

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.

5 This compact is designed to achieve the following
6 objectives:

- 7 (1) Increase public access to physical therapy services by
8 providing for the mutual recognition of other member
9 state licenses;
- 10 (2) Enhance the states' ability to protect the public's
11 health and safety;
- 12 (3) Encourage the cooperation of member states in
13 regulating multi-state physical therapy practice;
- 14 (4) Support spouses of relocating military members;
- 15 (5) Enhance the exchange of licensure, investigative, and
16 disciplinary information between member states; and
- 17 (6) Allow a remote state to hold a provider of services
18 with a compact privilege in that state accountable to
19 that state's practice standards.

20 **SECTION 2. Definitions**



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

3 "Active duty military" means full-time duty status in the
4 active uniformed service of the United States, including members
5 of the National Guard and Reserve on active duty orders pursuant
6 to title 10 United States Code Chapter 1209 and 1211.

7 "Adverse action" means disciplinary action taken by a
8 physical therapy licensing board based upon misconduct,
9 unacceptable performance, or a combination of both.

10 "Alternative program" means a non-disciplinary monitoring
11 or practice remediation process approved by a physical therapy
12 licensing board. This includes but is not limited to substance
13 abuse issues.

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



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

5 "Data system" means a repository of information about
6 licensees, including examination, licensure, investigative,
7 compact privilege, and adverse action.

8 "Encumbered license" means a license that a physical
9 therapy licensing board has limited in any way.

10 "Executive board" means a group of directors elected or
11 appointed to act on behalf of, and with the powers granted to
12 them by, the commission.

13 "Home state" means the member state that is the licensee's
14 primary state of residence.

15 "Investigative information" means information, records, and
16 documents received or generated by a physical therapy licensing
17 board pursuant to an investigation.

18 "Jurisprudence requirement" means the assessment of an
19 individual's knowledge of the laws and rules governing the
20 practice of physical therapy in a state.



1 "Licensee" means an individual who currently holds an
2 authorization from the state to practice as a physical therapist
3 or to work as a physical therapist assistant.

4 "Member state" means a state that has enacted the compact.

5 "Party state" means any member state in which a licensee
6 holds a current license or compact privilege or is applying for
7 a license or compact privilege.

8 "Physical therapist" means an individual who is licensed by
9 a state to practice physical therapy.

10 "Physical therapist assistant" means an individual who is
11 licensed or certified by a state and who assists the physical
12 therapist in selected components of physical therapy.

13 "Physical therapy", "physical therapy practice", and "the
14 practice of physical therapy" mean the care and services
15 provided by or under the direction and supervision of a licensed
16 physical therapist.

17 "Physical therapy compact commission" or "commission" means
18 the national administrative body whose membership consists of
19 all states that have enacted the compact.

20 "Physical therapy licensing board" or "licensing board"
21 means the agency of a state that is responsible for the



1 licensing and regulation of physical therapists and physical
2 therapist assistants.

3 "Remote state" means a member state other than the home
4 state, where a licensee is exercising or seeking to exercise the
5 compact privilege.

6 "Rule" means a regulation, principle, or directive
7 promulgated by the commission that has the force of law.

8 "State" means any state, commonwealth, district, or
9 territory of the United States of America that regulates the
10 practice of physical therapy.

11 **SECTION 3. State Participation in the Compact**

12 (a) To participate in the compact, a state must:

13 (1) Participate fully in the commission's data system,
14 including using the commission's unique identifier as
15 defined in rules;

16 (2) Have a mechanism in place for receiving and
17 investigating complaints about licensees;

18 (3) Notify the commission, in compliance with the terms of
19 the compact and rules, of any adverse action or the
20 availability of investigative information regarding a
21 licensee;



- 1 (4) Fully implement a criminal background check
2 requirement, within a time frame established by rule,
3 by receiving the results of the Federal Bureau of
4 Investigation record search on criminal background
5 checks and use the results in making licensure
6 decisions in accordance with section 3(b);
- 7 (5) Comply with the rules of the commission;
- 8 (6) Utilize a recognized national examination as a
9 requirement for licensure pursuant to the rules of the
10 commission; and
- 11 (7) Have continuing competence requirements as a condition
12 for license renewal.
- 13 (b) Upon adoption of this statute, the member state shall
14 have the authority to obtain biometric-based information from
15 each physical therapy licensure application and submit this
16 information to the Federal Bureau of Investigation for a
17 criminal background check in accordance with title 28 United
18 States Code section 534 and title 34 United States Code section
19 40316.



