

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Physical Therapy Act is amended by  
5 adding Sections 8.7 and 33.5 as follows:

6 (225 ILCS 90/8.7 new)

7 Sec. 8.7. Criminal history records background check. Each  
8 applicant for licensure under Sections 8, 8.1, and 11 shall  
9 have his or her fingerprints submitted to the Illinois State  
10 Police in an electronic format that complies with the form and  
11 manner for requesting and furnishing criminal history record  
12 information as prescribed by the Illinois State Police. These  
13 fingerprints shall be checked against the Illinois State  
14 Police and Federal Bureau of Investigation criminal history  
15 record databases now and hereafter filed. The Illinois State  
16 Police shall charge applicants a fee for conducting the  
17 criminal history records check, which shall be deposited into  
18 the State Police Services Fund and shall not exceed the actual  
19 cost of the records check. The Illinois State Police shall  
20 furnish, pursuant to positive identification, records of  
21 Illinois convictions to the Department. The Department may  
22 require applicants to pay a separate fingerprinting fee,  
23 either to the Department or to a vendor designated or approved

1 by the Department. The Department, in its discretion, may  
2 allow an applicant or licensee who does not have reasonable  
3 access to a designated vendor to provide his or her  
4 fingerprints in an alternative manner. Communication between  
5 the Department and an interstate compact governing body or  
6 other entities may not include information received from the  
7 Federal Bureau of Investigation relating to a State and  
8 federal criminal history records check. The Department may  
9 adopt any rules necessary to implement this Section.

10 (225 ILCS 90/33.5 new)

11 Sec. 33.5. Physical Therapy Licensure Compact. The State  
12 of Illinois ratifies and approves the following Compact:

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  
18 therapy occurs in the state where the patient/client is  
19 located at the time of the patient/client encounter. The  
20 Compact preserves the regulatory authority of states to  
21 protect public health and safety through the current system of  
22 state licensure.

23 This Compact is designed to achieve the following

1 objectives:

2 1. Increase public access to physical therapy services  
3 by providing for the mutual recognition of other member  
4 state licenses;

5 2. Enhance the states' ability to protect the public's  
6 health and safety;

7 3. Encourage the cooperation of member states in  
8 regulating multi-state physical therapy practice;

9 4. Support spouses of relocating military members;

10 5. Enhance the exchange of licensure, investigative,  
11 and disciplinary information between member states; and

12 6. Allow a remote state to hold a provider of services  
13 with a compact privilege in that state accountable to that  
14 state's practice standards.

15 SECTION 2. DEFINITIONS

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

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

22 2. "Adverse Action" means disciplinary action taken by a  
23 physical therapy licensing board based upon misconduct,  
24 unacceptable performance, or a combination of both.

25 3. "Alternative Program" means a non-disciplinary

1 monitoring or practice remediation process approved by a  
2 physical therapy licensing board. This includes, but is not  
3 limited to, substance abuse issues.

4 4. "Compact privilege" means the authorization granted by  
5 a remote state to allow a licensee from another member state to  
6 practice as a physical therapist or work as a physical  
7 therapist assistant in the remote state under its laws and  
8 rules. The practice of physical therapy occurs in the member  
9 state where the patient/client is located at the time of the  
10 patient/client encounter.

11 5. "Continuing competence" means a requirement, as a  
12 condition of license renewal, to provide evidence of  
13 participation in, and/or completion of, educational and  
14 professional activities relevant to practice or area of work.

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

18 7. "Encumbered license" means a license that a physical  
19 therapy licensing board has limited in any way.

20 8. "Executive Board" means a group of directors elected or  
21 appointed to act on behalf of, and within the powers granted to  
22 them by, the Commission.

23 9. "Home state" means the member state that is the  
24 licensee's primary state of residence.

25 10. "Investigative information" means information,  
26 records, and documents received or generated by a physical

1 therapy licensing board pursuant to an investigation.

2 11. "Jurisprudence Requirement" means the assessment of an  
3 individual's knowledge of the laws and rules governing the  
4 practice of physical therapy in a state.

