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SENATE BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Siah Hemphill

AN ACT

RELATING TO HEALTH CARE; ENACTING THE PHYSICAL THERAPY
LICENSURE COMPACT; 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 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 or client is

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1 located at the time of the patient or client encounter. The
2 compact preserves the regulatory authority of states to protect
3 public health and safety through the current system of state
4 licensure. This compact is designed to achieve the following
5 objectives:

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

9 B. enhance the states' ability to protect public
10 health and safety;

11 C. encourage the cooperation of member states in
12 regulating multistate physical therapy practice;

13 D. support spouses of relocating military members;

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

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

19 ARTICLE 2 - Definitions

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

22 A. "active duty military" means full-time duty
23 status in the active uniformed service of the United States,
24 including members of the national guard and reserve on active
25 duty orders pursuant to 10 U.S.C. Sections 1209 and 1211;

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1 B. "adverse action" means disciplinary action taken
2 by a physical therapy licensing board based upon misconduct,
3 unacceptable performance or a combination of both;

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

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

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

19 F. "data system" means a repository of information
20 about licensees, including examination, licensure,
21 investigative, compact privilege and adverse action;

22 G. "encumbered license" means a license that a
23 physical therapy licensing board has limited in any way;

24 H. "executive board" means a group of directors
25 elected or appointed to act on behalf of, and within the powers

1 granted to them by, the commission;

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

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

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

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

13 M. "member state" means a state that has enacted
14 the compact;

15 N. "party state" means any member state in which a
16 licensee holds a current license or compact privilege or is
17 applying for a license or compact privilege;

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

20 P. "physical therapist assistant" means an
21 individual who is licensed or certified by a state and who
22 assists the physical therapist in selected components of
23 physical therapy;

24 Q. "physical therapy", "physical therapy practice"
25 or "the practice of physical therapy" means the care and

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1 services provided by or under the direction and supervision of
2 a licensed physical therapist;

3 R. "physical therapy compact commission", "compact
4 commission" or "commission" means the national administrative
5 body whose membership consists of all states that have enacted
6 the compact;

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

11 T. "remote state" means a member state other than
12 the home state, where a licensee is exercising or seeking to
13 exercise the compact privilege;

14 U. "rule" means a regulation, principle or
15 directive promulgated by the commission that has the force of
16 law; and

17 V. "state" means any state, commonwealth, district
18 or territory of the United States of America that regulates the
19 practice of physical therapy.

20 ARTICLE 3 - State Participation in the Compact

21 A. To participate in the compact, a state must:

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

25 (2) have a mechanism in place for receiving

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1 and investigating complaints about licensees;

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

6 (4) fully implement a criminal background
7 check requirement, within a time frame established by rule, by
8 receiving the results of the federal bureau of investigation
9 record search on criminal background checks and using the
10 results in making licensure decisions in accordance with
11 Subsection B of Article 3 of the Physical Therapy Licensure
12 Compact;

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

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

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

19 B. Upon adoption of this statute, the member state
20 shall have the authority to obtain biometric-based information
21 from each physical therapy licensure applicant and submit this
22 information to the federal bureau of investigation for a
23 criminal background check in accordance with 28 U.S.C. Section
24 534 and 42 U.S.C. Section 14616.

25 C. A member state shall grant the compact privilege

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1 to a licensee holding a valid unencumbered license in another
2 member state in accordance with the terms of the compact and
3 rules.

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

6 ARTICLE 4 - Compact Privilege

7 A. To exercise the compact privilege under the
8 terms and provisions of the compact, the licensee shall:

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

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1 B. The compact privilege is valid until the
2 expiration date of the home license. The licensee must comply
3 with the requirements of Subsection A of this article to
4 maintain the compact privilege in the remote state.

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

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

17 E. If a home state license is encumbered, the
18 licensee shall lose the compact privilege in any remote state
19 until the following occur:

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

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

24 F. Once an encumbered license in the home state is
25 restored to good standing, the licensee must meet the

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1 requirements of Subsection A of this article to obtain a
2 compact privilege in any remote state.

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

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

8 (2) all fines have been paid; and

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

11 H. Once the requirements of Subsection G of this
12 article have been met, the licensee must meet the requirements
13 in Subsection A of this article to obtain a compact privilege
14 in a remote state.

