

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 57

Short Title: Enact Physical Therapy Licensure Compact. (Public)

Sponsors: Representatives Szoka, G. Martin, and Grange (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Health, if favorable, Finance

February 8, 2017

1 A BILL TO BE ENTITLED
2 AN ACT ESTABLISHING A PHYSICAL THERAPY LICENSURE COMPACT TO
3 FACILITATE THE INTERSTATE PRACTICE OF PHYSICAL THERAPY.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 18B of Chapter 90 of the General Statutes, G.S. 90-270.24
6 through G.S. 90-270.44, is recodified as Article 18E of Chapter 90 of the General Statutes,
7 G.S. 90-270.90 through G.S. 90-270.110.

8 **SECTION 2.** Chapter 90 of the General Statutes is amended by adding a new Article
9 to read:

10 "Article 18F.

11 "Physical Therapy Licensure Compact.

12 "**§ 90-270.120. Purpose.**

13 The purpose of this Compact is to facilitate the interstate practice of physical therapy with the
14 goal of improving public access to physical therapy services. The practice of physical therapy
15 occurs in the state where the patient/client is located at the time of the patient/client encounter.
16 The Compact preserves the regulatory authority of states to protect public health and safety
17 through the current system of state licensure. This Compact is designed to achieve the following
18 objectives:

- 19 (1) Increase public access to physical therapy services by providing for the mutual
20 recognition of other member state licenses.
21 (2) Enhance the states' ability to protect the public's health and safety.
22 (3) Encourage the cooperation of member states in regulating multistate physical
23 therapy practice.
24 (4) Support spouses of relocating military members.
25 (5) Enhance the exchange of licensure, investigative, and disciplinary information
26 between member states.
27 (6) Allow a remote state to hold a provider of services with a compact privilege in
28 that state accountable to that state's practice standards.

29 "**§ 90-270.121. Definitions.**

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

- 31 (1) Active duty military. – Full-time duty status in the active uniformed service of
32 the United States, including members of the National Guard and Reserve on
33 active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.



- 1 (2) Adverse action. – Disciplinary action taken by a physical therapy licensing
2 board based upon misconduct, unacceptable performance, or a combination of
3 both.
- 4 (3) Alternative program. – A non-disciplinary monitoring or practice remediation
5 process approved by a physical therapy licensing board. This includes, but is
6 not limited to, substance abuse issues.
- 7 (4) Compact privilege. – The authorization granted by a remote state to allow a
8 licensee from another member state to practice as a physical therapist or work
9 as a physical therapist assistant in the remote state under its laws and rules. The
10 practice of physical therapy occurs in the member state where the patient/client
11 is located at the time of the patient/client encounter.
- 12 (5) Continuing competence. – A requirement, as a condition of license renewal, to
13 provide evidence of participation in, and/or completion of, educational and
14 professional activities relevant to practice or area of work.
- 15 (6) Data system. – A repository of information about licensees, including
16 examination, licensure, investigative, compact privilege, and adverse action.
- 17 (7) Encumbered license. – A license that a physical therapy licensing board has
18 limited in any way.
- 19 (8) Executive board. – A group of directors elected or appointed to act on behalf of,
20 and within the powers granted to them by, the Commission.
- 21 (9) Home state. – The member state that is the licensee's primary state of residence.
- 22 (10) Investigative information. – Information, records, and documents received or
23 generated by a physical therapy licensing board pursuant to an investigation.
- 24 (11) Jurisprudence requirement. – The assessment of an individual's knowledge of
25 the laws and rules governing the practice of physical therapy in a state.
- 26 (12) Licensee. – An individual who currently holds an authorization from the state to
27 practice as a physical therapist or to work as a physical therapist assistant.
- 28 (13) Member state. – A state that has enacted the Compact.
- 29 (14) Party state. – Any member state in which a licensee holds a current license or
30 compact privilege or is applying for a license or compact privilege.
- 31 (15) Physical therapist. – An individual who is licensed by a state to practice
32 physical therapy.
- 33 (16) Physical therapist assistant. – An individual who is licensed/certified by a state
34 and who assists the physical therapist in selected components of physical
35 therapy.
- 36 (17) Physical therapy, physical therapy practice, or the practice of physical therapy.
37 – The care and services provided by or under the direction and supervision of a
38 licensed physical therapist.
- 39 (18) Physical Therapy Compact Commission or Commission. – The national
40 administrative body whose membership consists of all states that have enacted
41 the Compact.
- 42 (19) Physical Therapy Licensing Board or Licensing Board. – The agency that is
43 responsible for the licensing and regulation of physical therapists and physical
44 therapist assistants.
- 45 (20) Remote state. – A member state other than the home state, where a licensee is
46 exercising or seeking to exercise the compact privilege.
- 47 (21) Rule. – A regulation, principle, or directive promulgated by the Commission
48 that has the force of law.
- 49 (22) State. – Any state, commonwealth, district, or territory of the United States of
50 America that regulates the practice of physical therapy.