5 12. "Licensee" means an individual who currently holds an  
6 authorization from the state to practice as a physical  
7 therapist or to work as a physical therapist assistant.

8 13. "Member state" means a state that has enacted the  
9 Compact.

10 14. "Party state" means any member state in which a  
11 licensee holds a current license or compact privilege or is  
12 applying for a license or compact privilege.

13 15. "Physical therapist" means an individual who is  
14 licensed by a state to practice physical therapy.

15 16. "Physical therapist assistant" means an individual who  
16 is licensed/certified by a state and who assists the physical  
17 therapist in selected components of physical therapy.

18 17. "Physical therapy," "physical therapy practice," and  
19 "the practice of physical therapy" mean the care and services  
20 provided by or under the direction and supervision of a  
21 licensed physical therapist.

22 18. "Physical Therapy Compact Commission" or "Commission"  
23 means the national administrative body whose membership  
24 consists of all states that have enacted the Compact.

25 19. "Physical therapy licensing board" or "licensing  
26 board" means the agency of a state that is responsible for the

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

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

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

8 22. "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  
19 of the Compact and rules, of any adverse action or the  
20 availability of investigative information regarding a  
21 licensee;

22 4. Fully implement a criminal background check  
23 requirement, within a time frame established by rule, by  
24 receiving the results of the Federal Bureau of  
25 Investigation record search on criminal background checks

1 and use the results in making licensure decisions in  
2 accordance with Section 3.B.;

3 5. Comply with the rules of the Commission;

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

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

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

15 C. A member state shall grant the compact privilege to a  
16 licensee holding a valid unencumbered license in another  
17 member state in accordance with the terms of the Compact and  
18 rules.

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

21 SECTION 4. COMPACT PRIVILEGE

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

24 1. Hold a license in the home state;

25 2. Have no encumbrance on any state license;

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

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

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

7           6. Pay any applicable fees, including any state fee,  
8           for the compact privilege;

9           7. Meet any jurisprudence requirements established by  
10           the remote state(s) in which the licensee is seeking a  
11           compact privilege; and

12           8. Report to the Commission adverse action taken by  
13           any non-member state within 30 days from the date the  
14           adverse action is taken.

15           B. The compact privilege is valid until the expiration  
16           date of the home license. The licensee must comply with the  
17           requirements of Section 4.A. to maintain the compact privilege  
18           in the remote state.

19           C. A licensee providing physical therapy in a remote state  
20           under the compact privilege shall function within the laws and  
21           regulations of the remote state.

22           D. A licensee providing physical therapy in a remote state  
23           is subject to that state's regulatory authority. A remote  
24           state may, in accordance with due process and that state's  
25           laws, remove a licensee's compact privilege in the remote  
26           state for a specific period of time, impose fines, and/or take



1 any other necessary actions to protect the health and safety  
2 of its citizens. The licensee is not eligible for a compact  
3 privilege in any state until the specific time for removal has  
4 passed and all fines are paid.

5 E. If a home state license is encumbered, the licensee  
6 shall lose the compact privilege in any remote state until the  
7 following occur:

8 1. The home state license is no longer encumbered; and

9 2. Two years have elapsed from the date of the adverse  
10 action.

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

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

18 1. The specific period of time for which the compact  
19 privilege was removed has ended;

20 2. All fines have been paid; and

21 3. Two years have elapsed from the date of the adverse  
22 action.

23 H. Once the requirements of Section 4G have been met, the  
24 license must meet the requirements in Section 4A to obtain a  
25 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  
14 home state follows its own procedures for imposing adverse  
15 action.

16          C. Nothing in this Compact shall override a member state's  
17 decision that participation in an alternative program may be  
18 used in lieu of adverse action and that such participation  
19 shall remain non-public if required by the member state's  
20 laws. Member states must require licensees who enter any  
21 alternative programs in lieu of discipline to agree not to  
22 practice in any other member state during the term of the  
23 alternative program without prior authorization from such  
24 other member state.