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

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

6 **SECTION 4. Compact Privilege**

7 (a) To exercise the compact privilege under the terms and
8 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 member
12 state in accordance with subsections (d), (g), and
13 (h);
- 14 (4) Have not had any adverse action against any license or
15 compact privilege within the previous two years;
- 16 (5) Notify the commission that the licensee is seeking the
17 compact privilege within a remote state(s);
- 18 (6) Pay any applicable fees, including any state fee, for
19 the compact privilege;



1 (7) Meet any jurisprudence requirements established by the
2 remote state(s) in which the licensee is seeking a
3 compact privilege; and

4 (8) Report to the commission adverse action taken by any
5 non-member state within thirty days from the date the
6 adverse action is taken.

7 (b) The compact privilege is valid until the expiration
8 date of the home license. The licensee must comply with the
9 requirements of subsection (a) to maintain the compact privilege
10 in the remote state.

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

14 (d) A licensee providing physical therapy in a remote
15 state is subject to that state's regulatory authority. A remote
16 state may, in accordance with due process and that state's laws,
17 remove a licensee's compact privilege in the remote state for a
18 specific period of time, impose fines, and take any other
19 necessary actions to protect the health and safety of its
20 citizens. The licensee is not eligible for a compact privilege



1 in any state until the specific time for removal has passed and
2 all fines are paid.

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

6 (1) The home state license is no longer encumbered; and

7 (2) Two years have elapsed from the date of the adverse
8 action.

9 (f) Once an encumbered license in the home state is
10 restored to good standing, the licenses must meet the
11 requirements of subsection (a) to obtain a compact privilege in
12 any remote state.

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

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

18 (2) All fines have been paid; and

19 (3) Two years have elapsed from the date of the adverse
20 action.



1 (h) Once the requirements of subsection (g) have been met,
2 the license must meet the requirements in subsection (a) to
3 obtain a compact privilege in a remote state.

4 **SECTION 5. Active Duty Military Personnel or Their Spouses**

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

- 8 (1) Home of record;
- 9 (2) Permanent change of station; or
- 10 (3) State of current residence if it is different than the
11 permanent change of station state or home of record.

12 **SECTION 6. Adverse Actions**

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

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

18 (c) Nothing in this compact shall override a member
19 state's decision that participation in an alternative program
20 may be used in lieu of adverse action and that such
21 participation shall remain non-public if required by the member



1 state's laws. Member states must require licensees who enter
2 any alternative programs in lieu of discipline to agree not to
3 practice in any other member state during the term of the
4 alternative program without prior authorization from such other
5 member state.

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

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

12 (1) Take adverse actions as set forth in subsection (d)
13 against a licensee's compact privilege in the state;

14 (2) Issue subpoenas for both hearings and investigations
15 that require the attendance and testimony of
16 witnesses, and the production of evidence. Subpoenas
17 issued by a physical therapy licensing board in a
18 party state for the attendance and testimony of
19 witnesses, and/or the production of evidence from
20 another party state, shall be enforced in the latter
21 state by any court of competent jurisdiction,



1 according to the practice and procedure of that court
2 applicable to subpoenas issued in proceedings pending
3 before it. The issuing authority shall pay any
4 witness fees, travel expenses, mileage, and other fees
5 required by the service statutes of the state where
6 the witnesses and/or evidence are located; and
7 (3) If otherwise permitted by state law, recover from the
8 licensee the costs of investigations and disposition
9 of cases resulting from any adverse action taken
10 against that licensee.
11 (f) Joint investigations:
12 (1) In addition to the authority granted to a member state
13 by its respective physical therapy practice act or
14 other applicable state law, a member state may
15 participate with other member states in joint
16 investigations of licensees.
17 (2) Member states shall share any investigative,
18 litigation, or compliance materials in furtherance of
19 any joint or individual investigation initiated under
20 the compact.



- 1 (2) The delegate shall be a current member of the
2 licensing board, who is a physical therapist, physical
3 therapist assistant, public member, or the board
4 administrator.
- 5 (3) Any delegate may be removed or suspended from office
6 as provided by the law of the state from which the
7 delegate is appointed.
- 8 (4) The member state board shall fill any vacancy
9 occurring in the commission.
- 10 (5) Each delegate shall be entitled to one vote with
11 regard to the promulgation of rules and creation of
12 bylaws and shall otherwise have an opportunity to
13 participate in the business and affairs of the
14 commission.
- 15 (6) A delegate shall vote in person or by such other means
16 as provided in the bylaws. The bylaws may provide for
17 delegates' participation in meetings by telephone or
18 other means of communication.
- 19 (7) The commission shall meet at least once during each
20 calendar year. Additional meetings shall be held as
21 set forth in the bylaws.



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

3 (1) Establish the fiscal year of the commission;

4 (2) Establish bylaws;

5 (3) Maintain its financial records in accordance with the
6 bylaws;

7 (4) Meet and take such actions as are consistent with the
8 provisions of this compact and the bylaws;

9 (5) Promulgate uniform rules to facilitate and coordinate
10 implementation and administration of this compact.

