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HOUSE BILL 82

**57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

INTRODUCED BY

Elizabeth "Liz" Thomson

AN ACT

RELATING TO PROFESSIONAL LICENSURE; ENACTING THE PHYSICAL THERAPY LICENSURE COMPACT; AMENDING THE PHYSICAL THERAPY ACT TO PROVIDE FOR STATE AND FEDERAL CRIMINAL HISTORY BACKGROUND CHECKS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] PHYSICAL THERAPY LICENSURE COMPACT ENTERED INTO.--The Physical Therapy Licensure Compact is entered into law and entered into with all other jurisdictions legally joining therein in a form substantially as follows:

"Physical Therapy Licensure Compact

ARTICLE 1 - Purpose

The purpose of the Physical Therapy Licensure Compact is to facilitate interstate practice of physical therapy with the

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1 goal of improving public access to physical therapy services.  
2 The practice of physical therapy occurs in the state where the  
3 patient or client is located at the time of the patient or  
4 client encounter. The compact preserves the regulatory  
5 authority of states to protect public health and safety through  
6 the current system of state licensure. This compact is  
7 designed to achieve the following objectives:

8 A. increase public access to physical therapy  
9 services by providing for the mutual recognition of other  
10 member state licenses;

11 B. enhance the states' ability to protect public  
12 health and safety;

13 C. encourage the cooperation of member states in  
14 regulating multistate physical therapy practice;

15 D. support spouses of relocating military members;

16 E. enhance the exchange of licensure, investigative  
17 and disciplinary information between member states; and

18 F. allow a remote state to hold a provider of  
19 services with a compact privilege in that state accountable to  
20 that state's practice standards.

## 21 ARTICLE 2 - Definitions

22 As used in the Physical Therapy Licensure Compact, and  
23 except as otherwise provided, the following definitions shall  
24 apply:

25 A. "active duty military" means full-time duty

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1 status in the active uniformed service of the United States,  
2 including members of the national guard and reserve on active  
3 duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211;

4 B. "adverse action" means disciplinary action taken  
5 by a physical therapy licensing board based on misconduct,  
6 unacceptable performance or a combination of both;

7 C. "alternative program" means a nondisciplinary  
8 monitoring or practice remediation process approved by a  
9 physical therapy licensing board. This includes, but is not  
10 limited to, substance abuse issues;

11 D. "compact privilege" means the authorization  
12 granted by a remote state to allow a licensee from another  
13 member state to practice as a physical therapist or work as a  
14 physical therapist assistant in the remote state under its laws  
15 and rules. The practice of physical therapy occurs in the  
16 member state where the patient or client is located at the time  
17 of the patient or client encounter;

18 E. "continuing competence" means a requirement, as  
19 a condition of license renewal, to provide evidence of  
20 participation in, or completion of, educational and  
21 professional activities relevant to practice or area of work;

22 F. "data system" means a repository of information  
23 about licensees, including examination, licensure,  
24 investigative, compact privilege and adverse action;

25 G. "encumbered license" means a license that a

1 physical therapy licensing board has limited in any way;

2 H. "executive board" means a group of directors  
3 elected or appointed to act on behalf of, and within the powers  
4 granted to them by, the commission;

5 I. "home state" means the member state that is the  
6 licensee's primary state of residence;

7 J. "investigative information" means information,  
8 records and documents received or generated by a physical  
9 therapy licensing board pursuant to an investigation;

10 K. "jurisprudence requirement" means the assessment  
11 of an individual's knowledge of the laws and rules governing  
12 the practice of physical therapy in a state;

13 L. "licensee" means an individual who currently  
14 holds an authorization from the state to practice as a physical  
15 therapist or to work as a physical therapist assistant;

16 M. "member state" means a state that has enacted  
17 the compact;

18 N. "party state" means any member state in which a  
19 licensee holds a current license or compact privilege or is  
20 applying for a license or compact privilege;

21 O. "physical therapist" means an individual who is  
22 licensed by a state to practice physical therapy;

23 P. "physical therapist assistant" means an  
24 individual who is licensed or certified by a state and who  
25 assists the physical therapist in selected components of

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1 physical therapy;

