

Duchek, Michael

From: Hoisington, Joshua
Sent: Monday, July 10, 2017 12:42 PM
To: Duchek, Michael
Cc: McCarthy, Steven
Subject: Drafting Request
Attachments: LicensureCompactLanguage_20170105.pdf

Good afternoon Michael,

Would you please draft the attached language for us? Thank you for your help.

Best regards,

Josh Hoisington
Office of Representative Joe Sanfelippo
15th Assembly District
608.266.0620

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PHYSICAL THERAPY LICENSURE COMPACT

SECTION 1. PURPOSE

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

This Compact is designed to achieve the following objectives:

- 1. Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;
- 2. Enhance the states’ ability to protect the public’s health and safety;
- 3. Encourage the cooperation of member states in regulating multi-state physical therapy practice;
- 4. Support spouses of relocating military members;
- 5. Enhance the exchange of licensure, investigative, and disciplinary information between member states; and
- 6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state’s practice standards.

SECTION 2. DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

- 1. **“Active Duty Military”** means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

- 24 2. **“Adverse Action”** means disciplinary action taken by a physical therapy
25 licensing board based upon misconduct, unacceptable performance, or a
26 combination of both.
- 27 3. **“Alternative Program”** means a non-disciplinary monitoring or practice
28 remediation process approved by a physical therapy licensing board. This
29 includes, but is not limited to, substance abuse issues.
- 30 4. **“Compact privilege”** means the authorization granted by a remote state to allow
31 a licensee from another member state to practice as a physical therapist or work
32 as a physical therapist assistant in the remote state under its laws and rules. The
33 practice of physical therapy occurs in the member state where the patient/client is
34 located at the time of the patient/client encounter.
- 35 5. **“Continuing competence”** means a requirement, as a condition of license
36 renewal, to provide evidence of participation in, and/or completion of,
37 educational and professional activities relevant to practice or area of work.
- 38 6. **“Data system”** means a repository of information about licensees, including
39 examination, licensure, investigative, compact privilege, and adverse action.
- 40 7. **“Encumbered license”** means a license that a physical therapy licensing board
41 has limited in any way.
- 42 8. **“Executive Board”** means a group of directors elected or appointed to act on
43 behalf of, and within the powers granted to them by, the Commission.
- 44 9. **“Home state”** means the member state that is the licensee’s primary state of
45 residence.

- 46 10. **“Investigative information”** means information, records, and documents
47 received or generated by a physical therapy licensing board pursuant to an
48 investigation.
- 49 11. **“Jurisprudence Requirement”** means the assessment of an individual’s
50 knowledge of the laws and rules governing the practice of physical therapy in a
51 state.
- 52 12. **“Licensee”** means an individual who currently holds an authorization from the
53 state to practice as a physical therapist or to work as a physical therapist assistant.
- 54 13. **“Member state”** means a state that has enacted the Compact.
- 55 14. **“Party state”** means any member state in which a licensee holds a current
56 license or compact privilege or is applying for a license or compact privilege.
- 57 15. **“Physical therapist”** means an individual who is licensed by a state to practice
58 physical therapy.
- 59 16. **“Physical therapist assistant”** means an individual who is licensed/certified by a
60 state and who assists the physical therapist in selected components of physical
61 therapy.
- 62 17. **“Physical therapy,” “physical therapy practice,” and “the practice of**
63 **physical therapy”** mean the care and services provided by or under the direction
64 and supervision of a licensed physical therapist.
- 65 18. **“Physical Therapy Compact Commission” or “Commission”** means the
66 national administrative body whose membership consists of all states that have
67 enacted the Compact.

- 68 19. **“Physical therapy licensing board” or “licensing board”** means the agency of
69 a state that is responsible for the licensing and regulation of physical therapists
70 and physical therapist assistants.
- 71 20. **“Remote State”** means a member state other than the home state, where a
72 licensee is exercising or seeking to exercise the compact privilege.
- 73 21. **“Rule”** means a regulation, principle, or directive promulgated by the
74 Commission that has the force of law.
- 75 22. **“State”** means any state, commonwealth, district, or territory of the United
76 States of America that regulates the practice of physical therapy.

