), (g), and (h).

3 4. Have not had any adverse action against any license or compact privilege
4 within the previous 2 years.

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

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

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

10 8. Report to the commission adverse action taken by any nonmember state
11 within 30 days from the date the adverse action is taken.

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

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

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

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

ASSEMBLY BILL 438

1 1. The home state license is no longer encumbered.

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

3 (f) Once an encumbered license in the home state is restored to good standing,
4 the licensee must meet the requirements of par. (a) to obtain a compact privilege in
5 any remote state.

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

9 1. The specific period of time for which the compact privilege was removed has
10 ended.

11 2. All fines have been paid.

12 3. Two years have elapsed from the date of the adverse action.

13 (h) Once the requirements of par. (g) have been met, the license must meet the
14 requirements in par. (a) to obtain a compact privilege in a remote state.

15 **(5) ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES.** A licensee who is active
16 duty military or is the spouse of an individual who is active duty military may
17 designate one of the following as the home state:

18 (a) Home of record.

19 (b) Permanent change of station (PCS).

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

22 **(6) ADVERSE ACTIONS.** (a) A home state shall have exclusive power to impose
23 adverse action against a license issued by the home state.

ASSEMBLY BILL 438

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

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

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

15 (e) A remote state shall have the authority to do all of the following:

16 1. Take adverse actions as set forth in sub. (4) (d) against a licensee's compact
17 privilege in the state.

18 2. Issue subpoenas for both hearings and investigations that require the
19 attendance and testimony of witnesses, and the production of evidence. Subpoenas
20 issued by a physical therapy licensing board in a party state for the attendance and
21 testimony of witnesses, and/or the production of evidence from another party state,
22 shall be enforced in the latter state by any court of competent jurisdiction, according
23 to the practice and procedure of that court applicable to subpoenas issued in
24 proceedings pending before it. The issuing authority shall pay any witness fees,

ASSEMBLY BILL 438

1 travel expenses, mileage, and other fees required by the service statutes of the state
2 where the witnesses and/or evidence are located.

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

6 (f) Joint investigations:

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

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

13 (7) ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION. (a) The
14 compact member states hereby create and establish a joint public agency known as
15 the physical therapy compact commission:

16 1. The commission is an instrumentality of the compact states.

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

22 3. Nothing in this compact shall be construed to be a waiver of sovereign
23 immunity.

24 (b) Membership, voting, and meetings:

ASSEMBLY BILL 438

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

3 2. The delegate shall be a current member of the licensing board, who is a
4 physical therapist, physical therapist assistant, public member, or the board
5 administrator.

6 3. Any delegate may be removed or suspended from office as provided by the
7 law of the state from which the delegate is appointed.

8 4. The member state board shall fill any vacancy occurring in the commission.

9 5. Each delegate shall be entitled to one vote with regard to the promulgation
10 of rules and creation of bylaws and shall otherwise have an opportunity to participate
11 in the business and affairs of the commission.

12 6. A delegate shall vote in person or by such other means as provided in the
13 bylaws. The bylaws may provide for delegates' participation in meetings by
14 telephone or other means of communication.

15 7. The commission shall meet at least once during each calendar year.
16 Additional meetings shall be held as set forth in the bylaws.

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

18 1. Establish the fiscal year of the commission.

19 2. Establish bylaws.

20 3. Maintain its financial records in accordance with the bylaws.

21 4. Meet and take such actions as are consistent with the provisions of this
22 compact and the bylaws.

23 5. Promulgate uniform rules to facilitate and coordinate implementation and
24 administration of this compact. The rules shall have the force and effect of law and
25 shall be binding in all member states.

ASSEMBLY BILL 438

1 6. Bring and prosecute legal proceedings or actions in the name of the
2 commission, provided that the standing of any state physical therapy licensing board
3 to sue or be sued under applicable law shall not be affected.

4 7. Purchase and maintain insurance and bonds.

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

7 9. Hire employees, elect or appoint officers, fix compensation, define duties,
8 grant such individuals appropriate authority to carry out the purposes of the
9 compact, and to establish the commission's personnel policies and programs relating
10 to conflicts of interest, qualifications of personnel, and other related personnel
11 matters.