2 Q. "physical therapy", "physical therapy practice"  
3 or "the practice of physical therapy" means the care and  
4 services provided by or under the direction and supervision of  
5 a licensed physical therapist;

6 R. "physical therapy compact commission", "compact  
7 commission" or "commission" means the national administrative  
8 body whose membership consists of all states that have enacted  
9 the Physical Therapy Licensure Compact;

10 S. "physical therapy licensing board" or "licensing  
11 board" means the agency of a state that is responsible for the  
12 licensing and regulation of physical therapists and physical  
13 therapist assistants;

14 T. "remote state" means a member state other than  
15 the home state in which a licensee is exercising or seeking to  
16 exercise the compact privilege;

17 U. "rule" means a regulation, principle or  
18 directive promulgated by the commission that has the force of  
19 law; and

20 V. "state" means any state, commonwealth, district  
21 or territory of the United States of America that regulates the  
22 practice of physical therapy.

23 ARTICLE 3 - State Participation in Compact

24 A. To participate in the Physical Therapy Licensure  
25 Compact, a state must:

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

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

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

10 (4) fully implement a criminal background  
11 check requirement, within a time frame established by rule, by  
12 receiving the results of the federal bureau of investigation  
13 record search on criminal background checks and using the  
14 results in making licensure decisions in accordance with  
15 Subsection B of this article;

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

17 (6) use a recognized national examination as a  
18 requirement for licensure pursuant to the rules of the  
19 commission; and

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

22 B. Upon adoption of this statute, the member state  
23 shall have the authority to obtain biometric-based information  
24 from each physical therapy licensure applicant and submit this  
25 information to the federal bureau of investigation for a

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1 criminal background check in accordance with 28 U.S.C. Section  
2 534 and 42 U.S.C. Section 14616.

3 C. A member state shall grant the compact privilege  
4 to a licensee holding a valid unencumbered license in another  
5 member state in accordance with the terms of the compact and  
6 rules.

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

9 ARTICLE 4 - Compact Privilege

10 A. To exercise the compact privilege under the  
11 terms and provisions of the Physical Therapy Licensure Compact,  
12 the licensee shall:

- 13 (1) hold a license in the home state;
- 14 (2) have no encumbrance on any state license;
- 15 (3) be eligible for a compact privilege in any  
16 member state in accordance with Subsections G and H of this  
17 article;
- 18 (4) have not had any adverse action against  
19 any license or compact privilege within the previous two years;
- 20 (5) notify the commission that the licensee is  
21 seeking the compact privilege within a remote state;
- 22 (6) pay applicable fees, including any state  
23 fee, for the compact privilege;
- 24 (7) meet jurisprudence requirements  
25 established by the remote states in which the licensee is

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1 seeking a compact privilege; and

2 (8) report to the commission adverse action  
3 taken by a nonmember state within thirty days from the date the  
4 adverse action is taken.

5 B. The compact privilege is valid until the  
6 expiration date of the home license. The licensee must comply  
7 with the requirements of Subsection A of this article to  
8 maintain the compact privilege in the remote state.

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

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

21 E. If a home state license is encumbered, the  
22 licensee shall lose the compact privilege in any remote state  
23 until the following occur:

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

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

3                   F. Once an encumbered license in the home state is  
4 restored to good standing, the licensee must meet the  
5 requirements of Subsection A of this article to obtain a  
6 compact privilege in any remote state.

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

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

12                   (2) all fines have been paid; and

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

15                   H. Once the requirements of Subsection G of this  
16 article have been met, the licensee must meet the requirements  
17 in Subsection A of this article to obtain a compact privilege  
18 in a remote state.

19                   ARTICLE 5 - Active Duty Military Personnel or Their Spouses

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

- 23                   A. home of record;
- 24                   B. permanent change of station; or
- 25                   C. state of current residence if it is different

1 than the permanent change of station state or home of record.

2 ARTICLE 6 - Adverse Actions

3 A. A home state shall have exclusive power to  
4 impose adverse action against a license issued by the home  
5 state.

6 B. A home state may take adverse action based on  
7 the investigative information of a remote state so long as the  
8 home state follows its own procedures for imposing adverse  
9 action.