77 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

- 78 A. To participate in the Compact, a state must:
- 79 1. Participate fully in the Commission’s data system, including using the
80 Commission’s unique identifier as defined in rules;
- 81 2. Have a mechanism in place for receiving and investigating complaints
82 about licensees;
- 83 3. Notify the Commission, in compliance with the terms of the Compact and
84 rules, of any adverse action or the availability of investigative information
85 regarding a licensee;
- 86 4. Fully implement a criminal background check requirement, within a time
87 frame established by rule, by receiving the results of the Federal Bureau of
88 Investigation record search on criminal background checks and use the
89 results in making licensure decisions in accordance with Section 3.B.;
- 90 5. Comply with the rules of the Commission;

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

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

95 B. Upon adoption of this statute, the member state shall have the authority to obtain
96 biometric-based information from each physical therapy licensure applicant and submit this
97 information to the Federal Bureau of Investigation for a criminal background check in accordance
98 with 28 U.S.C. §534 and 42 U.S.C. §14616.

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

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

103

104 **SECTION 4. COMPACT PRIVILEGE**

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

107 1. Hold a license in the home state;

108 2. Have no encumbrance on any state license;

109 3. Be eligible for a compact privilege in any member state in accordance
110 with Section 4D, G and H;

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

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

- 115 6. Pay any applicable fees, including any state fee, for the compact
116 privilege;
- 117 7. Meet any jurisprudence requirements established by the remote state(s) in
118 which the licensee is seeking a compact privilege; and
- 119 8. Report to the Commission adverse action taken by any non-member state
120 within 30 days from the date the adverse action is taken.
- 121 B. The compact privilege is valid until the expiration date of the home license. The
122 licensee must comply with the requirements of Section 4.A. to maintain the compact
123 privilege in the remote state.
- 124 C. A licensee providing physical therapy in a remote state under the compact
125 privilege shall function within the laws and regulations of the remote state.
- 126 D. A licensee providing physical therapy in a remote state is subject to that state's
127 regulatory authority. A remote state may, in accordance with due process and that state's
128 laws, remove a licensee's compact privilege in the remote state for a specific period of
129 time, impose fines, and/or take any other necessary actions to protect the health and
130 safety of its citizens. The licensee is not eligible for a compact privilege in any state until
131 the specific time for removal has passed and all fines are paid.
- 132 E. If a home state license is encumbered, the licensee shall lose the compact
133 privilege in any remote state until the following occur:
- 134 1. The home state license is no longer encumbered; and
- 135 2. Two years have elapsed from the date of the adverse action.

136 F. Once an encumbered license in the home state is restored to good standing, the
137 licensee must meet the requirements of Section 4A to obtain a compact privilege in any
138 remote state.

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

- 141 1. The specific period of time for which the compact privilege was removed
142 has ended;
- 143 2. All fines have been paid; and
- 144 3. Two years have elapsed from the date of the adverse action.

145 H. Once the requirements of Section 4G have been met, the license must meet the
146 requirements in Section 4A to obtain a compact privilege in a remote state.

147 **SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

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

- 150 A. Home of record;
- 151 B. Permanent Change of Station (PCS); or
- 152 C. State of current residence if it is different than the PCS state or home of record.

153 **SECTION 6. ADVERSE ACTIONS**

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

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

- 159 C. Nothing in this Compact shall override a member state's decision that
160 participation in an alternative program may be used in lieu of adverse action and
161 that such participation shall remain non-public if required by the member state's
162 laws. Member states must require licensees who enter any alternative programs in
163 lieu of discipline to agree not to practice in any other member state during the
164 term of the alternative program without prior authorization from such other
165 member state.
- 166 D. Any member state may investigate actual or alleged violations of the statutes and
167 rules authorizing the practice of physical therapy in any other member state in
168 which a physical therapist or physical therapist assistant holds a license or
169 compact privilege.
- 170 E. A remote state shall have the authority to:
- 171 1. Take adverse actions as set forth in Section 4.D. against a licensee's
172 compact privilege in the state;
 - 173 2. Issue subpoenas for both hearings and investigations that require the
174 attendance and testimony of witnesses, and the production of evidence.
175 Subpoenas issued by a physical therapy licensing board in a party state for
176 the attendance and testimony of witnesses, and/or the production of
177 evidence from another party state, shall be enforced in the latter state by
178 any court of competent jurisdiction, according to the practice and
179 procedure of that court applicable to subpoenas issued in proceedings
180 pending before it. The issuing authority shall pay any witness fees, travel

181 expenses, mileage, and other fees required by the service statutes of the
182 state where the witnesses and/or evidence are located; and
183 3. If otherwise permitted by state law, recover from the licensee the costs of
184 investigations and disposition of cases resulting from any adverse action
185 taken against that licensee.