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

13 (6) Bring and prosecute legal proceedings or actions in
14 the name of the commission; provided that the standing
15 of any state physical therapy licensing board to sue
16 or be sued under applicable law shall not be affected;

17 (7) Purchase and maintain insurance and bonds;

18 (8) Borrow, accept, or contract for services of personnel,
19 including but not limited to employees of a member
20 state;



- 1 (9) Hire employees, elect or appoint officers, fix
2 compensation, define duties, grant such individuals
3 appropriate authority to carry out the purposes of the
4 compact, and to establish the commission's personnel
5 policies and programs relating to conflicts of
6 interest, qualifications of personnel, and other
7 related personnel matters;
- 8 (10) Accept any and all appropriate donations and grants of
9 money, equipment, supplies, materials, and services,
10 and to receive, utilize and dispose of the same;
11 provided that at all times the commission shall avoid
12 any appearance of impropriety and/or conflict of
13 interest;
- 14 (11) Lease, purchase, accept appropriate gifts or donations
15 of, or otherwise to own, hold, improve, or use, any
16 property, real, personal, or mixed; provided that at
17 all times the commission shall avoid any appearance of
18 impropriety;
- 19 (12) Sell, convey, mortgage, pledge, lease, exchange,
20 abandon, or otherwise dispose of any property real,
21 personal, or mixed;



- 1 (13) Establish a budget and make expenditures;
- 2 (14) Borrow money;
- 3 (15) Appoint committees, including standing committees
- 4 comprised of members, state regulators, state
- 5 legislators or their representatives, and consumer
- 6 representatives, and such other interested persons as
- 7 may be designated in this compact and the bylaws;
- 8 (16) Provide and receive information from, and cooperate
- 9 with, law enforcement agencies;
- 10 (17) Establish and elect an executive board; and
- 11 (18) Perform such other functions as may be necessary or
- 12 appropriate to achieve the purposes of this compact
- 13 consistent with the state regulation of physical
- 14 therapy licensure and practice.
- 15 (d) The executive board shall have the power to act on
- 16 behalf of the commission according to the terms of this compact:
- 17 (1) The executive board shall be comprised of nine
- 18 members:
- 19 (A) Seven voting members who are elected by the
- 20 commission from the current membership of the
- 21 commission;



- 1 (B) One ex-officio, nonvoting member from the
- 2 recognized national physical therapy professional
- 3 association; and
- 4 (C) One ex-officio, nonvoting member from the
- 5 recognized membership organization of the
- 6 physical therapy licensing boards.
- 7 (2) The ex-officio members will be selected by their
- 8 respective organizations.
- 9 (3) The commission may remove any member of the executive
- 10 board as provided in bylaws.
- 11 (4) The executive board shall meet at least annually.
- 12 (5) The executive board shall have the following duties
- 13 and responsibilities:
- 14 (A) Recommend to the entire commission changes to the
- 15 rules or bylaws, changes to this compact
- 16 legislation, fees paid by compact member states
- 17 such as annual dues, and any commission compact
- 18 fee charged to licensees for the compact
- 19 privilege;
- 20 (B) Ensure compact administration services are
- 21 appropriately provided, contractual or otherwise;



- 1 (C) Prepare and recommend the budget;
- 2 (D) Maintain financial records on behalf of the
- 3 commission;
- 4 (E) Monitor compact compliance of member states and
- 5 provide compliance reports to the commission;
- 6 (F) Establish additional committees as necessary; and
- 7 (G) Other duties as provided in rules or bylaws.
- 8 (e) Meetings of the commission:
 - 9 (1) All meetings shall be open to the public, and public
 - 10 notice of meetings shall be given in the same manner
 - 11 as required under the rulemaking provisions in section
 - 12 9.
 - 13 (2) The commission or the executive board or other
 - 14 committees of the commission may convene in a closed,
 - 15 non-public meeting if the commission or executive
 - 16 board or other committees of the commission must
 - 17 discuss:
 - 18 (A) Non-compliance of a member state with its
 - 19 obligations under the compact;
 - 20 (B) The employment, compensation, discipline or other
 - 21 matters, practices or procedures related to



- 1 specific employees, or other matters related to
2 the commission's internal personnel practices and
3 procedures;
- 4 (C) Current, threatened, or reasonably anticipated
5 litigation;
- 6 (D) Negotiation of contracts for the purchase, lease,
7 or sale of goods, services, or real estate;
- 8 (E) Accusing any person of a crime or formally
9 censuring any person;
- 10 (F) Disclosure of trade secrets or commercial or
11 financial information that is privileged or
12 confidential;
- 13 (G) Disclosure of information of a personal nature
14 where disclosure would constitute a clearly
15 unwarranted invasion of personal privacy;
- 16 (H) Disclosure of investigative records compiled for
17 law enforcement purposes;
- 18 (I) Disclosure of information related to any
19 investigative reports prepared by or on behalf of
20 or for use of the commission or other committee
21 charged with responsibility of investigation or



1 determination of compliance issues pursuant to
2 the compact; or

3 (J) Matters specifically exempted from disclosure by
4 federal or member state statute.