10 C. Nothing in the Physical Therapy Licensure  
11 Compact shall override a member state's decision that  
12 participation in an alternative program may be used in lieu of  
13 adverse action and that such participation shall remain  
14 nonpublic if required by the member state's laws. Member  
15 states must require licensees who enter any alternative  
16 programs in lieu of discipline to agree not to practice in any  
17 other member state during the term of the alternative program  
18 without prior authorization from such other member state.

19 D. Any member state may investigate actual or  
20 alleged violations of the statutes and rules authorizing the  
21 practice of physical therapy in any other member state in which  
22 a physical therapist or physical therapist assistant holds a  
23 license or compact privilege.

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

25 (1) take adverse actions as set forth in

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1 Subsection D of Article 4 of the Physical Therapy Licensure  
2 Compact against a licensee's compact privilege in the state;

3 (2) issue subpoenas for both hearings and  
4 investigations that require the attendance and testimony of  
5 witnesses and the production of evidence. Subpoenas issued by  
6 a physical therapy licensing board in a party state for the  
7 attendance and testimony of witnesses, or the production of  
8 evidence from another party state, shall be enforced in the  
9 latter state by any court of competent jurisdiction, according  
10 to the practice and procedure of that court applicable to  
11 subpoenas issued in proceedings pending before it. The issuing  
12 authority shall pay witness fees, travel expenses, mileage and  
13 other fees required by the service statutes of the state where  
14 the witnesses or evidence are located; and

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

19 F. Joint Investigations

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

24 (2) Member states shall share investigative,  
25 litigation or compliance materials in furtherance of any joint

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1 or individual investigation initiated under the compact.

2 ARTICLE 7 - Establishment of the Physical Therapy Compact  
3 Commission

4 A. The compact member states hereby create and  
5 establish a joint public agency known as the "physical therapy  
6 compact commission".

7 (1) The commission is an instrumentality of  
8 the compact states.

9 (2) Venue is proper and judicial proceedings  
10 by or against the commission shall be brought solely and  
11 exclusively in a court of competent jurisdiction where the  
12 principal office of the commission is located. The commission  
13 may waive venue and jurisdictional defenses to the extent it  
14 adopts or consents to participate in alternative dispute  
15 resolution proceedings.

16 (3) Nothing in the Physical Therapy Licensure  
17 Compact shall be construed to be a waiver of sovereign  
18 immunity.

19 B. Membership, Voting and Meetings

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

23 (2) The delegate shall be a current member of  
24 the licensing board, who is a physical therapist, physical  
25 therapist assistant, public member or the board administrator.

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1 (3) Any delegate may be removed or suspended  
2 from office as provided by the law of the state from which the  
3 delegate is appointed.

4 (4) The member state board shall fill any  
5 vacancy occurring in the commission.

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

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

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

17 C. The commission shall have the following powers  
18 and duties:

19 (1) establish the fiscal year of the  
20 commission;

21 (2) establish bylaws;

22 (3) maintain the commission's financial  
23 records in accordance with the bylaws;

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

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

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

9 (7) purchase and maintain insurance and bonds;

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

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

19 (10) accept appropriate donations and grants  
20 of money, equipment, supplies, materials and services and  
21 receive, use and dispose of the same; provided that at all  
22 times the commission shall avoid any appearance of impropriety  
23 or conflict of interest;

24 (11) lease, purchase, accept appropriate gifts  
25 or donations of, or otherwise own, hold, improve or use, any

.229361.2

1 property, real, personal or mixed; provided that at all times  
2 the commission shall avoid any appearance of impropriety;

3 (12) sell, convey, mortgage, pledge, lease,  
4 exchange, abandon or otherwise dispose of property real,  
5 personal or mixed;

6 (13) establish a budget and make expenditures;

7 (14) borrow money;

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

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

15 (17) establish and elect an executive board;  
16 and

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

21 D. The Executive Board

22 The executive board shall have the power to act on behalf  
23 of the commission according to the terms of this compact.

24 (1) The executive board shall be composed of  
25 nine members:

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1 (a) seven voting members who are elected  
2 by the commission from the current membership of the  
3 commission;

4 (b) one ex-officio, nonvoting member  
5 from the recognized national physical therapy professional  
6 association; and

7 (c) one ex-officio, nonvoting member  
8 from the recognized membership organization of the physical  
9 therapy licensing boards.