12 10. Accept any and all appropriate donations and grants of money, equipment,
13 supplies, materials, and services, and to receive, utilize, and dispose of the same;
14 provided that at all times the commission shall avoid any appearance of impropriety
15 and/or conflict of interest.

16 11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to
17 own, hold, improve, or use, any property, real, personal, or mixed; provided that at
18 all times the commission shall avoid any appearance of impropriety.

19 12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
20 dispose of any property, real, personal, or mixed.

21 13. Establish a budget and make expenditures.

22 14. Borrow money.

23 15. Appoint committees, including standing committees composed of members,
24 state regulators, state legislators or their representatives, and consumer

ASSEMBLY BILL 438

1 representatives, and such other interested persons as may be designated in this
2 compact and the bylaws.

3 16. Provide and receive information from, and cooperate with, law enforcement
4 agencies.

5 17. Establish and elect an executive board.

6 18. Perform such other functions as may be necessary or appropriate to achieve
7 the purposes of this compact consistent with the state regulation of physical therapy
8 licensure and practice.

9 (d) The executive board:

10 1. The executive board shall have the power to act on behalf of the commission
11 according to the terms of this compact.

12 2. The executive board shall be composed of nine members:

13 a. Seven voting members who are elected by the commission from the current
14 membership of the commission.

15 b. One ex-officio, nonvoting member from the recognized national physical
16 therapy professional association.

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

19 3. The ex-officio members will be selected by their respective organizations.

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

22 5. The executive board shall meet at least annually.

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

ASSEMBLY BILL 438

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

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

6 c. Prepare and recommend the budget.

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

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

10 f. Establish additional committees as necessary.

11 g. Other duties as provided in rules or bylaws.

12 (e) Meetings of the commission:

13 1. All meetings shall be open to the public, and public notice of meetings shall
14 be given in the same manner as required under the rule-making provisions in sub.
15 (9).

16 2. The commission or the executive board or other committees of the
17 commission may convene in a closed, nonpublic meeting if the commission or
18 executive board or other committees of the commission must discuss any of the
19 following:

20 a. Noncompliance of a member state with its obligations under the compact.

21 b. The employment, compensation, discipline or other matters, practices, or
22 procedures related to specific employees or other matters related to the commission's
23 internal personnel practices and procedures.

24 c. Current, threatened, or reasonably anticipated litigation.

ASSEMBLY BILL 438

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

3 e. Accusing any person of a crime or formally censuring any person.

4 f. Disclosure of trade secrets or commercial or financial information that is
5 privileged or confidential.

6 g. Disclosure of information of a personal nature where disclosure would
7 constitute a clearly unwarranted invasion of personal privacy.

8 h. Disclosure of investigative records compiled for law enforcement purposes.

9 i. Disclosure of information related to any investigative reports prepared by or
10 on behalf of or for use of the commission or other committee charged with
11 responsibility of investigation or determination of compliance issues pursuant to the
12 compact.

13 j. Matters specifically exempted from disclosure by federal or member state
14 statute.

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

18 4. The commission shall keep minutes that fully and clearly describe all
19 matters discussed in a meeting and shall provide a full and accurate summary of
20 actions taken, and the reasons therefore, including a description of the views
21 expressed. All documents considered in connection with an action shall be identified
22 in such minutes. All minutes and documents of a closed meeting shall remain under
23 seal, subject to release by a majority vote of the commission or order of a court of
24 competent jurisdiction.

25 (f) Financing of the commission:

ASSEMBLY BILL 438

1 1. The commission shall pay, or provide for the payment of, the reasonable
2 expenses of its establishment, organization, and ongoing activities.

3 2. The commission may accept any and all appropriate revenue sources,
4 donations, and grants of money, equipment, supplies, materials, and services.

5 3. The commission may levy on and collect an annual assessment from each
6 member state or impose fees on other parties to cover the cost of the operations and
7 activities of the commission and its staff, which must be in a total amount sufficient
8 to cover its annual budget as approved each year for which revenue is not provided
9 by other sources. The aggregate annual assessment amount shall be allocated based
10 upon a formula to be determined by the commission, which shall promulgate a rule
11 binding upon all member states.