5 (3) If a meeting, or portion of a meeting, is closed
6 pursuant to this subsection, the commission's legal
7 counsel or designee shall certify that the meeting may
8 be closed and shall reference each relevant exempting
9 provision.

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

20 (f) Financing of the commission:



- 1 (1) The commission shall pay, or provide for the payment
2 of, the reasonable expenses of its establishment,
3 organization, and ongoing activities.
- 4 (2) The commission may accept any and all appropriate
5 revenue sources, donations, and grants of money,
6 equipment, supplies, materials, and services.
- 7 (3) The commission may levy on and collect an annual
8 assessment from each member state or impose fees on
9 other parties to cover the cost of the operations and
10 activities of the commission and its staff, which must
11 be in a total amount sufficient to cover its annual
12 budget as approved each year for which revenue is not
13 provided by other sources. The aggregate annual
14 assessment amount shall be allocated based upon a
15 formula to be determined by the commission, which
16 shall promulgate a rule binding upon all member
17 states.
- 18 (4) The commission shall not incur obligations of any kind
19 prior to securing the funds adequate to meet the same;
20 nor shall the commission pledge the credit of any of



1 the member states, except by and with the authority of
2 the member state.

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

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

13 (1) The members, officers, executive director, employees,
14 and representatives of the commission shall be immune
15 from suit and liability, either personally or in their
16 official capacity, for any claim for damage to or loss
17 of property or personal injury or other civil
18 liability caused by or arising out of any actual or
19 alleged act, error, or omission that occurred, or that
20 the person against whom the claim is made had a
21 reasonable basis for believing occurred within the



1 scope of commission employment, duties or
2 responsibilities; provided that nothing in this
3 paragraph shall be construed to protect any such
4 person from suit or liability for any damage, loss,
5 injury, or liability caused by the intentional or
6 willful or wanton misconduct or negligence or gross
7 negligence of that person.

8 (2) The commission shall defend any member, officer,
9 executive director, employee, or representative of the
10 commission in any civil action seeking to impose
11 liability arising out of any actual or alleged act,
12 error, or omission that occurred within the scope of
13 commission employment, duties, or responsibilities, or
14 that the person against whom the claim is made had a
15 reasonable basis for believing occurred within the
16 scope of commission employment, duties, or
17 responsibilities; provided that nothing in this
18 paragraph shall be construed to prohibit that person
19 from retaining the person's own counsel; provided
20 further that the actual or alleged act, error, or



1 omission did not result from that person's intentional
2 or willful or wanton misconduct.

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

16 **SECTION 8. Data System**

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



1 Notwithstanding section 9(a), the physical therapist
2 licensing board shall review the rules of the commission. The
3 licensing board may approve and adopt the rules of the
4 commission as rules of the licensing board. The State of Hawaii
5 is subject to a rule of the commission only if the rule of the
6 commission is adopted by the licensing board.

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

- 12 (1) Identifying information;
- 13 (2) Licensure data;
- 14 (3) Adverse actions against a license or compact
15 privilege;
- 16 (4) Non-confidential information related to alternative
17 program participation;
- 18 (5) Any denial of application for licensure, and the
19 reason(s) for such denial; and



1 (6) Other information that may facilitate the
2 administration of this compact, as determined by the
3 rules of the commission.

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

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

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

14 (f) Any information submitted to the data system that is
15 subsequently required to be expunged by the laws of the member
16 state contributing the information shall be removed from the
17 data system.

18 **SECTION 9. Rulemaking**

19 (a) The commission shall exercise its rulemaking powers
20 pursuant to the criteria set forth in this section and the rules



1 adopted thereunder. Rules and amendments shall become binding
2 as of the date specified in each rule or amendment.

3 Notwithstanding this section, the physical therapist
4 licensing board shall review the rules of the commission. The
5 licensing board may approve and adopt the rules of the
6 commission as rules of the licensing board. The State of Hawaii
7 is subject to a rule of the commission only if the rule of the
8 commission is adopted by the licensing board.

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

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

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

20 (1) On the website of the commission or other publicly
21 accessible platform; and



1 (2) On the website of each member state physical therapy
2 licensing board or other publicly accessible platform
3 or the publication in which each state would otherwise
4 publish proposed rules.

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

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

8 (2) The text of the proposed rule or amendment and the
9 reason for the proposed rule;

10 (3) A request for comments on the proposed rule from any
11 interested person; and

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

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

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

21 (1) At least twenty-five persons;



1 (2) A state or federal governmental subdivision or agency;
2 or

3 (3) An association having at least twenty-five members.