51 **"§ 90-270.122. State participation in the compact.**

1 (a) To participate in the Compact, a state must do all of the following:

2 (1) Participate fully in the Commission's data system, including using the
3 Commission's unique identifier as defined in rules.

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

6 (3) Notify the Commission, in compliance with the terms of the Compact and rules,
7 of any adverse action or the availability of investigative information regarding a
8 licensee.

9 (4) Fully implement a criminal background check requirement, within a time frame
10 established by rule, by receiving the results of the Federal Bureau of
11 Investigation record search on criminal background checks and use the results
12 in making licensure decisions in accordance with subsection (b) of this section.

13 (5) Comply with the rules of the Commission.

14 (6) Utilize a recognized national examination as a requirement for licensure
15 pursuant to the rules of the Commission.

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

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

21 (c) A member state shall grant the compact privilege to a licensee holding a valid
22 unencumbered license in another member state in accordance with the terms of the Compact and
23 rules.

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

25 **§ 90-270.123. Compact privilege.**

26 (a) In order to exercise the compact privilege under the terms and provisions of the
27 Compact, the licensee shall meet all of the following qualifications:

28 (1) Hold a license in the home state.

29 (2) Have no encumbrance on any state license.

30 (3) Be eligible for a compact privilege in any member state in accordance with
31 subsections (d), (g) and (h) of this section.

32 (4) Have not had any adverse action against any license or compact privilege
33 within the previous two years.

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

36 (6) Pay any applicable fees, including any state fee, for the compact privilege.

37 (7) Meet any jurisprudence requirements established by the remote state(s) in
38 which the licensee is seeking a compact privilege.

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

41 (b) The compact privilege is valid until the expiration date of the home license. The
42 licensee must comply with the requirements of subsection (a) of this section to maintain the
43 compact privilege in the remote state.

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

46 (d) A licensee providing physical therapy in a remote state is subject to that state's
47 regulatory authority. A remote state may, in accordance with due process and that state's laws,
48 remove a licensee's compact privilege in the remote state for a specific period of time, impose
49 finer, and/or take any other necessary actions to protect the health and safety of its citizens. The
50 licensee is not eligible for a compact privilege in any state until the specific time for removal has
51 passed and all fines are paid.

1 (e) If a home state license is encumbered, the licensee shall lose the compact privilege in
2 any remote state until both of the following occur:

3 (1) The home state license is no longer encumbered.

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

5 (f) Once an encumbered license in the home state is restored to good standing, the licensee
6 must meet the requirements of subsection (a) of this section to obtain a compact privilege in any
7 remote state.

8 (g) If a licensee's compact privilege in any remote state is removed, the individual shall
9 lose the compact privilege in any remote state until all of the following occur:

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

12 (2) All fines have been paid.

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

14 (h) Once the requirements of subsection (g) of this section have been met, the license must
15 meet the requirements in subsection (a) of this section to obtain a compact privilege in a remote
16 state.