186 F. Joint Investigations

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

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

194 **SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT**
195 **COMMISSION.**

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

198 1. The Commission is an instrumentality of the Compact states.
199 2. Venue is proper and judicial proceedings by or against the Commission
200 shall be brought solely and exclusively in a court of competent jurisdiction
201 where the principal office of the Commission is located. The Commission
202 may waive venue and jurisdictional defenses to the extent it adopts or
203 consents to participate in alternative dispute resolution proceedings.

204 3. Nothing in this Compact shall be construed to be a waiver of sovereign
205 immunity.

206 B. Membership, Voting, and Meetings

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

209 2. The delegate shall be a current member of the licensing board, who is a
210 physical therapist, physical therapist assistant, public member, or the
211 board administrator.

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

214 4. The member state board shall fill any vacancy occurring in the
215 Commission.

216 5. Each delegate shall be entitled to one (1) vote with regard to the
217 promulgation of rules and creation of bylaws and shall otherwise have an
218 opportunity to participate in the business and affairs of the Commission.

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

222 7. The Commission shall meet at least once during each calendar year.
223 Additional meetings shall be held as set forth in the bylaws.

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

225 1. Establish the fiscal year of the Commission;

226 2. Establish bylaws;

- 227 3. Maintain its financial records in accordance with the bylaws;
- 228 4. Meet and take such actions as are consistent with the provisions of this
- 229 Compact and the bylaws;
- 230 5. Promulgate uniform rules to facilitate and coordinate implementation and
- 231 administration of this Compact. The rules shall have the force and effect
- 232 of law and shall be binding in all member states;
- 233 6. Bring and prosecute legal proceedings or actions in the name of the
- 234 Commission, provided that the standing of any state physical therapy
- 235 licensing board to sue or be sued under applicable law shall not be
- 236 affected;
- 237 7. Purchase and maintain insurance and bonds;
- 238 8. Borrow, accept, or contract for services of personnel, including, but not
- 239 limited to, employees of a member state;
- 240 9. Hire employees, elect or appoint officers, fix compensation, define duties,
- 241 grant such individuals appropriate authority to carry out the purposes of
- 242 the Compact, and to establish the Commission's personnel policies and
- 243 programs relating to conflicts of interest, qualifications of personnel, and
- 244 other related personnel matters;
- 245 10. Accept any and all appropriate donations and grants of money, equipment,
- 246 supplies, materials and services, and to receive, utilize and dispose of the
- 247 same; provided that at all times the Commission shall avoid any
- 248 appearance of impropriety and/or conflict of interest;

- 249 11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to
250 own, hold, improve or use, any property, real, personal or mixed; provided
251 that at all times the Commission shall avoid any appearance of
252 impropriety;
- 253 12. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise
254 dispose of any property real, personal, or mixed;
- 255 13. Establish a budget and make expenditures;
- 256 14. Borrow money;
- 257 15. Appoint committees, including standing committees composed of
258 members, state regulators, state legislators or their representatives, and
259 consumer representatives, and such other interested persons as may be
260 designated in this Compact and the bylaws;
- 261 16. Provide and receive information from, and cooperate with, law
262 enforcement agencies;
- 263 17. Establish and elect an Executive Board; and
- 264 18. Perform such other functions as may be necessary or appropriate to
265 achieve the purposes of this Compact consistent with the state regulation
266 of physical therapy licensure and practice.

267 D. The Executive Board

268 The Executive Board shall have the power to act on behalf of the Commission according
269 to the terms of this Compact

- 270 1. The Executive Board shall be composed of nine members:

- 271 a. Seven voting members who are elected by the Commission from the
272 current membership of the Commission;
- 273 b. One ex-officio, nonvoting member from the recognized national physical
274 therapy professional association; and
- 275 c. One ex-officio, nonvoting member from the recognized membership
276 organization of the physical therapy licensing boards.
- 277 2. The ex-officio members will be selected by their respective organizations.
- 278 3. The Commission may remove any member of the Executive Board as
279 provided in bylaws.
- 280 4. The Executive Board shall meet at least annually.
- 281 5. The Executive Board shall have the following Duties and responsibilities:
- 282 a. Recommend to the entire Commission changes to the rules or bylaws,
283 changes to this Compact legislation, fees paid by Compact member states
284 such as annual dues, and any commission Compact fee charged to
285 licensees for the compact privilege;
- 286 b. Ensure Compact administration services are appropriately provided,
287 contractual or otherwise;
- 288 c. Prepare and recommend the budget;
- 289 d. Maintain financial records on behalf of the Commission;
- 290 e. Monitor Compact compliance of member states and provide compliance
291 reports to the Commission;
- 292 f. Establish additional committees as necessary; and
- 293 g. Other duties as provided in rules or bylaws.