12 4. The commission shall not incur obligations of any kind prior to securing the
13 funds adequate to meet the same; nor shall the commission pledge the credit of any
14 of the member states, except by and with the authority of the member state.

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

21 (g) Qualified immunity, defense, and indemnification:

22 1. The members, officers, executive director, employees, and representatives
23 of the commission shall be immune from suit and liability, either personally or in
24 their official capacity, for any claim for damage to or loss of property or personal
25 injury or other civil liability caused by or arising out of any actual or alleged act,

ASSEMBLY BILL 438

1 error, or omission that occurred, or that the person against whom the claim is made
2 had a reasonable basis for believing occurred within the scope of commission
3 employment, duties, or responsibilities; provided that nothing in this paragraph
4 shall be construed to protect any such person from suit and/or liability for any
5 damage, loss, injury, or liability caused by the intentional or willful or wanton
6 misconduct of that person.

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

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

ASSEMBLY BILL 438

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

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

9 1. Identifying information.

10 2. Licensure data.

11 3. Adverse actions against a license or compact privilege.

12 4. Nonconfidential information related to alternative program participation.

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

14 6. Other information that may facilitate the administration of this compact, as
15 determined by the rules of the commission.

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

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

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

ASSEMBLY BILL 438

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

4 **(9) RULE MAKING.** (a) The commission shall exercise its rule-making powers
5 pursuant to the criteria set forth in this section and the rules adopted thereunder.
6 Rules and amendments shall become binding as of the date specified in each rule or
7 amendment.

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

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

14 (d) Prior to promulgation and adoption of a final rule or rules by the
15 commission, and at least 30 days in advance of the meeting at which the rule will be
16 considered and voted upon, the commission shall file a notice of proposed rule
17 making at all of the following:

18 1. On the website of the commission or other publicly accessible platform.

19 2. On the website of each member state physical therapy licensing board or
20 other publicly accessible platform or the publication in which each state would
21 otherwise publish proposed rules.

22 (e) The notice of proposed rule making shall include all of the following:

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

ASSEMBLY BILL 438

1 2. The text of the proposed rule or amendment and the reason for the proposed
2 rule.

3 3. A request for comments on the proposed rule from any interested person.

4 4. The manner in which interested persons may submit notice to the
5 commission of their intention to attend the public hearing and any written
6 comments.

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

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

12 1. At least 25 persons.

13 2. A state or federal governmental subdivision or agency.

14 3. An association having at least 25 members.

15 (h) 1. If a hearing is held on the proposed rule or amendment, the commission
16 shall publish the place, time, and date of the scheduled public hearing. If the hearing
17 is held via electronic means, the commission shall publish the mechanism for access
18 to the electronic hearing.

19 2. All persons wishing to be heard at the hearing shall notify the executive
20 director of the commission or other designated member in writing of their desire to
21 appear and testify at the hearing not less than 5 business days before the scheduled
22 date of the hearing.

23 3. Hearings shall be conducted in a manner providing each person who wishes
24 to comment a fair and reasonable opportunity to comment orally or in writing.

ASSEMBLY BILL 438

1 4. All hearings will be recorded. A copy of the recording will be made available
2 on request.

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

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

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

12 (k) The commission shall, by majority vote of all members, take final action on
13 the proposed rule and shall determine the effective date of the rule, if any, based on
14 the rule-making record and the full text of the rule.

15 (L) Upon determination that an emergency exists, the commission may
16 consider and adopt an emergency rule without prior notice, opportunity for
17 comment, or hearing, provided that the usual rule-making procedures provided in
18 the compact and in this section shall be retroactively applied to the rule as soon as
19 reasonably possible, in no event later than 90 days after the effective date of the rule.
20 For the purposes of this provision, an emergency rule is one that must be adopted
21 immediately in order to do any of the following:

22 1. Meet an imminent threat to public health, safety, or welfare.

23 2. Prevent a loss of commission or member state funds.

24 3. Meet a deadline for the promulgation of an administrative rule that is
25 established by federal law or rule.

ASSEMBLY BILL 438

1 4. Protect public health and safety.

