

JAN 20 2023

A BILL FOR AN ACT

RELATING TO THE PHYSICAL THERAPY COMPACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 PHYSICAL THERAPY LICENSURE COMPACT

6 § -1 Name. This chapter may be cited as the Physical
7 Therapy Licensure Compact.

8 § -2 Terms and provisions of Compact. The legislature
9 of the State of Hawaii hereby authorizes the governor to enter
10 into a Compact on behalf of the State of Hawaii with any other
11 state legally joining therein, in the form substantially as
12 follows:

13 PHYSICAL THERAPY LICENSURE COMPACT

14 SECTION 1. Purpose

15 The purpose of this Compact is to facilitate interstate
16 practice of physical therapy with the goal of improving public
17 access to physical therapy services. The practice of physical



1 therapy occurs in the state where the patient or client is
2 located at the time of the patient or client encounter. The
3 Compact preserves the regulatory authority of states to protect
4 public health and safety through the current system of state
5 licensure.

6 This Compact is designed to achieve the following
7 objectives:

8 (1) Increase public access to physical therapy services by
9 providing for the mutual recognition of other member state
10 licenses;

11 (2) Enhance the states' ability to protect the public's
12 health and safety;

13 (3) Encourage the cooperation of member states in
14 regulating multi-state physical therapy practice;

15 (4) Support spouses of relocating military members;

16 (5) Enhance the exchange of licensure, investigative, and
17 disciplinary information between member states; and

18 (6) Allow a remote state to hold a provider of services
19 with a compact privilege in that state accountable to that
20 state's practice standards.

21 SECTION 2. Definitions



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

3 (1) "Active Duty Military" means full-time duty status in
4 the active uniformed service of the United States, including
5 members of the National Guard and Reserve on active duty orders
6 pursuant to 10 U.S.C. Section 1209 and 1211.

7 (2) "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 (3) "Alternative Program" means a non-disciplinary
11 monitoring or practice remediation process approved by a
12 physical therapy licensing board. This includes, but is not
13 limited to, substance abuse issues.

14 (4) "Compact privilege" means the authorization granted by
15 a 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 (5) "Continuing competence" means a requirement, as a
2 condition of license renewal, to provide evidence of
3 participation in, and/or completion of, educational and
4 professional activities relevant to practice or area of work.

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

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

10 (8) "Executive Board" means a group of directors elected
11 or appointed to act on behalf of, and with the powers granted to
12 them by, the Commission.

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

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

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



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

4 (13) "Member state" means a state that has enacted the
5 Compact.

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

9 (15) "Physical therapist" means an individual who is
10 licensed by a state to practice physical therapy.

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

14 (17) "Physical therapy", "physical therapy practice", and
15 "the practice of physical therapy" mean the care and services
16 provided by or under the direction and supervision of a licensed
17 physical therapist. The "practice of physical therapy" also has
18 the meaning given that term in section 461J-1.

19 (18) "Physical Therapy Compact Commission" or "Commission"
20 means the national administrative body whose membership consists
21 of all states that have enacted the Compact.



1 (19) "Physical therapy licensing board" or "licensing
2 board" means the agency of a state that is responsible for the
3 licensing and regulation of physical therapists and physical
4 therapist assistants.

5 (20) "Remote State" means a member state other than the
6 home state, where a licensee is exercising or seeking to
7 exercise the compact privilege.

8 (21) "Rule" means a regulation, principle, or directive
9 promulgated by the Commission that has the force of law.

10 (22) "State" means any state, commonwealth, district, or
11 territory of the United States of America that regulates the
12 practice of physical therapy.

13 SECTION 3. State Participation in the Compact

14 A. To participate in the Compact, a state must:

15 (1) Participate fully in the Commission's data system,
16 including using the Commission's unique identifier as defined in
17 rules;

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



1 (3) Notify the Commission, in compliance with the terms of
2 the Compact and rules, of any adverse action or the availability
3 of investigative information regarding a licensee;

4 (4) Fully implement a criminal background check
5 requirement, within a time frame established by rule, by
6 receiving the results of the Federal Bureau of Investigation
7 record search on criminal background checks and use the results
8 in making licensure decisions in accordance with Section 3.B.4.;

9 (5) Comply with the rules of the Commission;

10 (6) Utilize a recognized national examination as a
11 requirement for licensure pursuant to the rules of the
12 Commission; and

13 (7) Have continuing competence requirements as a condition
14 for license renewal.