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

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

15 (2) Hearings shall be conducted in a manner providing each
16 person who wishes to comment a fair and reasonable
17 opportunity to comment orally or in writing.

18 (3) All hearings will be recorded. A copy of the
19 recording will be made available on request.

20 (4) Nothing in this section shall be construed as
21 requiring a separate hearing on each rule. Rules may



1 be grouped for the convenience of the commission at
2 hearings required by this section.

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

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

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

15 (l) Upon determination that an emergency exists, the
16 commission may consider and adopt an emergency rule without
17 prior notice, opportunity for comment, or hearing; provided that
18 the usual rulemaking procedures provided in the compact and in
19 this section shall be retroactively applied to the rule as soon
20 as reasonably possible, in no event later than ninety days after
21 the effective date of the rule. For the purposes of this



1 subsection, an emergency rule is one that must be adopted
2 immediately in order to:

3 (1) Meet an imminent threat to public health, safety, or
4 welfare;

5 (2) Prevent a loss of commission or member state funds;

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

9 (4) Protect public health and safety.

10 (m) The commission or an authorized committee of the
11 commission may direct revisions to a previously adopted rule or
12 amendment for purposes of correcting typographical errors,
13 errors in format, errors in consistency, or grammatical errors.
14 Public notice of any revisions shall be posted on the website of
15 the commission. The revision shall be subject to challenge by
16 any person for a period of thirty days after posting. The
17 revision may be challenged only on grounds that the revision
18 results in a material change to a rule. A challenge shall be
19 made in writing, and delivered to the chair of the commission
20 prior to the end of the notice period. If no challenge is made,
21 the revision will take effect without further action. If the



1 revision is challenged, the revision may not take effect without
2 the approval of the commission.

3 **SECTION 10. Oversight, Dispute Resolution, and Enforcement**

4 (a) Oversight:

5 (1) The executive, legislative, and judicial branches of
6 state government in each member state shall enforce
7 this compact and take all actions necessary and
8 appropriate to effectuate the compact's purposes and
9 intent. The provisions of this compact and the rules
10 promulgated hereunder shall have standing as statutory
11 law.

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

17 (3) The commission shall be entitled to receive service of
18 process in any such proceeding, and shall have
19 standing to intervene in such a proceeding for all
20 purposes. Failure to provide service of process to
21 the commission shall render a judgment or order void



1 as to the commission, this compact, or promulgated
2 rules.

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

4 (1) If the commission determines that a member state has
5 defaulted in the performance of its obligations or
6 responsibilities under this compact or the promulgated
7 rules, the commission shall:

8 (A) Provide written notice to the defaulting state
9 and other member states of the nature of the
10 default, the proposed means of curing the
11 default, and/or any other action to be taken by
12 the commission; and

13 (B) Provide remedial training and specific technical
14 assistance regarding the default.

15 (2) If a state in default fails to cure the default, the
16 defaulting state may be terminated from the compact
17 upon an affirmative vote of a majority of the member
18 states, and all rights, privileges, and benefits
19 conferred by this compact may be terminated on the
20 effective date of termination. A cure of the default



1 does not relieve the offending state of obligations or
2 liabilities incurred during the period of default.

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

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

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

20 (6) The defaulting state may appeal the action of the
21 commission by petitioning the United States District



1 Court for the District of Columbia or the federal
2 district where the commission has its principal
3 offices. The prevailing member shall be awarded all
4 costs of such litigation, including reasonable
5 attorney's fees.

6 (c) Dispute resolution:

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

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

14 (d) Enforcement:

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

18 (2) By majority vote, the commission may initiate legal
19 action in the United States District Court for the
20 District of Columbia or the federal district where the
21 commission has its principal offices against a member



1 state in default to enforce compliance with the
 2 provisions of the compact and its promulgated rules
 3 and bylaws. The relief sought may include injunctive
 4 relief. In the event judicial enforcement is
 5 necessary, the prevailing member shall be awarded all
 6 costs of such litigation, including reasonable
 7 attorney's fees.

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

12 **SECTION 11. Date of Implementation of the Interstate Commission**
 13 **for Physical Therapy Practice and Associated Rules, Withdrawal,**
 14 **and Amendment**

15 (a) The compact shall come into effect on the date on
 16 which the compact statute is enacted into law in the tenth
 17 member state. The provisions, which become effective at that
 18 time, shall be limited to the powers granted to the commission
 19 relating to assembly and the promulgation of rules. Thereafter,
 20 the commission shall meet and exercise rulemaking powers



1 necessary to the implementation and administration of the
2 compact.

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

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

11 (1) A member state's withdrawal shall not take effect
12 until six months after enactment of the repealing
13 statute.