- 294 E. Meetings of the Commission
- 295 1. All meetings shall be open to the public, and public notice of meetings
- 296 shall be given in the same manner as required under the rulemaking
- 297 provisions in Section 9.
- 298 2. The Commission or the Executive Board or other committees of the
- 299 Commission may convene in a closed, non-public meeting if the
- 300 Commission or Executive Board or other committees of the Commission
- 301 must discuss:
- 302 a. Non-compliance of a member state with its obligations under the
- 303 Compact;
- 304 b. The employment, compensation, discipline or other matters, practices or
- 305 procedures related to specific employees or other matters related to the
- 306 Commission's internal personnel practices and procedures;
- 307 c. Current, threatened, or reasonably anticipated litigation;
- 308 d. Negotiation of contracts for the purchase, lease, or sale of goods,
- 309 services, or real estate;
- 310 e. Accusing any person of a crime or formally censuring any person;
- 311 f. Disclosure of trade secrets or commercial or financial information that is
- 312 privileged or confidential;
- 313 g. Disclosure of information of a personal nature where disclosure would
- 314 constitute a clearly unwarranted invasion of personal privacy;
- 315 h. Disclosure of investigative records compiled for law enforcement
- 316 purposes;

- 317 i. Disclosure of information related to any investigative reports prepared by
318 or on behalf of or for use of the Commission or other committee charged
319 with responsibility of investigation or determination of compliance issues
320 pursuant to the Compact; or
- 321 j. Matters specifically exempted from disclosure by federal or member state
322 statute.
- 323 3. If a meeting, or portion of a meeting, is closed pursuant to this provision,
324 the Commission's legal counsel or designee shall certify that the meeting
325 may be closed and shall reference each relevant exempting provision.
- 326 4. The Commission shall keep minutes that fully and clearly describe all
327 matters discussed in a meeting and shall provide a full and accurate
328 summary of actions taken, and the reasons therefore, including a
329 description of the views expressed. All documents considered in
330 connection with an action shall be identified in such minutes. All minutes
331 and documents of a closed meeting shall remain under seal, subject to
332 release by a majority vote of the Commission or order of a court of
333 competent jurisdiction.

334 **F. Financing of the Commission**

- 335 1. The Commission shall pay, or provide for the payment of, the reasonable
336 expenses of its establishment, organization, and ongoing activities.
- 337 2. The Commission may accept any and all appropriate revenue sources,
338 donations, and grants of money, equipment, supplies, materials, and
339 services.

- 340 3. The Commission may levy on and collect an annual assessment from each
341 member state or impose fees on other parties to cover the cost of the
342 operations and activities of the Commission and its staff, which must be in
343 a total amount sufficient to cover its annual budget as approved each year
344 for which revenue is not provided by other sources. The aggregate annual
345 assessment amount shall be allocated based upon a formula to be
346 determined by the Commission, which shall promulgate a rule binding
347 upon all member states.
- 348 4. The Commission shall not incur obligations of any kind prior to securing
349 the funds adequate to meet the same; nor shall the Commission pledge the
350 credit of any of the member states, except by and with the authority of the
351 member state.
- 352 5. The Commission shall keep accurate accounts of all receipts and
353 disbursements. The receipts and disbursements of the Commission shall be
354 subject to the audit and accounting procedures established under its
355 bylaws. However, all receipts and disbursements of funds handled by the
356 Commission shall be audited yearly by a certified or licensed public
357 accountant, and the report of the audit shall be included in and become
358 part of the annual report of the Commission.

359 G. Qualified Immunity, Defense, and Indemnification

- 360 1. The members, officers, executive director, employees and representatives
361 of the Commission shall be immune from suit and liability, either
362 personally or in their official capacity, for any claim for damage to or loss

363 of property or personal injury or other civil liability caused by or arising
364 out of any actual or alleged act, error or omission that occurred, or that the
365 person against whom the claim is made had a reasonable basis for
366 believing occurred within the scope of Commission employment, duties or
367 responsibilities; provided that nothing in this paragraph shall be construed
368 to protect any such person from suit and/or liability for any damage, loss,
369 injury, or liability caused by the intentional or willful or wanton
370 misconduct of that person.