17 **"§ 90-270.124. Active duty military personnel or their spouses.**

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

20 (1) Home of record.

21 (2) Permanent Change of Station (PCS).

22 (3) State of current residence if it is different than the PCS state or home of record.

23 **"§ 90-270.125. Adverse actions.**

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

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

28 (c) Nothing in this Compact shall override a member state's decision that participation in
29 an alternative program may be used in lieu of adverse action and that such participation shall
30 remain non-public if required by the member state's laws. Member states must require licensees
31 who enter any alternative programs in lieu of discipline to agree not to practice in any other
32 member state during the term of the alternative program without prior authorization from such
33 other member state.

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

37 (e) A remote state shall have the authority to do all of the following:

38 (1) Take adverse actions as set forth in subsection (d) of G.S. 90-270.123 against a
39 licensee's compact privilege in the state.

40 (2) Issue subpoenas for both hearings and investigations that require the attendance
41 and testimony of witnesses, and the production of evidence. Subpoenas issued
42 by a physical therapy licensing board in a party state for the attendance and
43 testimony of witnesses, and/or the production of evidence from another party
44 state, shall be enforced in the latter state by any court of competent jurisdiction,
45 according to the practice and procedure of that court applicable to subpoenas
46 issued in proceedings pending before it. The issuing authority shall pay any
47 witness fees, travel expenses, mileage, and other fees required by the service
48 statutes of the state where the witnesses and/or evidence are located.

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

1 (f) Joint Investigations. –

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

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

8 **"§ 90-270.126. Establishment of the Physical Therapy Compact Commission.**

9 (a) The Compact member states hereby create and establish a joint public agency known
10 as the Physical Therapy Compact Commission:

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

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

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

19 (b) Membership, Voting, and Meetings. –

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

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

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

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

28 (5) Each delegate shall be entitled to one vote with regard to the promulgation of
29 rules and creation of bylaws and shall otherwise have an opportunity to
30 participate in the business and affairs of the Commission.

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

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

36 (c) The Commission shall have all of the following powers and duties:

37 (1) Establish the fiscal year of the Commission.

38 (2) Establish bylaws.

39 (3) Maintain its financial records in accordance with the bylaws.

40 (4) Meet and take such actions as are consistent with the provisions of this
41 Compact and the bylaws.

42 (5) Promulgate uniform rules to facilitate and coordinate implementation and
43 administration of this Compact. The rules shall have the force and effect of law
44 and shall be binding in all member states.

45 (6) Bring and prosecute legal proceedings or actions in the name of the
46 Commission, provided that the standing of any state physical therapy licensing
47 board to sue or be sued under applicable law shall not be affected.

48 (7) Purchase and maintain insurance and bonds.

49 (8) Borrow, accept, or contract for services of personnel, including employees of a
50 member state.