25          D. Any member state may investigate actual or alleged

1 violations of the statutes and rules authorizing the practice  
2 of physical therapy in any other member state in which a  
3 physical therapist or physical therapist assistant holds a  
4 license or compact privilege.

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

6 1. Take adverse actions as set forth in Section 4.D.  
7 against a licensee's compact privilege in the state;

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

21 3. If otherwise permitted by state law, recover from  
22 the licensee the costs of investigations and disposition  
23 of cases resulting from any adverse action taken against  
24 that licensee.

25 F. Joint Investigations

26 1. In addition to the authority granted to a member

1 state by its respective physical therapy practice act or  
2 other applicable state law, a member state may participate  
3 with other member states in joint investigations of  
4 licensees.

5 2. Member states shall share any investigative,  
6 litigation, or compliance materials in furtherance of any  
7 joint or individual investigation initiated under the  
8 Compact.

9 SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT  
10 COMMISSION

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

14 1. The Commission is an instrumentality of the Compact  
15 states.

16 2. Venue is proper and judicial proceedings by or  
17 against the Commission shall be brought solely and  
18 exclusively in a court of competent jurisdiction where the  
19 principal office of the Commission is located. The  
20 Commission may waive venue and jurisdictional defenses to  
21 the extent it adopts or consents to participate in  
22 alternative dispute resolution proceedings.

23 3. Nothing in this Compact shall be construed to be a  
24 waiver of sovereign immunity.

25 B. Membership, Voting, and Meetings

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

4           2. The delegate shall be a current member of the  
5           licensing board, who is a physical therapist, physical  
6           therapist assistant, public member, or the board  
7           administrator.

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

11           4. The member state board shall fill any vacancy  
12           occurring in the Commission.

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

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

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

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

26           1. Establish the fiscal year of the Commission;

- 1           2. Establish bylaws;
- 2           3. Maintain its financial records in accordance with  
3           the bylaws;
- 4           4. Meet and take such actions as are consistent with  
5           the provisions of this Compact and the bylaws;
- 6           5. Promulgate uniform rules to facilitate and  
7           coordinate implementation and administration of this  
8           Compact. The rules shall have the force and effect of law  
9           and shall be binding in all member states;
- 10          6. Bring and prosecute legal proceedings or actions in  
11          the name of the Commission, provided that the standing of  
12          any state physical therapy licensing board to sue or be  
13          sued under applicable law shall not be affected;
- 14          7. Purchase and maintain insurance and bonds;
- 15          8. Borrow, accept, or contract for services of  
16          personnel, including, but not limited to, employees of a  
17          member state;
- 18          9. Hire employees, elect or appoint officers, fix  
19          compensation, define duties, grant such individuals  
20          appropriate authority to carry out the purposes of the  
21          Compact, and to establish the Commission's personnel  
22          policies and programs relating to conflicts of interest,  
23          qualifications of personnel, and other related personnel  
24          matters;
- 25          10. Accept any and all appropriate donations and  
26          grants of money, equipment, supplies, materials and

1 services, and to receive, utilize and dispose of the same;  
2 provided that at all times the Commission shall avoid any  
3 appearance of impropriety and/or conflict of interest;

4 11. Lease, purchase, accept appropriate gifts or  
5 donations of, or otherwise to own, hold, improve or use,  
6 any property, real, personal or mixed; provided that at  
7 all times the Commission shall avoid any appearance of  
8 impropriety;

9 12. Sell convey, mortgage, pledge, lease, exchange,  
10 abandon, or otherwise dispose of any property real,  
11 personal, or mixed;

12 13. Establish a budget and make expenditures;

13 14. Borrow money;

14 15. Appoint committees, including standing committees  
15 composed of members, state regulators, state legislators  
16 or their representatives, and consumer representatives,  
17 and such other interested persons as may be designated in  
18 this Compact and the bylaws;

19 16. Provide and receive information from, and  
20 cooperate with, law enforcement agencies;

21 17. Establish and elect an Executive Board; and

22 18. Perform such other functions as may be necessary  
23 or appropriate to achieve the purposes of this Compact  
24 consistent with the state regulation of physical therapy  
25 licensure and practice.