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

12 **(10) OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT.** (a) *Oversight.* 1. The
13 executive, legislative, and judicial branches of state government in each member
14 state shall enforce this compact and take all actions necessary and appropriate to
15 effectuate the compact's purposes and intent. The provisions of this compact and the
16 rules promulgated hereunder shall have standing as statutory law.

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

21 3. The commission shall be entitled to receive service of process in any such
22 proceeding, and shall have standing to intervene in such a proceeding for all
23 purposes. Failure to provide service of process to the commission shall render a
24 judgment or order void as to the commission, this compact, or promulgated rules.

ASSEMBLY BILL 438

1 (b) *Default, technical assistance, and termination.* 1. If the commission
2 determines that a member state has defaulted in the performance of its obligations
3 or responsibilities under this compact or the promulgated rules, the commission
4 shall do all of the following:

5 a. Provide written notice to the defaulting state and other member states of the
6 nature of the default, the proposed means of curing the default, and/or any other
7 action to be taken by the commission.

8 b. Provide remedial training and specific technical assistance regarding the
9 default.

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

15 3. Termination of membership in the compact shall be imposed only after all
16 other means of securing compliance have been exhausted. Notice of intent to
17 suspend or terminate shall be given by the commission to the governor, the majority
18 and minority leaders of the defaulting state's legislature, and each of the member
19 states.

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

23 5. The commission shall not bear any costs related to a state that is found to
24 be in default or that has been terminated from the compact, unless agreed upon in
25 writing between the commission and the defaulting state.

ASSEMBLY BILL 438

1 6. The defaulting state may appeal the action of the commission by petitioning
2 the U.S. District Court for the District of Columbia or the federal district where the
3 commission has its principal offices. The prevailing member shall be awarded all
4 costs of such litigation, including reasonable attorney's fees.

5 (c) *Dispute resolution.* 1. Upon request by a member state, the commission
6 shall attempt to resolve disputes related to the compact that arise among member
7 states and between member and nonmember states.

8 2. The commission shall promulgate a rule providing for both mediation and
9 binding dispute resolution for disputes as appropriate.

10 (d) *Enforcement.* 1. The commission, in the reasonable exercise of its
11 discretion, shall enforce the provisions and rules of this compact.

12 2. By majority vote, the commission may initiate legal action in the U.S.
13 District Court for the District of Columbia or the federal district where the
14 commission has its principal offices against a member state in default to enforce
15 compliance with the provisions of the compact and its promulgated rules and bylaws.
16 The relief sought may include both injunctive relief and damages. In the event
17 judicial enforcement is necessary, the prevailing member shall be awarded all costs
18 of such litigation, including reasonable attorney's fees.

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

21 **(11) DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL**
22 **THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS.** (a) The
23 compact shall come into effect on the date on which the compact statute is enacted
24 into law in the 10th member state. The provisions, which become effective at that
25 time, shall be limited to the powers granted to the commission relating to assembly

ASSEMBLY BILL 438

1 and the promulgation of rules. Thereafter, the commission shall meet and exercise
2 rule-making powers necessary to the implementation and administration of the
3 compact.

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

9 (c) 1. Any member state may withdraw from this compact by enacting a statute
10 repealing the same.

11 2. A member state's withdrawal shall not take effect until 6 months after
12 enactment of the repealing statute.

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

16 (d) Nothing contained in this compact shall be construed to invalidate or
17 prevent any physical therapy licensure agreement or other cooperative arrangement
18 between a member state and a nonmember state that does not conflict with the
19 provisions of this compact.

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

23 **(12) CONSTRUCTION AND SEVERABILITY.** This compact shall be liberally construed
24 so as to effectuate the purposes thereof. The provisions of this compact shall be
25 severable and if any phrase, clause, sentence, or provision of this compact is declared

ASSEMBLY BILL 438

1 to be contrary to the constitution of any party state or of the United States or the
2 applicability thereof to any government, agency, person, or circumstance is held
3 invalid, the validity of the remainder of this compact and the applicability thereof to
4 any government, agency, person, or circumstance shall not be affected thereby. If this
5 compact shall be held contrary to the constitution of any party state, the compact
6 shall remain in full force and effect as to the remaining party states and in full force
7 and effect as to the party state affected as to all severable matters.