15 ARTICLE 5 - Active Duty Military Personnel or Their Spouses

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

19 A. home of record;

20 B. permanent change of station; or

21 C. state of current residence if it is different
22 than the permanent change of station state or home of record.

23 ARTICLE 6 - Adverse Actions

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

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1 state.

2 B. A home state may take adverse action based on
3 the investigative information of a remote state so long as the
4 home state follows its own procedures for imposing adverse
5 action.

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

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

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

21 (1) take adverse actions as set forth in
22 Subsection D of Article 4 of the Physical Therapy Licensure
23 Compact against a licensee's compact privilege in the state;

24 (2) issue subpoenas for both hearings and
25 investigations that require the attendance and testimony of

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

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

15 F. Joint Investigations

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

20 (2) Member states shall share any
21 investigative, litigation or compliance materials in
22 furtherance of any joint or individual investigation initiated
23 under the compact.

24 ARTICLE 7 - Establishment of the Physical Therapy Compact
25 Commission

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1 A. The compact member states hereby create and
2 establish a joint public agency known as the "physical therapy
3 compact commission".

4 (1) The commission is an instrumentality of
5 the compact states.

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

13 (3) Nothing in this compact shall be construed
14 to be a waiver of sovereign immunity.

15 B. Membership, Voting and Meetings

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

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

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

25 (4) The member state board shall fill any

1 vacancy occurring in the commission.

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

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

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

13 C. The commission shall have the following powers
14 and duties:

15 (1) establish the fiscal year of the
16 commission;

17 (2) establish bylaws;

18 (3) maintain the commission's financial
19 records in accordance with the bylaws;

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

22 (5) promulgate uniform rules to facilitate and
23 coordinate implementation and administration of this compact.

24 The rules shall have the force and effect of law and shall be
25 binding in all member states;

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

5 (7) purchase and maintain insurance and bonds;

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

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

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

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

24 (12) sell, convey, mortgage, pledge, lease,
25 exchange, abandon or otherwise dispose of any property real,

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- 1 personal or mixed;
- 2 (13) establish a budget and make expenditures;
- 3 (14) borrow money;
- 4 (15) appoint committees, including standing
- 5 committees composed of members, state regulators, state
- 6 legislators or their representatives and consumer
- 7 representatives and such other interested persons as may be
- 8 designated in this compact and the bylaws;
- 9 (16) provide and receive information from, and
- 10 cooperate with, law enforcement agencies;
- 11 (17) establish and elect an executive board;
- 12 and
- 13 (18) perform such other functions as may be
- 14 necessary or appropriate to achieve the purposes of this
- 15 compact consistent with the state regulation of physical
- 16 therapy licensure and practice.

17 D. The Executive Board

18 The executive board shall have the power to act on behalf

19 of the commission according to the terms of this compact.

20 (1) The executive board shall be composed of

21 nine members:

22 (a) seven voting members who are elected

23 by the commission from the current membership of the

24 commission;

25 (b) one ex-officio, nonvoting member

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1 from the recognized national physical therapy professional
2 association; and

3 (c) one ex-officio, nonvoting member
4 from the recognized membership organization of the physical
5 therapy licensing boards.

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

8 (3) The commission may remove any member of
9 the executive board as provided in bylaws.

10 (4) The executive board shall meet at least
11 annually.

12 (5) The executive board shall have the
13 following duties and responsibilities:

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

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

21 (c) prepare and recommend the budget;

22 (d) maintain financial records on behalf
23 of the commission;

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

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1 (f) establish additional committees as
2 necessary; and

3 (g) perform other duties as provided in
4 rules or bylaws.

5 E. Meetings of the Commission

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

10 (2) The commission or the executive board or
11 other committees of the commission may convene in a closed,
12 nonpublic meeting if the commission or executive board or other
13 committees of the commission must discuss:

14 (a) noncompliance of a member state with
15 its obligations under the compact;

16 (b) the employment, compensation,
17 discipline or other matters, practices or procedures related to
18 specific employees or other matters related to the
19 commission's internal personnel practices and procedures;

20 (c) current, threatened or reasonably
21 anticipated litigation;

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

24 (e) accusation of any person of a crime
25 or formally censuring any person;

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1 (f) disclosure of trade secrets or
2 commercial or financial information that is privileged or
3 confidential;

4 (g) disclosure of information of a
5 personal nature where disclosure would constitute a clearly
6 unwarranted invasion of personal privacy;

7 (h) disclosure of investigative records
8 compiled for law enforcement purposes;

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

14 (j) matters specifically exempted from
15 disclosure by federal or member state statute.