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

12 (3) The commission may remove a member of the  
13 executive board as provided in bylaws.

14 (4) The executive board shall meet at least  
15 annually.

16 (5) The executive board shall have the  
17 following duties and responsibilities:

18 (a) recommend to the entire commission  
19 changes to the rules or bylaws, changes to this compact  
20 legislation, fees paid by compact member states such as annual  
21 dues and any commission compact fee charged to licensees for  
22 the compact privilege;

23 (b) ensure that compact administration  
24 services are appropriately provided, contractual or otherwise;

25 (c) prepare and recommend the budget;

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1 (d) maintain financial records on behalf  
2 of the commission;

3 (e) monitor compact compliance of member  
4 states and provide compliance reports to the commission;

5 (f) establish additional committees as  
6 necessary; and

7 (g) perform other duties as provided in  
8 rules or bylaws.

9 E. Meetings of the Commission

10 (1) All meetings shall be open to the public,  
11 and public notice of meetings shall be given in the same manner  
12 as required under the rulemaking provisions in Article 9 of the  
13 Physical Therapy Licensure Compact.

14 (2) The commission or the executive board or  
15 other committees of the commission may convene in a closed,  
16 nonpublic meeting if the commission or executive board or other  
17 committees of the commission must discuss:

18 (a) noncompliance of a member state with  
19 its obligations under the compact;

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

24 (c) current, threatened or reasonably  
25 anticipated litigation;

1 (d) negotiation of contracts for the  
2 purchase, lease or sale of goods, services or real estate;

3 (e) accusation of any person of a crime  
4 or formally censuring any person;

5 (f) disclosure of trade secrets or  
6 commercial or financial information that is privileged or  
7 confidential;

8 (g) disclosure of information of a  
9 personal nature where disclosure would constitute a clearly  
10 unwarranted invasion of personal privacy;

11 (h) disclosure of investigative records  
12 compiled for law enforcement purposes;

13 (i) disclosure of information related to  
14 any investigative reports prepared by or on behalf of or for  
15 use of the commission or other committee charged with  
16 responsibility of investigation or determination of compliance  
17 issues pursuant to the compact; or

18 (j) matters specifically exempted from  
19 disclosure by federal or member state statute.

20 (3) If a meeting or portion of a meeting is  
21 closed pursuant to this provision, the commission's legal  
22 counsel or designee shall certify that the meeting may be  
23 closed and shall reference each relevant exempting provision.

24 (4) The commission shall keep minutes that  
25 fully and clearly describe all matters discussed in a meeting

1 and shall provide a full and accurate summary of actions taken,  
2 and the reasons therefore, including a description of the views  
3 expressed. All documents considered in connection with an  
4 action shall be identified in the minutes. All minutes and  
5 documents of a closed meeting shall remain under seal, subject  
6 to release by a majority vote of the commission or order of a  
7 court of competent jurisdiction.

8 F. Financing of the Commission

9 (1) The commission shall pay or provide for  
10 the payment of the reasonable expenses of its establishment,  
11 organization and ongoing activities.

12 (2) The commission may accept any and all  
13 appropriate revenue sources, donations and grants of money,  
14 equipment, supplies, materials and services.

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

24 (4) The commission shall not incur obligations  
25 of any kind prior to securing the funds adequate to meet the

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1 same; nor shall the commission pledge the credit of any of the  
2 member states, except by and with the authority of the member  
3 state.

4 (5) The commission shall keep accurate  
5 accounts of all receipts and disbursements. The receipts and  
6 disbursements of the commission shall be subject to the audit  
7 and accounting procedures established under its bylaws.  
8 However, all receipts and disbursements of funds handled by the  
9 commission shall be audited yearly by a certified or licensed  
10 public accountant, and the report of the audit shall be  
11 included in and become part of the annual report of the  
12 commission.

13 G. Qualified Immunity, Defense and Indemnification

14 (1) The members, officers, executive director,  
15 employees and representatives of the commission shall be immune  
16 from suit and liability, either personally or in their official  
17 capacity, for any claim for damage to or loss of property or  
18 personal injury or other civil liability caused by or arising  
19 out of any actual or alleged act, error or omission that  
20 occurred, or that the person against whom the claim is made had  
21 a reasonable basis for believing occurred, within the scope of  
22 commission employment, duties or responsibilities; provided  
23 that nothing in this paragraph shall be construed to protect  
24 any such person from suit or liability for any damage, loss,  
25 injury or liability caused by the intentional or willful or

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1 wanton misconduct of that person.