26 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 composed of nine  
4 members:

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

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

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

14           2. The ex-officio members will be selected by their  
15 respective organizations.

16           3. The Commission may remove any member of the  
17 Executive Board as provided in bylaws.

18           4. The Executive Board shall meet at least annually.

19           5. The Executive Board shall have the following Duties  
20 and responsibilities:

21               a. Recommend to the entire Commission changes to  
22 the rules or bylaws, changes to this Compact  
23 legislation, fees paid by Compact member states such  
24 as annual dues, and any commission Compact fee charged  
25 to licensees for the compact privilege;

26               b. Ensure Compact administration services are



1 appropriately provided, contractual or otherwise;

2 c. Prepare and recommend the budget;

3 d. Maintain financial records on behalf of the  
4 Commission;

5 e. Monitor Compact compliance of member states and  
6 provide compliance reports to the Commission;

7 f. Establish additional committees as necessary;

8 and

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

10 E. Meetings of the Commission

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

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

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

21 b. The employment, compensation, discipline or  
22 other matters, practices or procedures related to  
23 specific employees or other matters related to the  
24 Commission's internal personnel practices and  
25 procedures;

26 c. Current, threatened, or reasonably anticipated

1 litigation;

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

4 e. Accusing any person of a crime or formally  
5 censuring any person;

6 f. Disclosure of trade secrets or commercial or  
7 financial information that is privileged or  
8 confidential;

9 g. Disclosure of information of a personal nature  
10 where disclosure would constitute a clearly  
11 unwarranted invasion of personal privacy;

12 h. Disclosure of investigative records compiled  
13 for law enforcement purposes;

14 i. Disclosure of information related to any  
15 investigative reports prepared by or on behalf of or  
16 for use of the Commission or other committee charged  
17 with responsibility of investigation or determination  
18 of compliance issues pursuant to the Compact; or

19 j. Matters specifically exempted from disclosure  
20 by federal or member state statute.

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

25 4. The Commission shall keep minutes that fully and  
26 clearly describe all matters discussed in a meeting and

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

9 F. Financing of the Commission

10 1. The Commission shall pay, or provide for the  
11 payment of, the reasonable expenses of its establishment,  
12 organization, and ongoing activities.

13 2. The Commission may accept any and all appropriate  
14 revenue sources, donations, and grants of money,  
15 equipment, supplies, materials, and services.

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

26 4. The Commission shall not incur obligations of any

1 kind prior to securing the funds adequate to meet the  
2 same; nor shall the Commission pledge the credit of any of  
3 the member states, except by and with the authority of the  
4 member state.

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

14 G. Qualified Immunity, Defense, and Indemnification

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

1 any damage, loss, injury, or liability caused by the  
2 intentional or willful or wanton misconduct of that  
3 person.

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

18 3. The Commission shall indemnify and hold harmless  
19 any member, officer, executive director, employee, or  
20 representative of the Commission for the amount of any  
21 settlement or judgment obtained against that person  
22 arising out of any actual or alleged act, error or  
23 omission that occurred within the scope of Commission  
24 employment, duties, or responsibilities, or that such  
25 person had a reasonable basis for believing occurred  
26 within the scope of Commission employment, duties, or

1 responsibilities, provided that the actual or alleged act,  
2 error, or omission did not result from the intentional or  
3 willful or wanton misconduct of that person.

4 SECTION 8. DATA SYSTEM

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

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

15 1. Identifying information;

16 2. Licensure data;

17 3. Adverse actions against a license or compact  
18 privilege;

19 4. Non-confidential information related to alternative  
20 program participation;

21 5. Any denial of application for licensure, and the  
22 reason(s) for such denial; and

23 6. Other information that may facilitate the  
24 administration of this Compact, as determined by the rules  
25 of the Commission.