14 (2) Withdrawal shall not affect the continuing requirement
15 of the withdrawing state's physical therapy licensing
16 board to comply with the investigative and adverse
17 action reporting requirements of this compact prior to
18 the effective date of withdrawal.

19 (d) Nothing contained in this compact shall be construed
20 to invalidate or prevent any physical therapy licensure
21 agreement or other cooperative arrangement between a member



1 state and a non-member state that does not conflict with the
2 provisions of this compact.

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

7 **SECTION 12. Construction and Severability**

8 This compact shall be liberally construed so as to
9 effectuate the purposes thereof. The provisions of this compact
10 shall be severable and if any phrase, clause, sentence, or
11 provision of this compact is declared to be contrary to the
12 constitution of any party state or of the United States or the
13 applicability thereof to any government, agency, person, or
14 circumstance is held invalid, the validity of the remainder of
15 this compact and the applicability thereof to any government,
16 agency, person, or circumstance shall not be affected thereby.
17 If this compact shall be held contrary to the constitution of
18 any party state, the compact shall remain in full force and
19 effect as to the remaining party states and in full force and
20 effect as to the party state affected as to all severable
21 matters.



1 § -3 Rules. The department of commerce and consumer
2 affairs shall adopt rules pursuant to chapter 91 for the
3 purposes of implementing and administering this chapter."

4 SECTION 2. Section 461J-6, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) An applicant for a permanent license to practice as a
7 physical therapist or physical therapist assistant shall submit
8 [~~proof~~]:

9 (1) Proof of educational qualifications;

10 (2) Beginning with the July 1, 2023, licensing biennium, a
11 full set of electronic fingerprints for the purpose of
12 obtaining federal and state criminal history record
13 checks in accordance with section 846-2.7 directly to
14 the Hawaii criminal justice data center for processing
15 with the Federal Bureau of Investigation. The
16 applicant shall bear the cost of the fingerprint
17 processing and the application shall not be considered
18 complete until the results of the criminal history
19 record check have been received by the board; and
20 [~~any~~]



- 1 them in direct contact with clients when providing
2 non-witnessed direct mental health or health care
3 services as provided by section 321-171.5;
- 4 (3) The department of health or its designee on all
5 applicants for licensure or certification for,
6 operators for, prospective employees, adult
7 volunteers, and all adults, except adults in care, at
8 healthcare facilities as defined in section 321-15.2;
- 9 (4) The department of education on employees, prospective
10 employees, and teacher trainees in any public school
11 in positions that necessitate close proximity to
12 children as provided by section 302A-601.5;
- 13 (5) The counties on employees and prospective employees
14 who may be in positions that place them in close
15 proximity to children in recreation or child care
16 programs and services;
- 17 (6) The county liquor commissions on applicants for liquor
18 licenses as provided by section 281-53.5;
- 19 (7) The county liquor commissions on employees and
20 prospective employees involved in liquor



- 1 administration, law enforcement, and liquor control
2 investigations;
- 3 (8) The department of human services on operators and
4 employees of child caring institutions, child placing
5 organizations, and foster boarding homes as provided
6 by section 346-17;
- 7 (9) The department of human services on prospective
8 adoptive parents as established under section 346-
9 19.7;
- 10 (10) The department of human services or its designee on
11 applicants to operate child care facilities, household
12 members of the applicant, prospective employees of the
13 applicant, and new employees and household members of
14 the provider after registration or licensure as
15 provided by section 346-154, and persons subject to
16 section 346-152.5;
- 17 (11) The department of human services on persons exempt
18 pursuant to section 346-152 to be eligible to provide
19 child care and receive child care subsidies as
20 provided by section 346-152.5;



- 1 (12) The department of health on operators and employees of
2 home and community-based case management agencies and
3 operators and other adults, except for adults in care,
4 residing in community care foster family homes as
5 provided by section 321-15.2;
- 6 (13) The department of human services on staff members of
7 the Hawaii youth correctional facility as provided by
8 section 352-5.5;
- 9 (14) The department of human services on employees,
10 prospective employees, and volunteers of contracted
11 providers and subcontractors in positions that place
12 them in close proximity to youth when providing
13 services on behalf of the office or the Hawaii youth
14 correctional facility as provided by section 352D-4.3;
- 15 (15) The judiciary on employees and applicants at detention
16 and shelter facilities as provided by section 571-34;
- 17 (16) The department of public safety on employees and
18 prospective employees who are directly involved with
19 the treatment and care of persons committed to a
20 correctional facility or who possess police powers



1 including the power of arrest as provided by section
2 353C-5;

3 (17) The board of private detectives and guards on
4 applicants for private detective or private guard
5 licensure as provided by section 463-9;