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

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

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ARTICLE 8 - Data System

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

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom the Physical Therapy Licensure Compact is applicable as required by the rules of the commission, including:

- (1) identifying information;
- (2) licensure data;
- (3) adverse actions against a license or compact privilege;
- (4) nonconfidential information related to alternative program participation;
- (5) any denial of application for licensure and the reasons for such denial; and
- (6) other information that may facilitate the administration of this compact, as determined by the rules of the commission.

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

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1           D. The commission shall promptly notify all member  
2 states of any adverse action taken against a licensee or an  
3 individual applying for a license. Adverse action information  
4 pertaining to a licensee in any member state shall be available  
5 to any other member state.

6           E. Member states contributing information to the  
7 data system may designate information that may not be shared  
8 with the public without the express permission of the  
9 contributing state.

10          F. Any information submitted to the data system  
11 that is subsequently required to be expunged by the laws of the  
12 member state contributing the information shall be removed from  
13 the data system.

14                           ARTICLE 9 - Rulemaking

15          A. The commission shall exercise its rulemaking  
16 powers pursuant to the criteria set forth in this article and  
17 the rules adopted pursuant to the Physical Therapy Licensure  
18 Compact. Rules and amendments shall become binding as of the  
19 date specified in each rule or amendment.

20          B. If a majority of the legislatures of the member  
21 states rejects a rule, by enactment of a statute or resolution  
22 in the same manner used to adopt the compact within four years  
23 of the date of adoption of the rule, then such rule shall have  
24 no further force and effect in any member state.

25          C. Rules or amendments to the rules shall be

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1 adopted at a regular or special meeting of the commission.

2 D. Prior to promulgation and adoption of a final  
3 rule or rules by the commission, and at least thirty days in  
4 advance of the meeting at which the rule will be considered and  
5 voted upon, the commission shall file a notice of proposed  
6 rulemaking on the websites of:

7 (1) the commission or other publicly  
8 accessible platform; and

9 (2) each member state physical therapy  
10 licensing board or other publicly accessible platform or the  
11 publication in which each state would otherwise publish  
12 proposed rules.

13 E. The notice of proposed rulemaking shall include:

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

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

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

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

24 F. Prior to adoption of a proposed rule, the  
25 commission shall allow persons to submit written data, facts,

.229361.2



1 opinions and arguments that shall be made available to the  
2 public.

3 G. The commission shall grant an opportunity for a  
4 public hearing before it adopts a rule or amendment if a  
5 hearing is requested by:

- 6 (1) at least twenty-five persons;
- 7 (2) a state or federal governmental  
8 subdivision or agency; or
- 9 (3) an association having at least twenty-five  
10 members.

11 H. If a hearing is held on the proposed rule or  
12 amendment, the commission shall publish the place, time and  
13 date of the scheduled public hearing. If the hearing is held  
14 via electronic means, the commission shall publish the  
15 mechanism for access to the electronic hearing.

16 (1) All persons wishing to be heard at the  
17 hearing shall notify in writing the executive director of the  
18 commission or other designated member of their desire to appear  
19 and testify at the hearing not less than five business days  
20 before the scheduled date of the hearing.

21 (2) Hearings shall be conducted in a manner  
22 that provides each person who wishes to comment a fair and  
23 reasonable opportunity to comment orally or in writing.

24 (3) All hearings shall be recorded. A copy of  
25 the recording shall be made available on request.

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

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

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

13 K. The commission, by majority vote of all members,  
14 shall take final action on the proposed rule and shall  
15 determine the effective date of the rule, if any, based on the  
16 rulemaking record and the full text of the rule.

17 L. Upon determination that an emergency exists, the  
18 commission may consider and adopt an emergency rule without  
19 prior notice, opportunity for comment or hearing; provided that  
20 the usual rulemaking procedures provided in the compact and in  
21 this article shall be retroactively applied to the rule as soon  
22 as reasonably possible, in no event later than ninety days  
23 after the effective date of the rule. For the purposes of this  
24 provision, an emergency rule is one that must be adopted  
25 immediately in order to:

.229361.2

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

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

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

8 (4) protect public health and safety.