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

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

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

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

16       SECTION 9. RULEMAKING

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

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

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

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

8           1. On the website of the Commission or other publicly  
9 accessible platform; and

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

14       E. The Notice of Proposed Rulemaking shall include:

15           1. The proposed time, date, and location of the  
16 meeting in which the rule will be considered and voted  
17 upon;

18           2. The text of the proposed rule or amendment and the  
19 reason for the proposed rule;

20           3. A request for comments on the proposed rule from  
21 any interested person; and

22           4. The manner in which interested persons may submit  
23 notice to the Commission of their intention to attend the  
24 public hearing and any written comments.

25       F. Prior to adoption of a proposed rule, the Commission  
26 shall allow persons to submit written data, facts, opinions,



1 and arguments, which shall be made available to the public.

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

5 1. At least twenty-five (25) persons;

6 2. A state or federal governmental subdivision or  
7 agency; or

8 3. An association having at least twenty-five (25)  
9 members.

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

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

20 2. Hearings shall be conducted in a manner providing  
21 each person who wishes to comment a fair and reasonable  
22 opportunity to comment orally or in writing.

23 3. All hearings will be recorded. A copy of the  
24 recording will be made available on request.

25 4. Nothing in this section shall be construed as  
26 requiring a separate hearing on each rule. Rules may be

1       grouped for the convenience of the Commission at hearings  
2       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  
5       not 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  
10      public 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  
18      that the usual rulemaking procedures provided in the Compact  
19      and in this section shall be retroactively applied to the rule  
20      as soon as reasonably possible, in no event later than ninety  
21      (90) days after the effective date of the rule. For the  
22      purposes of this provision, an emergency rule is one that must  
23      be adopted immediately in order to:

24           1. Meet an imminent threat to public health, safety,  
25           or welfare;

26           2. Prevent a loss of Commission or member state funds;

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

4           4. Protect public health and safety.

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

19           SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

20           A. Oversight

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

1 promulgated hereunder shall have standing as statutory  
2 law.

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

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

14 B. Default, Technical Assistance, and Termination

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

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

23 b. Provide remedial training and specific  
24 technical assistance regarding the default.

25 2. If a state in default fails to cure the default, the  
26 defaulting state may be terminated from the Compact upon

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

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

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

19 5. The Commission shall not bear any costs related to  
20 a state that is found to be in default or that has been  
21 terminated from the Compact, unless agreed upon in writing  
22 between the Commission and the defaulting state.

23 6. The defaulting state may appeal the action of the  
24 Commission by petitioning the U.S. District Court for the  
25 District of Columbia or the federal district where the  
26 Commission has its principal offices. The prevailing

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

3 C. Dispute Resolution

4 1. Upon request by a member state, the Commission  
5 shall attempt to resolve disputes related to the Compact  
6 that arise among member states and between member and  
7 non-member states.

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

11 D. Enforcement

12 1. The Commission, in the reasonable exercise of its  
13 discretion, shall enforce the provisions and rules of this  
14 Compact.

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

25 3. The remedies herein shall not be the exclusive  
26 remedies of the Commission. The Commission may pursue any

1 other remedies available under federal or state law.

2 SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE  
3 COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES,  
4 WITHDRAWAL, AND AMENDMENT

5 A. The Compact shall come into effect on the date on which  
6 the Compact statute is enacted into law in the tenth member  
7 state. The provisions, which become effective at that time,  
8 shall be limited to the powers granted to the Commission  
9 relating to assembly and the promulgation of rules.  
10 Thereafter, the Commission shall meet and exercise rulemaking  
11 powers necessary to the implementation and administration of  
12 the Compact.

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

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

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

24 2. Withdrawal shall not affect the continuing  
25 requirement of the withdrawing state's physical therapy

1       licensing board to comply with the investigative and  
2       adverse action reporting requirements of this act prior to  
3       the effective date of withdrawal.

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

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

13       SECTION 12. CONSTRUCTION AND SEVERABILITY

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



1 effect as to the party state affected as to all severable  
2 matters.