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

20 (4) The commission shall keep minutes that
21 fully and clearly describe all matters discussed in a meeting
22 and shall provide a full and accurate summary of actions taken,
23 and the reasons therefore, including a description of the views
24 expressed. All documents considered in connection with an
25 action shall be identified in the minutes. All minutes and

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1 documents of a closed meeting shall remain under seal, subject
2 to release by a majority vote of the commission or order of a
3 court of competent jurisdiction.

4 F. Financing of the Commission

5 (1) The commission shall pay or provide for
6 the payment of the reasonable expenses of its establishment,
7 organization and ongoing activities.

8 (2) The commission may accept any and all
9 appropriate revenue sources, donations and grants of money,
10 equipment, supplies, materials and services.

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

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

25 (5) The commission shall keep accurate

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1 accounts of all receipts and disbursements. The receipts and
2 disbursements of the commission shall be subject to the audit
3 and accounting procedures established under its bylaws.

4 However, all receipts and disbursements of funds handled by the
5 commission shall be audited yearly by a certified or licensed
6 public accountant, and the report of the audit shall be
7 included in and become part of the annual report of the
8 commission.

9 G. Qualified Immunity, Defense and Indemnification

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

23 (2) The commission shall defend any member,
24 officer, executive director, employee or representative of the
25 commission in any civil action seeking to impose liability

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

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

22 ARTICLE 8 - Data System

23 A. The commission shall provide for the
24 development, maintenance and utilization of a coordinated
25 database and reporting system containing licensure, adverse

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1 action and investigative information on all licensed
2 individuals in member states.

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

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

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

22 D. The commission shall promptly notify all member
23 states of any adverse action taken against a licensee or an
24 individual applying for a license. Adverse action information
25 pertaining to a licensee in any member state shall be available

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1 to any other member state.

2 E. Member states contributing information to the
3 data system may designate information that may not be shared
4 with the public without the express permission of the
5 contributing state.

6 F. Any information submitted to the data system
7 that is subsequently required to be expunged by the laws of the
8 member state contributing the information shall be removed from
9 the data system.

10 ARTICLE 9 - Rulemaking

11 A. The commission shall exercise its rulemaking
12 powers pursuant to the criteria set forth in this article and
13 the rules adopted thereunder. Rules and amendments shall
14 become binding as of the date specified in each rule or
15 amendment.

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

21 C. Rules or amendments to the rules shall be
22 adopted at a regular or special meeting of the commission.

23 D. Prior to promulgation and adoption of a final
24 rule or rules by the commission, and at least thirty days in
25 advance of the meeting at which the rule will be considered and

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1 voted upon, the commission shall file a notice of proposed
2 rulemaking on the websites of:

3 (1) the commission or other publicly
4 accessible platform; and

5 (2) each member state physical therapy
6 licensing board or other publicly accessible platform or the
7 publication in which each state would otherwise publish
8 proposed rules.

9 E. The notice of proposed rulemaking shall include:

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

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

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

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

20 F. Prior to adoption of a proposed rule, the
21 commission shall allow persons to submit written data, facts,
22 opinions and arguments that shall be made available to the
23 public.

24 G. The commission shall grant an opportunity for a
25 public hearing before it adopts a rule or amendment if a

1 hearing is requested by:

2 (1) at least twenty-five persons;

3 (2) a state or federal governmental
4 subdivision or agency; or

5 (3) an association having at least twenty-five
6 members.

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

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

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

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

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

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1 I. Following the scheduled hearing date, or by the
2 close of business on the scheduled hearing date if the hearing
3 was not held, the commission shall consider all written and
4 oral comments received.

5 J. If no written notice of intent to attend the
6 public hearing by interested parties is received, the
7 commission may proceed with promulgation of the proposed rule
8 without a public hearing.

9 K. The commission shall, by majority vote of all
10 members, take final action on the proposed rule and shall
11 determine the effective date of the rule, if any, based on the
12 rulemaking record and the full text of the rule.

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

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

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

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

4 (4) protect public health and safety.