9 M. The commission or an authorized committee of the  
10 commission may direct revisions to a previously adopted rule or  
11 amendment for purposes of correcting typographical errors,  
12 errors in format, errors in consistency or grammatical errors.  
13 Public notice of any revisions shall be posted on the website  
14 of the commission. The revision shall be subject to challenge  
15 by any person for a period of thirty days after posting. The  
16 revision may be challenged only on grounds that the revision  
17 results in a material change to a rule. A challenge shall be  
18 made in writing and delivered to the chair of the commission  
19 prior to the end of the notice period. If no challenge is  
20 made, the revision shall take effect without further action.  
21 If the revision is challenged, the revision shall not take  
22 effect without the approval of the commission.

23 ARTICLE 10 - Oversight, Dispute Resolution and Enforcement

24 A. Oversight

25 (1) The executive, legislative and judicial

.229361.2

1 branches of state government in each member state shall enforce  
2 the Physical Therapy Licensure Compact and take all actions  
3 necessary and appropriate to effectuate the compact's purposes  
4 and intent. The provisions of the compact and the rules  
5 promulgated pursuant to the compact shall have standing as  
6 statutory law.

7 (2) All courts shall take judicial notice of  
8 the compact and the rules in any judicial or administrative  
9 proceeding in a member state pertaining to the subject matter  
10 of the compact that may affect the powers, responsibilities or  
11 actions of the commission.

12 (3) The commission shall be entitled to  
13 receive service of process in any such proceeding and shall  
14 have standing to intervene in such a proceeding for all  
15 purposes. Failure to provide service of process to the  
16 commission shall render a judgment or order void as to the  
17 commission, the compact or promulgated rules.

18 B. Default, Technical Assistance and Termination

19 (1) If the commission determines that a member  
20 state has defaulted in the performance of its obligations or  
21 responsibilities under the compact or the promulgated rules,  
22 the commission shall provide:

23 (a) written notice to the defaulting  
24 state and other member states of the nature of the default, the  
25 proposed means of curing the default or any other action to be

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1 taken by the commission; and

2 (b) remedial training and specific  
3 technical assistance regarding the default.

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

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

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

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

.229361.2

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1 in writing between the commission and the defaulting state.

2 (6) The defaulting member state may appeal the  
3 action of the commission by petitioning the United States  
4 district court for the District of Columbia or the federal  
5 district where the commission has its principal offices. The  
6 prevailing member shall be awarded all costs of such  
7 litigation, including reasonable attorney fees.

8 C. Dispute Resolution

9 (1) Upon request by a member state, the  
10 commission shall attempt to resolve disputes related to the  
11 compact that arise among member states and between member and  
12 nonmember states.

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

16 D. Enforcement

17 (1) The commission, in the reasonable exercise  
18 of its discretion, shall enforce the provisions and rules of  
19 the compact.

20 (2) By majority vote, the commission may  
21 initiate legal action in the United States district court for  
22 the District of Columbia or the federal district where the  
23 commission has its principal offices against a member state in  
24 default to enforce compliance with the provisions of the  
25 compact and its promulgated rules and bylaws. The relief

.229361.2

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1 sought may include both injunctive relief and damages. In the  
2 event that judicial enforcement is necessary, the prevailing  
3 member shall be awarded all costs of such litigation, including  
4 reasonable attorney fees.

5 (3) The remedies provided in this article  
6 shall not be the exclusive remedies of the commission. The  
7 commission may pursue any other remedies available under  
8 federal or state law.

9 ARTICLE 11 - Date of Implementation of the Interstate  
10 Commission for Physical Therapy Practice and  
11 Associated Rules, Withdrawal and Amendment

12 A. The Physical Therapy Licensure Compact shall  
13 come into effect on the date on which the compact statute is  
14 enacted into law in the tenth member state. The provisions,  
15 which become effective at that time, shall be limited to the  
16 powers granted to the commission relating to assembly and the  
17 promulgation of rules. Thereafter, the commission shall meet  
18 and exercise rulemaking powers necessary to the implementation  
19 and administration of the compact.