6 (18) Private schools and designated organizations on
7 employees and prospective employees who may be in
8 positions that necessitate close proximity to
9 children; provided that private schools and designated
10 organizations receive only indications of the states
11 from which the national criminal history record
12 information was provided pursuant to section 302C-1;

13 (19) The public library system on employees and prospective
14 employees whose positions place them in close
15 proximity to children as provided by section 302A-
16 601.5;

17 (20) The State or any of its branches, political
18 subdivisions, or agencies on applicants and employees
19 holding a position that has the same type of contact
20 with children, vulnerable adults, or persons committed
21 to a correctional facility as other public employees



1 who hold positions that are authorized by law to
2 require criminal history record checks as a condition
3 of employment as provided by section 78-2.7;

4 (21) The department of health on licensed adult day care
5 center operators, employees, new employees,
6 subcontracted service providers and their employees,
7 and adult volunteers as provided by section 321-15.2;

8 (22) The department of human services on purchase of
9 service contracted and subcontracted service providers
10 and their employees serving clients of the adult
11 protective and community services branch, as provided
12 by section 346-97;

13 (23) The department of human services on foster grandparent
14 program, senior companion program, and respite
15 companion program participants as provided by section
16 346-97;

17 (24) The department of human services on contracted and
18 subcontracted service providers and their current and
19 prospective employees that provide home and community-
20 based services under section 1915(c) of the Social
21 Security Act, title 42 United States Code section



1 1396n(c), or under any other applicable section or
2 sections of the Social Security Act for the purposes
3 of providing home and community-based services, as
4 provided by section 346-97;

5 (25) The department of commerce and consumer affairs on
6 proposed directors and executive officers of a bank,
7 savings bank, savings and loan association, trust
8 company, and depository financial services loan
9 company as provided by section 412:3-201;

10 (26) The department of commerce and consumer affairs on
11 proposed directors and executive officers of a
12 nondepository financial services loan company as
13 provided by section 412:3-301;

14 (27) The department of commerce and consumer affairs on the
15 original chartering applicants and proposed executive
16 officers of a credit union as provided by section
17 412:10-103;

18 (28) The department of commerce and consumer affairs on:
19 (A) Each principal of every non-corporate applicant
20 for a money transmitter license;



- 1 (B) Each person who upon approval of an application
- 2 by a corporate applicant for a money transmitter
- 3 license will be a principal of the licensee; and
- 4 (C) Each person who upon approval of an application
- 5 requesting approval of a proposed change in
- 6 control of licensee will be a principal of the
- 7 licensee,
- 8 as provided by sections 489D-9 and 489D-15;
- 9 (29) The department of commerce and consumer affairs on
- 10 applicants for licensure and persons licensed under
- 11 title 24;
- 12 (30) The Hawaii health systems corporation on:
- 13 (A) Employees;
- 14 (B) Applicants seeking employment;
- 15 (C) Current or prospective members of the corporation
- 16 board or regional system board; or
- 17 (D) Current or prospective volunteers, providers, or
- 18 contractors,
- 19 in any of the corporation's health facilities as
- 20 provided by section 323F-5.5;
- 21 (31) The department of commerce and consumer affairs on:



- 1 (A) An applicant for a mortgage loan originator
- 2 license, or license renewal; and
- 3 (B) Each control person, executive officer, director,
- 4 general partner, and managing member of an
- 5 applicant for a mortgage loan originator company
- 6 license or license renewal,
- 7 as provided by chapter 454F;
- 8 (32) The state public charter school commission or public
- 9 charter schools on employees, teacher trainees,
- 10 prospective employees, and prospective teacher
- 11 trainees in any public charter school for any position
- 12 that places them in close proximity to children, as
- 13 provided in section 302D-33;
- 14 (33) The counties on prospective employees who work with
- 15 children, vulnerable adults, or senior citizens in
- 16 community-based programs;
- 17 (34) The counties on prospective employees for fire
- 18 department positions that involve contact with
- 19 children or vulnerable adults;



1 (35) The counties on prospective employees for emergency
2 medical services positions that involve contact with
3 children or vulnerable adults;

4 (36) The counties on prospective employees for emergency
5 management positions and community volunteers whose
6 responsibilities involve planning and executing
7 homeland security measures including viewing,
8 handling, and engaging in law enforcement or
9 classified meetings and assisting vulnerable citizens
10 during emergencies or crises;

11 (37) The State and counties on employees, prospective
12 employees, volunteers, and contractors whose position
13 responsibilities require unescorted access to secured
14 areas and equipment related to a traffic management
15 center;

16 (38) The State and counties on employees and prospective
17 employees whose positions involve the handling or use
18 of firearms for other than law enforcement purposes;

19 (39) The State and counties on current and prospective
20 systems analysts and others involved in an agency's
21 information technology operation whose position