- 1 (9) Hire employees, elect or appoint officers, fix compensation, define duties, grant
2 such individuals appropriate authority to (i) carry out the purposes of the
3 Compact and (ii) establish the Commission's personnel policies and programs
4 relating to conflicts of interest, qualifications of personnel, and other related
5 personnel matters.
- 6 (10) Accept any and all appropriate donations and grants of money, equipment,
7 supplies, materials and services, and to receive, utilize and dispose of the same;
8 provided that at all times the Commission shall avoid any appearance of
9 impropriety and/or conflict of interest.
- 10 (11) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own,
11 hold, improve or use, any property, real, personal or mixed; provided that at all
12 times the Commission shall avoid any appearance of impropriety.
- 13 (12) Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose
14 of any property real, personal, or mixed.
- 15 (13) Establish a budget and make expenditures.
- 16 (14) Borrow money.
- 17 (15) Appoint committees, including standing committees composed of members,
18 state regulators, state legislators or their representatives, and consumer
19 representatives, and such other interested persons as may be designated in this
20 Compact and the bylaws.
- 21 (16) Provide and receive information from, and cooperate with, law enforcement
22 agencies.
- 23 (17) Establish and elect an Executive Board.
- 24 (18) Perform such other functions as may be necessary or appropriate to achieve the
25 purposes of this Compact consistent with the state regulation of physical
26 therapy licensure and practice.
- 27 (d) The Executive Board. –
28 The Executive Board shall have the power to act on behalf of the Commission according to the
29 terms of this Compact:
- 30 (1) The Executive Board shall be composed of the following nine members:
- 31 (a) Seven voting members who are elected by the Commission from the
32 current membership of the Commission.
- 33 (b) One ex-officio, nonvoting member from the recognized national
34 physical therapy professional association.
- 35 (c) One ex-officio, nonvoting member from the recognized membership
36 organization of the physical therapy licensing boards.
- 37 (2) The ex-officio members will be selected by their respective organizations.
- 38 (3) The Commission may remove any member of the Executive Board as provided
39 in bylaws.
- 40 (4) The Executive Board shall meet at least annually.
- 41 (5) The Executive Board shall have all of the following Duties and responsibilities:
- 42 a. Recommend to the entire Commission changes to the rules or bylaws,
43 changes to this Compact legislation, fees paid by Compact member
44 states such as annual dues, and any commission Compact fee charged to
45 licensees for the compact privilege.
- 46 b. Ensure Compact administration services are appropriately provided,
47 contractual or otherwise.
- 48 c. Prepare and recommend the budget.
- 49 d. Maintain financial records on behalf of the Commission.
- 50 e. Monitor Compact compliance of member states and provide compliance
51 reports to the Commission.

- 1 f. Establish additional committees as necessary.
2 g. Other duties as provided in rules or bylaws.
3 (e) Meetings of the Commission. –
4 (1) All meetings shall be open to the public, and public notice of meetings shall be
5 given in the same manner as required under the rule-making provisions in
6 G.S. 90-270.128.
7 (2) The Commission or the Executive Board or other committees of the
8 Commission may convene in a closed, non-public meeting if the Commission
9 or Executive Board or other committees of the Commission must discuss any of
10 the following:
11 a. Non-compliance of a member state with its obligations under the
12 Compact.
13 b. The employment, compensation, discipline or other matters, practices or
14 procedures related to specific employees or other matters related to the
15 Commission's internal personnel practices and procedures.
16 c. Current, threatened, or reasonably anticipated litigation.
17 d. Negotiation of contracts for the purchase, lease, or sale of goods,
18 services, or real estate.
19 e. Accusing any person of a crime or formally censuring any person.
20 f. Disclosure of trade secrets or commercial or financial information that
21 is privileged or confidential.
22 g. Disclosure of information of a personal nature where disclosure would
23 constitute a clearly unwarranted invasion of personal privacy.
24 h. Disclosure of investigative records compiled for law enforcement
25 purposes.
26 i. Disclosure of information related to any investigative reports prepared
27 by or on behalf of or for use of the Commission or other committee
28 charged with responsibility of investigation or determination of
29 compliance issues pursuant to the Compact.
30 j. Matters specifically exempted from disclosure by federal or member
31 state statute.
32 (3) If a meeting, or portion of a meeting, is closed pursuant to this provision, the
33 Commission's legal counsel or designee shall certify that the meeting may be
34 closed and shall reference each relevant exempting provision.
35 (4) The Commission shall keep minutes that fully and clearly describe all matters
36 discussed in a meeting and shall provide a full and accurate summary of actions
37 taken, and the reasons therefore, including a description of the views expressed.
38 All documents considered in connection with an action shall be identified in
39 such minutes. All minutes and documents of a closed meeting shall remain
40 under seal, subject to release by a majority vote of the Commission or order of
41 a court of competent jurisdiction.
42 (f) Financing of the Commission. –
43 (1) The Commission shall pay, or provide for the payment of, the reasonable
44 expenses of its establishment, organization, and ongoing activities.
45 (2) The Commission may accept any and all appropriate revenue sources,
46 donations, and grants of money, equipment, supplies, materials, and services.
47 (3) The Commission may levy on and collect an annual assessment from each
48 member state or impose fees on other parties to cover the cost of the operations
49 and activities of the Commission and its staff, which must be in a total amount
50 sufficient to cover its annual budget as approved each year for which revenue is
51 not provided by other sources. The aggregate annual assessment amount shall

1 be allocated based upon a formula to be determined by the Commission, which
2 shall promulgate a rule binding upon all member states.