15 B. Upon adoption of this statute, the member state shall
16 have the authority to obtain biometric-based information from
17 each physical therapy licensure application and submit this
18 information to the Federal Bureau of Investigation for a
19 criminal background check in accordance with 28 U.S.C. section
20 534 and 42 U.S.C. section 14616.



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 section 4D, G and H;
- 13 (4) Have not had any adverse action against any license or
14 compact privilege within the previous two years;
- 15 (5) Notify the Commission that the licensee is seeking the
16 compact privilege within a remote state(s);
- 17 (6) Pay any applicable fees, including any state fee, for
18 the compact privilege;
- 19 (7) Meet any jurisprudence requirements established by the
20 remote state(s) in which the licensee is seeking a compact
21 privilege; and



1 (8) Report to the Commission adverse action taken by any
2 non-member state within 30 days from the date the adverse action
3 is taken.

4 B. The compact privilege is valid until the expiration
5 date of the home license. The licensee must comply with the
6 requirements of section 4A. to maintain the compact privilege in
7 the remote state.

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

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



1 E. If a home state license is encumbered, the licensee
2 shall lose the compact privilege in any remote state until the
3 following occur:

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

5 (2) Two years have elapsed from the date of the adverse
6 action.

7 F. Once an encumbered license in the home state is
8 restored to good standing, the licenses must meet the
9 requirements of section 4A to obtain a compact privilege in any
10 remote state.

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

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

16 (2) all fines have been paid; and

17 (3) Two years have elapsed from the date of the adverse
18 action.

19 (H) Once the requirements of section 4G have been met, the
20 license must meet the requirements in section 4A to obtain a
21 compact privilege in a remote state.



1 SECTION 5. Active Duty Military Personnel or Their Spouses

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

- 5 A. Home of record;
- 6 B. Permanent Change of Station (PCS); or
- 7 C. State of current residence if it is different than the
8 PCS state or home of record.

9 SECTION 6. Adverse Actions

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

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

15 C. Nothing in this Compact shall override a member state's
16 decision that participation in an alternative program may be
17 used in lieu of adverse action and that such participation shall
18 remain non-public if required by the member state's laws. Member
19 states must require licensees who enter any alternative programs
20 in lieu of discipline to agree not to practice in any other



1 member state during the term of the alternative program without
2 prior authorization from such other member state.

3 D. Any member state may investigate actual or alleged
4 violations of the statutes and rules authorizing the practice of
5 physical therapy in any other member state in which a physical
6 therapist or physical therapist assistant holds a license or
7 compact privilege.

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

9 (1) Take adverse actions as set forth in section 4D
10 against a licensee's compact privilege in the state;

11 (2) Issue subpoenas for both hearings and investigations
12 that require the attendance and testimony of witnesses, and the
13 production of evidence. Subpoenas issued by a physical therapy
14 licensing board in a party state for the attendance and
15 testimony of witnesses, and/or the production of evidence from
16 another party state, shall be enforced in the latter state by
17 any court of competent jurisdiction, according to the practice
18 and procedure of that court applicable to subpoenas issued in
19 proceedings pending before it. The issuing authority shall pay
20 any witness fees, travel expenses, mileage, and other fees



1 required by the service statutes of the state where the
2 witnesses and/or evidence are located; and

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

6 F. Joint Investigations

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

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

14 SECTION 7. Establishment of the Physical Therapy Compact
15 Commission

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

19 (1) The Commission is an instrumentality of the Compact
20 states.



1 (2) Venue is proper and judicial proceedings by or against
2 the Commission shall be brought solely and exclusively in a
3 court of competent jurisdiction where the principal office of
4 the Commission is located. The Commission may waive venue and
5 jurisdictional defenses to the extent it adopts or consents to
6 participate in alternative dispute resolution proceedings.

7 (3) Nothing in this Compact shall be construed to be a
8 waiver of sovereign immunity.