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

19 ARTICLE 10 - Oversight, Dispute Resolution and Enforcement

20 A. Oversight

21 (1) The executive, legislative and judicial
22 branches of state government in each member state shall enforce
23 this compact and take all actions necessary and appropriate to
24 effectuate the compact's purposes and intent. The provisions
25 of this compact and the rules promulgated hereunder shall have

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1 standing as statutory law.

2 (2) All courts shall take judicial notice of
3 the compact and the rules in any judicial or administrative
4 proceeding in a member state pertaining to the subject matter
5 of this compact that may affect the powers, responsibilities or
6 actions of the commission.

7 (3) The commission shall be entitled to
8 receive service of process in any such proceeding and shall
9 have standing to intervene in such a proceeding for all
10 purposes. Failure to provide service of process to the
11 commission shall render a judgment or order void as to the
12 commission, this compact or promulgated rules.

13 B. Default, Technical Assistance and Termination

14 (1) If the commission determines that a member
15 state has defaulted in the performance of its obligations or
16 responsibilities under this compact or the promulgated rules,
17 the commission shall provide:

18 (a) written notice to the defaulting
19 state and other member states of the nature of the default, the
20 proposed means of curing the default or any other action to be
21 taken by the commission; and

22 (b) remedial training and specific
23 technical assistance regarding the default.

24 (2) If a member state in default fails to cure
25 the default, the defaulting state may be terminated from the

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1 compact upon an affirmative vote of a majority of the member
2 states, and all rights, privileges and benefits conferred by
3 this compact may be terminated on the effective date of
4 termination. A cure of the default does not relieve the
5 offending member state of obligations or liabilities incurred
6 during the period of default.

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

13 (4) A member state that has been terminated is
14 responsible for all assessments, obligations and liabilities
15 incurred through the effective date of termination, including
16 obligations that extend beyond the effective date of
17 termination.

18 (5) The commission shall not bear any costs
19 related to a member state that is found to be in default or
20 that has been terminated from the compact, unless agreed upon
21 in writing between the commission and the defaulting state.

22 (6) The defaulting member state may appeal the
23 action of the commission by petitioning the United States
24 district court for the District of Columbia or the federal
25 district where the commission has its principal offices. The

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

3 C. Dispute Resolution

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

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

11 D. Enforcement

12 (1) The commission, in the reasonable exercise
13 of its discretion, shall enforce the provisions and rules of
14 this compact.

15 (2) By majority vote, the commission may
16 initiate legal action in the United States district court for
17 the District of Columbia or the federal district where the
18 commission has its principal offices against a member state in
19 default to enforce compliance with the provisions of the
20 compact and its promulgated rules and bylaws. The relief
21 sought may include both injunctive relief and damages. In the
22 event that judicial enforcement is necessary, the prevailing
23 member shall be awarded all costs of such litigation, including
24 reasonable attorney fees.

25 (3) The remedies provided in this article

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

4 ARTICLE 11 - Date of Implementation of the Interstate

5 Commission for Physical Therapy Practice and

6 Associated Rules, Withdrawal and Amendment

7 A. The compact shall come into effect on the date
8 on which the compact statute is enacted into law in the tenth
9 member state. The provisions, which become effective at that
10 time, shall be limited to the powers granted to the commission
11 relating to assembly and the promulgation of rules.

12 Thereafter, the commission shall meet and exercise rulemaking
13 powers necessary to the implementation and administration of
14 the compact.

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

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

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

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

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

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

15 ARTICLE 12 - Construction and Severability

16 This compact shall be liberally construed so as to
17 effectuate the purposes thereof. The provisions of this
18 compact shall be severable, and if any phrase, clause, sentence
19 or provision of this compact is declared to be contrary to the
20 constitution of any party state or of the United States or the
21 applicability thereof to any government, agency, person or
22 circumstance is held invalid, the validity of the remainder of
23 this compact and the applicability thereof to any government,
24 agency, person or circumstance shall not be affected thereby.
25 If this compact shall be held contrary to the constitution of

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1 any party state, the compact shall remain in full force and
2 effect as to the remaining party states and in full force and
3 effect as to the party state affected as to all severable
4 matters.".

5 SECTION 2. EMERGENCY.--It is necessary for the public
6 peace, health and safety that this act take effect immediately.

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