371 2. The Commission shall defend any member, officer, executive director,
372 employee or representative of the Commission in any civil action seeking
373 to impose liability arising out of any actual or alleged act, error, or
374 omission that occurred within the scope of Commission employment,
375 duties, or responsibilities, or that the person against whom the claim is
376 made had a reasonable basis for believing occurred within the scope of
377 Commission employment, duties, or responsibilities; provided that nothing
378 herein shall be construed to prohibit that person from retaining his or her
379 own counsel; and provided further, that the actual or alleged act, error, or
380 omission did not result from that person's intentional or willful or wanton
381 misconduct.

382 3. The Commission shall indemnify and hold harmless any member, officer,
383 executive director, employee, or representative of the Commission for the
384 amount of any settlement or judgment obtained against that person arising
385 out of any actual or alleged act, error or omission that occurred within the

386 scope of Commission employment, duties, or responsibilities, or that such
387 person had a reasonable basis for believing occurred within the scope of
388 Commission employment, duties, or responsibilities, provided that the
389 actual or alleged act, error, or omission did not result from the intentional
390 or willful or wanton misconduct of that person.

391

392 **SECTION 8. DATA SYSTEM**

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

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

- 399 1. Identifying information;
400 2. Licensure data;
401 3. Adverse actions against a license or compact privilege;
402 4. Non-confidential information related to alternative program participation;
403 5. Any denial of application for licensure, and the reason(s) for such denial;
404 and
405 6. Other information that may facilitate the administration of this Compact,
406 as determined by the rules of the Commission.

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

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

412 E. Member states contributing information to the data system may designate
413 information that may not be shared with the public without the express permission of the
414 contributing state.

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

418 **SECTION 9. RULEMAKING**

419 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set
420 forth in this Section and the rules adopted thereunder. Rules and amendments shall become
421 binding as of the date specified in each rule or amendment.

422 B. If a majority of the legislatures of the member states rejects a rule, by enactment
423 of a statute or resolution in the same manner used to adopt the Compact within 4 years of the
424 date of adoption of the rule, then such rule shall have no further force and effect in any member
425 state.

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

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

- 431 1. On the website of the Commission or other publicly accessible platform;
432 and
433 2. On the website of each member state physical therapy licensing board or
434 other publicly accessible platform or the publication in which each state
435 would otherwise publish proposed rules.

436 E. The Notice of Proposed Rulemaking shall include:

- 437 1. The proposed time, date, and location of the meeting in which the rule will
438 be considered and voted upon;
439 2. The text of the proposed rule or amendment and the reason for the
440 proposed rule;
441 3. A request for comments on the proposed rule from any interested person;
442 and
443 4. The manner in which interested persons may submit notice to the
444 Commission of their intention to attend the public hearing and any written
445 comments.

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

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

- 450 1. At least twenty-five (25) persons;
451 2. A state or federal governmental subdivision or agency; or
452 3. An association having at least twenty-five (25) members.

453 H. If a hearing is held on the proposed rule or amendment, the Commission shall
454 publish the place, time, and date of the scheduled public hearing. If the hearing is held via
455 electronic means, the Commission shall publish the mechanism for access to the electronic
456 hearing.

- 457 1. All persons wishing to be heard at the hearing shall notify the executive
458 director of the Commission or other designated member in writing of their
459 desire to appear and testify at the hearing not less than five (5) business
460 days before the scheduled date of the hearing.
- 461 2. Hearings shall be conducted in a manner providing each person who
462 wishes to comment a fair and reasonable opportunity to comment orally or
463 in writing.
- 464 3. All hearings will be recorded. A copy of the recording will be made
465 available on request.
- 466 4. Nothing in this section shall be construed as requiring a separate hearing
467 on each rule. Rules may be grouped for the convenience of the
468 Commission at hearings required by this section.

469 I. Following the scheduled hearing date, or by the close of business on the
470 scheduled hearing date if the hearing was not held, the Commission shall consider all written and
471 oral comments received.

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

475 K. The Commission shall, by majority vote of all members, take final action on the
476 proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking
477 record and the full text of the rule.