9 B. Membership, Voting, and Meetings

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

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

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

18 (4) The member state board shall fill any vacancy
19 occurring in the Commission.

20 (5) Each delegate shall be entitled to one (1) vote with
21 regard to the promulgation of rules and creation of bylaws and



1 shall otherwise have an opportunity to participate in the
2 business and affairs of the Commission.

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

7 (7) The Commission shall meet at least once during each
8 calendar year. Additional meetings shall be held as set forth in
9 the bylaws.

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

12 (1) Establish the fiscal year of the Commission;

13 (2) Establish bylaws;

14 (3) Maintain its financial records in accordance with the
15 bylaws;

16 (4) Meet and take such actions as are consistent with the
17 provisions of this Compact and the bylaws;

18 (5) Promulgate uniform rules to facilitate and coordinate
19 implementation and administration of this Compact. The rules
20 shall have the force and effect of law and shall be binding in
21 all member states;



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

5 (7) Purchase and maintain insurance and bonds;

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

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

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

19 (11) Lease, purchase, accept appropriate gifts or
20 donations of, or otherwise to own, hold, improve or use, any



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

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

6 (13) Establish a budget and make expenditures;

7 (14) Borrow money;

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

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

15 (17) Establish and elect an Executive Board; and

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

20 D. The Executive Board



1 The Executive Board shall have the power to act on behalf
2 of the Commission according to the terms of this Compact.

3 (1) The Executive Board shall be comprised of nine
4 members:

5 a. Seven voting members who are elected by the Commission
6 from the current membership of the Commission;

7 b. One ex-officio, nonvoting member from the recognized
8 national physical therapy professional association; and

9 c. One ex-officio, nonvoting member from the recognized
10 membership organization of the physical therapy licensing
11 boards.

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

14 (3) The Commission may remove any member of the Executive
15 Board as provided in bylaws.

16 (4) The Executive Board shall meet at least annually.

17 (5) The Executive Board shall have the following Duties
18 and responsibilities:

19 a. Recommend to the entire Commission changes to the
20 rules or bylaws, changes to this Compact legislation, fees paid



1 by Compact member states such as annual dues, and any Commission
2 Compact fee charged to licensees for the compact privilege;

3 b. Ensure Compact administration services are
4 appropriately provided, contractual or otherwise;

5 c. Prepare and recommend the budget;

6 d. Maintain financial records on behalf of the
7 Commission;

8 e. Monitor Compact compliance of member states and
9 provide compliance reports to the Commission;

10 f. Establish additional committees as necessary; and

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

12 E. Meetings of the Commission

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

16 (2) The Commission or the Executive Board or other
17 committees of the Commission may convene in a closed, non-public
18 meeting if the Commission or Executive Board or other committees
19 of the Commission must discuss:

20 a. Non-compliance of a member state with its obligations
21 under the Compact;



1 b. The employment, compensation, discipline or other
2 matters, practices or procedures related to specific employees
3 or other matters related to the Commission's internal personnel
4 practices and procedures;

5 c. Current, threatened, or reasonably anticipated
6 litigation;

7 d. Negotiation of contracts for the purchase, lease, or
8 sale of goods, services, or real estate;

9 e. Accusing any person of a crime or formally censuring
10 any person;

11 f. Disclosure of trade secrets or commercial or financial
12 information that is privileged or confidential;

13 g. Disclosure of information of a personal nature where
14 disclosure would constitute a clearly unwarranted invasion of
15 personal privacy;

16 h. Disclosure of investigative records compiled for law
17 enforcement purposes;

18 i. Disclosure of information related to any investigative
19 reports prepared by or on behalf of or for use of the Commission
20 or other committee charged with responsibility of investigation



1 or determination of compliance issues pursuant to the Compact;
2 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 provision, the Commission's legal counsel or
7 designee shall certify that the meeting may be closed and shall
8 reference each relevant exempting provision.

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

18 F. Financing of the Commission

19 (1) The Commission shall pay, or provide for the payment
20 of, the reasonable expenses of its establishment, organization,
21 and ongoing activities.



1 (2) The Commission may accept any and all appropriate
2 revenue sources, donations, and grants of money, equipment,
3 supplies, materials, and services.