20 B. Any state that joins the compact subsequent to  
21 the commission's initial adoption of the rules shall be subject  
22 to the rules as they exist on the date on which the compact  
23 becomes law in that state. Any rule that has been previously  
24 adopted by the commission shall have the full force and effect  
25 of law on the day the compact becomes law in that state.

.229361.2

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1 C. Any member state may withdraw from this compact  
2 by enacting a statute repealing the compact.

3 (1) A member state's withdrawal shall not take  
4 effect until six months after enactment of the repealing  
5 statute.

6 (2) Withdrawal shall not affect the continuing  
7 requirement of the withdrawing member state's physical therapy  
8 licensing board to comply with the investigative and adverse  
9 action reporting requirements of this compact prior to the  
10 effective date of withdrawal.

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

16 E. The compact may be amended by the member states.  
17 No amendment to the compact shall become effective and binding  
18 upon any member state until it is enacted into the laws of all  
19 member states.

20 ARTICLE 12 - Construction and Severability

21 The Physical Therapy Licensure Compact shall be liberally  
22 construed so as to effectuate its purposes. The provisions of  
23 the compact shall be severable, and if any phrase, clause,  
24 sentence or provision of the compact is declared to be contrary  
25 to the constitution of any party state or of the United States

.229361.2



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

9 SECTION 2. Section 61-12D-5 NMSA 1978 (being Laws 1997,  
10 Chapter 89, Section 5, as amended) is amended to read:

11 "61-12D-5. POWERS AND DUTIES--CRIMINAL HISTORY BACKGROUND  
12 CHECKS.--

13 A. The board:

14 [A.] (1) shall examine all applicants for  
15 licensure to practice physical therapy and issue licenses or  
16 permits to those who are duly qualified;

17 [B.] (2) shall regulate the practice of  
18 physical therapy by interpreting and enforcing the provisions  
19 of the Physical Therapy Act;

20 [C.] (3) may promulgate rules in accordance  
21 with the State Rules Act to carry out the provisions of the  
22 Physical Therapy Act;

23 [D.] (4) may meet as often as it deems  
24 necessary. A majority of the members constitutes a quorum for  
25 the transaction of business. The board shall keep an official

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1 record of all its proceedings;

2 [E.] (5) may establish requirements for  
3 assessing continuing competency;

4 [F.] (6) may collect fees;

5 [G.] (7) may elect such officers as it deems  
6 necessary for the operations and obligations of the board.

7 Terms of office shall be one year;

8 [H.] (8) shall provide for the timely  
9 orientation and training of new professional and public  
10 appointees to the board, including training in licensing and  
11 disciplinary procedures and orientation to all statutes, rules,  
12 policies and procedures of the board;

13 [I.] (9) may establish ad hoc committees and  
14 pay per diem and mileage to the members;

15 [J.] (10) may enter into contracts;

16 [K.] (11) may deny, suspend or revoke a  
17 license or take other disciplinary action in accordance with  
18 the Uniform Licensing Act;

19 [L.] (12) shall report final disciplinary  
20 action taken against a physical therapist or physical therapist  
21 assistant to the national disciplinary database;

22 [M.] (13) shall publish at least annually  
23 final disciplinary action taken against any physical therapist  
24 or physical therapist assistant; ~~and~~

25 [N.] (14) may prescribe the forms of license

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1 certificates, application forms and such other documents as it  
2 deems necessary to carry out the provisions of the Physical  
3 Therapy Act; and

4 (15) shall prescribe procedures, forms and  
5 manner of submitting an applicant's full set of fingerprints  
6 for state and federal criminal history background reports that  
7 the board uses to evaluate the applicant's qualification for  
8 licensure.

9 B. The board shall require an applicant, as a  
10 condition of eligibility for initial licensure, to submit a  
11 full set of fingerprints to the department of public safety to  
12 obtain state and national criminal history record information  
13 on the applicant. State and national criminal history record  
14 reports are confidential and not public records. The board  
15 shall not disseminate criminal history record information  
16 across state lines."

17 **SECTION 3. EMERGENCY.**--It is necessary for the public  
18 peace, health and safety that this act take effect immediately.