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

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

489 M. The Commission or an authorized committee of the Commission may direct
490 revisions to a previously adopted rule or amendment for purposes of correcting typographical
491 errors, errors in format, errors in consistency, or grammatical errors. Public notice of any
492 revisions shall be posted on the website of the Commission. The revision shall be subject to
493 challenge by any person for a period of thirty (30) days after posting. The revision may be
494 challenged only on grounds that the revision results in a material change to a rule. A challenge
495 shall be made in writing, and delivered to the chair of the Commission prior to the end of the
496 notice period. If no challenge is made, the revision will take effect without further action. If the
497 revision is challenged, the revision may not take effect without the approval of the Commission.

498 **SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

499 A. Oversight

500 1. The executive, legislative, and judicial branches of state government in
501 each member state shall enforce this Compact and take all actions
502 necessary and appropriate to effectuate the Compact’s purposes and intent.

503 The provisions of this Compact and the rules promulgated hereunder shall
504 have standing as statutory law.

505 2. All courts shall take judicial notice of the Compact and the rules in any
506 judicial or administrative proceeding in a member state pertaining to the
507 subject matter of this Compact which may affect the powers,
508 responsibilities or actions of the Commission.

509 3. The Commission shall be entitled to receive service of process in any such
510 proceeding, and shall have standing to intervene in such a proceeding for
511 all purposes. Failure to provide service of process to the Commission shall
512 render a judgment or order void as to the Commission, this Compact, or
513 promulgated rules.

514 B. Default, Technical Assistance, and Termination

515 1. If the Commission determines that a member state has defaulted in the
516 performance of its obligations or responsibilities under this Compact or
517 the promulgated rules, the Commission shall:

518 a. Provide written notice to the defaulting state and other member states of
519 the nature of the default, the proposed means of curing the default and/or
520 any other action to be taken by the Commission; and

- 521 b. Provide remedial training and specific technical assistance regarding the
522 default.
- 523 2. If a state in default fails to cure the default, the defaulting state may be
524 terminated from the Compact upon an affirmative vote of a majority of the
525 member states, and all rights, privileges and benefits conferred by this
526 Compact may be terminated on the effective date of termination. A cure of
527 the default does not relieve the offending state of obligations or liabilities
528 incurred during the period of default.
- 529 3. Termination of membership in the Compact shall be imposed only after all
530 other means of securing compliance have been exhausted. Notice of intent
531 to suspend or terminate shall be given by the Commission to the governor,
532 the majority and minority leaders of the defaulting state's legislature, and
533 each of the member states.
- 534 4. A state that has been terminated is responsible for all assessments,
535 obligations, and liabilities incurred through the effective date of
536 termination, including obligations that extend beyond the effective date of
537 termination.
- 538 5. The Commission shall not bear any costs related to a state that is found to
539 be in default or that has been terminated from the Compact, unless agreed
540 upon in writing between the Commission and the defaulting state.
- 541 6. The defaulting state may appeal the action of the Commission by
542 petitioning the U.S. District Court for the District of Columbia or the
543 federal district where the Commission has its principal offices. The

544 prevailing member shall be awarded all costs of such litigation, including
545 reasonable attorney's fees.

546 C. Dispute Resolution

547 1. Upon request by a member state, the Commission shall attempt to resolve
548 disputes related to the Compact that arise among member states and
549 between member and non-member states.

550 2. The Commission shall promulgate a rule providing for both mediation and
551 binding dispute resolution for disputes as appropriate.

552 D. Enforcement

553 1. The Commission, in the reasonable exercise of its discretion, shall enforce
554 the provisions and rules of this Compact.

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

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

566 **SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE**
567 **COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED**
568 **RULES, WITHDRAWAL, AND AMENDMENT**

569 A. The Compact shall come into effect on the date on which the Compact statute is
570 enacted into law in the tenth member state. The provisions, which become effective at that time,
571 shall be limited to the powers granted to the Commission relating to assembly and the
572 promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers
573 necessary to the implementation and administration of the Compact.

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

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

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

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

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

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

592 **SECTION 12. CONSTRUCTION AND SEVERABILITY**

593 This Compact shall be liberally construed so as to effectuate the purposes thereof. The
594 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision
595 of this Compact is declared to be contrary to the constitution of any party state or of the
596 United States or the applicability thereof to any government, agency, person or circumstance
597 is held invalid, the validity of the remainder of this Compact and the applicability thereof to
598 any government, agency, person or circumstance shall not be affected thereby. If this
599 Compact shall be held contrary to the constitution of any party state, the Compact shall
600 remain in full force and effect as to the remaining party states and in full force and effect as
601 to the party state affected as to all severable matters.

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