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

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

17 (5) The Commission shall keep accurate accounts of all
18 receipts and disbursements. The receipts and disbursements of
19 the Commission shall be subject to the audit and accounting
20 procedures established under its bylaws. However, all receipts
21 and disbursements of funds handled by the Commission shall be



1 audited yearly by a certified or licensed public accountant, and
2 the report of the audit shall be included in and become part of
3 the annual report of the Commission.

4 (6) An assessment levied, or any other financial
5 obligation imposed, under this Compact is effective against the
6 State of Hawaii only to the extent that moneys necessary to pay
7 the assessment or meet the financial obligations have been
8 deposited into the compliance resolution fund pursuant to
9 section 436B-15.

10 G. Qualified Immunity, Defense, and Indemnification

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



1 liability caused by the intentional or willful or wanton
2 misconduct of that person.

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

16 (3) The Commission shall indemnify and hold harmless any
17 member, officer, executive director, employee, or representative
18 of the Commission for the amount of any settlement or judgment
19 obtained against that person arising out of any actual or
20 alleged act, error or omission that occurred within the scope of
21 Commission employment, duties, or responsibilities, or that such



1 person had a reasonable basis for believing occurred within the
2 scope of Commission employment, duties, or responsibilities,
3 provided that the actual or alleged act, error, or omission did
4 not result from the intentional or willful or wanton misconduct
5 of that person.

6 SECTION 8. Data System

7 A.(1) The Commission shall provide for the development,
8 maintenance, and utilization of a coordinated database and
9 reporting system containing licensure, adverse action, and
10 investigative information on all licensed individuals in member
11 states.

12 (2) Notwithstanding section 9A1, the Physical Therapist
13 Licensing Board shall review the rules of the Commission. The
14 licensing board may approve and adopt the rules of the
15 Commission as rules of the licensing board. The State of Hawaii
16 is subject to a rule of the Commission only if the rule of the
17 Commission is adopted by the licensing board.

18 B. Notwithstanding any other provision of state law to the
19 contrary, a member state shall submit a uniform data set to the
20 data system on all individuals to whom this Compact is



1 applicable as required by the rules of the Commission,

2 including:

3 (1) Identifying information;

4 (2) Licensure data;

5 (3) Adverse actions against a license or compact
6 privilege;

7 (4) Non-confidential information related to alternative
8 program participation;

9 (5) Any denial of application for licensure, and the
10 reason(s) for such denial; and 6. Other information that may
11 facilitate the administration of this Compact, as determined by
12 the rules of the Commission.

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

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



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

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

8 SECTION 9. Rulemaking

9 A.(1) The Commission shall exercise its rulemaking powers
10 pursuant to the criteria set forth in this Section and the rules
11 adopted thereunder. Rules and amendments shall become binding as
12 of the date specified in each rule or amendment.

13 (2) Notwithstanding section 9.A.1., the Physical Therapist
14 Licensing Board shall review the rules of the Commission. The
15 licensing board may approve and adopt the rules of the
16 Commission as rules of the licensing board. The State of Hawaii
17 is subject to a rule of the Commission only if the rule of the
18 Commission is adopted by the licensing board.

19 B. If a majority of the legislatures of the member states
20 rejects a rule, by enactment of a statute or resolution in the
21 same manner used to adopt the Compact within 4 years of the date



1 of adoption of the rule, then such rule shall have no further
2 force and effect in any member state.

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

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

10 (1) On the website of the Commission or other publicly
11 accessible platform; and

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

16 E. The Notice of Proposed Rulemaking shall include:

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

19 (2) The text of the proposed rule or amendment and the
20 reason for the proposed rule;



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

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

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

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

12 (1) At least twenty-five (25) persons;

13 (2) A state or federal governmental subdivision or agency;
14 or

15 (3) An association having at least twenty-five (25)
16 members.

17 H. If a hearing is held on the proposed rule or amendment,
18 the Commission shall publish the place, time, and date of the
19 scheduled public hearing. If the hearing is held via electronic
20 means, the Commission shall publish the mechanism for access to
21 the electronic hearing.



1 (1) All persons wishing to be heard at the hearing shall
2 notify the executive director of the Commission or other
3 designated member in writing of their desire to appear and
4 testify at the hearing not less than five (5) business days
5 before the scheduled date of the hearing.