1 responsibilities provide them with access to
2 proprietary, confidential, or sensitive information;
3 (40) The department of commerce and consumer affairs on:
4 (A) Applicants for real estate appraiser licensure or
5 certification as provided by chapter 466K;
6 (B) Each person who owns more than ten per cent of an
7 appraisal management company who is applying for
8 registration as an appraisal management company,
9 as provided by section 466L-7; and
10 (C) Each of the controlling persons of an applicant
11 for registration as an appraisal management
12 company, as provided by section 466L-7;
13 (41) The department of health or its designee on all
14 license applicants, licensees, employees, contractors,
15 and prospective employees of medical cannabis
16 dispensaries, and individuals permitted to enter and
17 remain in medical cannabis dispensary facilities as
18 provided under sections 329D-15(a) (4) and 329D-
19 16(a) (3);
20 (42) The department of commerce and consumer affairs on
21 applicants for nurse licensure or license renewal,



1 reactivation, or restoration as provided by sections
2 457-7, 457-8, 457-8.5, and 457-9;

3 (43) The county police departments on applicants for
4 permits to acquire firearms pursuant to section 134-2
5 and on individuals registering their firearms pursuant
6 to section 134-3;

7 (44) The department of commerce and consumer affairs on:

8 (A) Each of the controlling persons of the applicant
9 for licensure as an escrow depository, and each
10 of the officers, directors, and principals who
11 will be in charge of the escrow depository's
12 activities upon licensure; and

13 (B) Each of the controlling persons of an applicant
14 for proposed change in control of an escrow
15 depository licensee, and each of the officers,
16 directors, and principals who will be in charge
17 of the licensee's activities upon approval of the
18 application,

19 as provided by chapter 449;

20 (45) The department of taxation on current or prospective
21 employees or contractors who have access to federal



1 tax information in order to comply with requirements
2 of federal law, regulation, or procedure, as provided
3 by section 231-1.6;

4 (46) The department of labor and industrial relations on
5 current or prospective employees or contractors who
6 have access to federal tax information in order to
7 comply with requirements of federal law, regulation,
8 or procedure, as provided by section 383-110;

9 (47) The department of human services on current or
10 prospective employees or contractors who have access
11 to federal tax information in order to comply with
12 requirements of federal law, regulation, or procedure,
13 as provided by section 346-2.5;

14 (48) The child support enforcement agency on current or
15 prospective employees or contractors who have access
16 to federal tax information in order to comply with
17 federal law, regulation, or procedure, as provided by
18 section 576D-11.5;

19 (49) The department of the attorney general on current or
20 prospective employees or employees or agents of
21 contractors who have access to federal tax information



1 to comply with requirements of federal law,
2 regulation, or procedure, as provided by section 28-
3 17;

4 ~~[(+) (50) (+)]~~ The department of commerce and consumer affairs on
5 each control person, executive officer, director,
6 general partner, and managing member of an installment
7 loan licensee, or an applicant for an installment loan
8 license, as provided in chapter 480J;

9 ~~[(+) (51) (+)]~~ The University of Hawaii on current and prospective
10 employees and contractors whose duties include
11 ensuring the security of campus facilities and
12 persons; ~~[and]~~

13 (52) The department of commerce and consumer affairs on
14 applicants for physical therapist or physical
15 therapist assistant licensure as provided by section
16 461J-6; and

17 ~~[(+)(52)+]~~ (53) Any other organization, entity, or the State,
18 its branches, political subdivisions, or agencies as
19 may be authorized by state law."

20 SECTION 4. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ or so



1 much thereof as may be necessary for fiscal year 2023-2024 and
2 the same sum or so much thereof as may be necessary for fiscal
3 year 2024-2025 for one full-time equivalent (1.0 FTE) permanent
4 office assistant V and internal database updates for the
5 professional and vocational division to process physical therapy
6 compact related licenses.

7 The sums appropriated shall be expended by the department
8 of commerce and consumer affairs for the purposes of this Act.

9 SECTION 5. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect on December 31,
12 2050; provided that section 1 of this Act shall take effect
13 July 1, 3025; provided further that the amendments made to
14 section 846-2.7(b), Hawaii Revised Statutes, by section 3 of
15 this Act shall not be repealed when that section is repealed and
16 reenacted pursuant to Act 278, Session Laws of Hawaii 2022.



Report Title:

Physical Therapy Compact; Department of Commerce and Consumer Affairs; Rules; Criminal History Record Checks; Appropriation

Description:

Adopts the physical therapy compact effective 7/1/3025. Requires the department of commerce and consumer affairs to adopt rules to implement and administer the compact. Requires applicants for physical therapist or physical therapist assistant licensure to submit a full set of electronic fingerprints for criminal history record checks and authorizes the department of commerce and consumer affairs to conduct these criminal history record checks. Appropriates funds. Effective 12/31/2050. (HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