8 **SECTION 24.** 448.986 of the statutes is created to read:

9 **448.986 Implementation of the physical therapy licensure compact.**

10 **(1)** In this section:

11 (a) “Compact” means the physical therapy licensure compact under s. 448.985.

12 (b) “Compact privilege” means a compact privilege, as defined in s. 448.985 (2)

13 (d), that is granted under the compact to an individual to practice in this state.

14 (c) “Examining board” means the physical therapy examining board.

15 **(2)** The department may impose a fee for an individual to receive a compact
16 privilege as provided in s. 448.985 (3) (d).

17 **(3)** The examining board may, by rule, require an individual seeking a compact
18 privilege to meet a jurisprudence requirement in accordance with s. 448.985 (4) (a)
19 7., if such a requirement is imposed by the examining board under s. 448.54 in order
20 to obtain a license under s. 448.53 or 448.535.

21 **(4)** (a) An individual who holds a compact privilege shall comply with s. 440.03
22 (13) (am).

23 (b) Subject to s. 448.985 and any rules promulgated thereunder, ss. 440.20 to
24 440.22 and the rules promulgated under s. 440.03 (1) shall apply to an individual who

ASSEMBLY BILL 438

1 holds a compact privilege in the same manner that they apply to holders of licenses
2 issued under subch. III.

3 **SECTION 25.** 450.10 (3) (a) 5. of the statutes is amended to read:

4 450.10 (3) (a) 5. A physician, physician assistant, podiatrist, physical
5 therapist, physical therapist assistant, occupational therapist, or occupational
6 therapy assistant licensed under ch. 448 or a physical therapist or physical therapist
7 assistant who holds a compact privilege under subch. IX of ch. 448.

8 **SECTION 26.** 451.02 (1) of the statutes is amended to read:

9 451.02 (1) An individual holding a license, permit or certificate under ch. 441,
10 446, 447, 448, or 449 or a compact privilege under subch. IX of ch. 448 who engages
11 in a practice of acupuncture that is also included within the scope of his or her license,
12 permit or certificate.

13 **SECTION 27.** 462.04 of the statutes is amended to read:

14 **462.04 Prescription or order required.** A person who holds a license or
15 limited X-ray machine operator permit under this chapter may not use diagnostic
16 X-ray equipment on humans for diagnostic purposes unless authorized to do so by
17 prescription or order of a physician licensed under s. 448.04 (1) (a), a dentist licensed
18 under s. 447.04 (1), a podiatrist licensed under s. 448.63, a chiropractor licensed
19 under s. 446.02, an advanced practice nurse certified under s. 441.16 (2), a physician
20 assistant licensed under s. 448.04 (1) (f), or, subject to s. 448.56 (7) (a), a physical
21 therapist who is licensed under s. 448.53 or who holds a compact privilege under
22 subch. IX of ch. 448.

23 **SECTION 28. Nonstatutory provisions.**

24 (1) The physical therapy examining board and the department of safety and
25 professional services may promulgate emergency rules under s. 227.24 necessary to

ASSEMBLY BILL 438

1 implement this act. Notwithstanding s. 227.24 (1) (c) and (2), emergency rules
2 promulgated under this subsection remain in effect until May 1, 2021, or the date on
3 which permanent rules take effect, whichever is sooner. Notwithstanding s. 227.24
4 (1) (a) and (3), neither the board nor the department is required to provide evidence
5 that promulgating a rule under this subsection as an emergency rule is necessary for
6 the preservation of the public peace, health, safety, or welfare or provide a finding
7 of emergency for a rule promulgated under this subsection.

8 **SECTION 29. Effective dates.** This act takes effect on the day after publication,
9 except as follows:

10 (1) The repeal and recreation of ss. 440.03 (13) (b) (intro.) and 440.15 takes
11 effect on December 16, 2019, or on the day after publication, whichever occurs later,
12 except that if either 2019 Assembly Bill 70 or 2019 Senate Bill 74 is enacted into law,
13 the repeal and recreation of ss. 440.03 (13) (b) (intro.) and 440.15 is void.

14 (END)