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

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

11 (4) Nothing in this section shall be construed as
12 requiring a separate hearing on each rule. Rules may be grouped
13 for the convenience of the Commission at hearings required by
14 this section.

15 I. Following the scheduled hearing date, or by the close
16 of business on the scheduled hearing date if the hearing was not
17 held, the Commission shall consider all written and oral
18 comments received.

19 J. If no written notice of intent to attend the public
20 hearing by interested parties is received, the Commission may



1 proceed with promulgation of the proposed rule without a public
2 hearing.

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

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

16 (1) Meet an imminent threat to public health, safety, or
17 welfare;

18 (2) Prevent a loss of Commission or member state funds;

19 (3) Meet a deadline for the promulgation of an
20 administrative rule that is established by federal law or rule;
21 or



1 (4) Protect public health and safety.

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

16 SECTION 10. Oversight, Dispute Resolution, and Enforcement

17 A. Oversight

18 (1) The executive, legislative, and judicial branches of
19 state government in each member state shall enforce this Compact
20 and take all actions necessary and appropriate to effectuate the
21 Compact's purposes and intent. The provisions of this Compact



1 and the rules promulgated hereunder and adopted by the Physical
2 Therapist Licensing Board shall have standing as statutory law.

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

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

14 B. Default, Technical Assistance, and Termination

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

19 a. Provide written notice to the defaulting state and
20 other member states of the nature of the default, the proposed



1 means of curing the default and/or any other action to be taken
2 by the Commission; and

3 b. Provide remedial training and specific technical
4 assistance regarding the default.

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

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

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



1 (5) The Commission shall not bear any costs related to a
2 state that is found to be in default or that has been terminated
3 from the Compact, unless agreed upon in writing between the
4 Commission and the defaulting state.

5 (6) The defaulting state may appeal the action of the
6 Commission by petitioning the United States District Court for
7 the District of Columbia or the federal district where the
8 Commission has its principal offices. The prevailing member
9 shall be awarded all costs of such litigation, including
10 reasonable attorney's fees.

11 C. Dispute Resolution

12 (1) Upon request by a member state, the Commission shall
13 attempt to resolve disputes related to the Compact that arise
14 among member states and between member and nonmember states.

15 (2) The Commission shall promulgate a rule providing for
16 both mediation and binding dispute resolution for disputes as
17 appropriate.

18 D. Enforcement

19 (1) The Commission, in the reasonable exercise of its
20 discretion, shall enforce the provisions and rules of this
21 Compact.



1 (2) By majority vote, the Commission may initiate legal
2 action in the United States District Court for the District of
3 Columbia or the federal district where the Commission has its
4 principal offices against a member state in default to enforce
5 compliance with the provisions of the Compact and its
6 promulgated rules and bylaws. The relief sought may include
7 injunctive relief. In the event judicial enforcement is
8 necessary, the prevailing member shall be awarded all costs of
9 such litigation, including reasonable attorney's fees.

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

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

16 A. The Compact shall come into effect on the date on which
17 the Compact statute is enacted into law in the tenth member
18 state. The provisions, which become effective at that time,
19 shall be limited to the powers granted to the Commission
20 relating to assembly and the promulgation of rules. Thereafter,
21 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 (6) months after enactment of the repealing statute.

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

18 D. Nothing contained in this Compact shall be construed to
19 invalidate or prevent any physical therapy licensure agreement
20 or other cooperative arrangement between a member state and a



1 non-member state that does not conflict with the provisions of
2 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. If
17 this Compact shall be held contrary to the constitution of any
18 party state, the Compact shall remain in full force and effect
19 as to the remaining party states and in full force and effect as
20 to the party state affected as to all severable matters."



S.B. NO. 668

1 SECTION 2. This Act shall take effect upon its approval.

2

INTRODUCED BY: 



S.B. NO. 668

Report Title:

Physical Therapy Licensure Compact; Adoption

Description:

Allows the Governor to enter the State into the multi-state Physical Therapy Licensure Compact, which will allow a physical therapist licensed by a home state to practice under a multi-state licensure privilege in each party state.

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