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

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

12 (g) Qualified Immunity, Defense, and Indemnification. –

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

23 (2) The Commission shall defend any member, officer, executive director,
24 employee or representative of the Commission in any civil action seeking to
25 impose liability arising out of any actual or alleged act, error, or omission that
26 occurred within the scope of Commission employment, duties, or
27 responsibilities, or that the person against whom the claim is made had a
28 reasonable basis for believing occurred within the scope of Commission
29 employment, duties, or responsibilities; provided that nothing herein shall be
30 construed to prohibit that person from retaining his or her own counsel; and
31 provided further, that the actual or alleged act, error, or omission did not result
32 from that person's intentional or willful or wanton misconduct.

33 (3) The Commission shall indemnify and hold harmless any member, officer,
34 executive director, employee, or representative of the Commission for the
35 amount of any settlement or judgment obtained against that person arising out
36 of any actual or alleged act, error or omission that occurred within the scope of
37 Commission employment, duties, or responsibilities, or that such person had a
38 reasonable basis for believing occurred within the scope of Commission
39 employment, duties, or responsibilities, provided that the actual or alleged act,
40 error, or omission did not result from the intentional or willful or wanton
41 misconduct of that person.

42 **"§ 90-270.127. Data system.**

43 (a) The Commission shall provide for the development, maintenance, and utilization of a
44 coordinated database and reporting system containing licensure, adverse action, and investigative
45 information on all licensed individuals in member states.

46 (b) Notwithstanding any other provision of state law to the contrary, a member state shall
47 submit a uniform data set to the data system on all individuals to whom this Compact is applicable
48 as required by the rules of the Commission, including all of the following:

49 (1) Identifying information.

50 (2) Licensure data.

51 (3) Adverse actions against a license or compact privilege.

- 1 (4) Non-confidential information related to alternative program participation.
2 (5) Any denial of application for licensure, and the reason(s) for such denial.
3 (6) Other information that may facilitate the administration of this Compact, as
4 determined by the rules of the Commission.

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

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

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

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

15 **"§ 90-270.128. Rule Making.**

16 (a) The Commission shall exercise its rule-making powers pursuant to the criteria set forth
17 in this section and the rules adopted thereunder. Rules and amendments shall become binding as
18 of the date specified in each rule or amendment.

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

22 (c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the
23 Commission.

24 (d) Prior to promulgation and adoption of a final rule or rules by the Commission, and at
25 least 30 days in advance of the meeting at which the rule will be considered and voted upon, the
26 Commission shall file a Notice of Proposed Rule Making on both of the following:

27 (1) On the website of the Commission or other publicly accessible platform.

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

31 (e) The Notice of Proposed Rule Making shall include all of the following:

32 (1) The proposed time, date, and location of the meeting in which the rule will be
33 considered and voted upon.

34 (2) The text of the proposed rule or amendment and the reason for the proposed
35 rule.

36 (3) A request for comments on the proposed rule from any interested person.

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

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

41 (g) The Commission shall grant an opportunity for a public hearing before it adopts a rule
42 or amendment if a hearing is requested by any of the following:

43 (1) At least 25 persons.

44 (2) A state or federal governmental subdivision or agency.

45 (3) An association having at least 25 members.

46 (h) If a hearing is held on the proposed rule or amendment, the Commission shall publish
47 the place, time, and date of the scheduled public hearing. If the hearing is held via electronic
48 means, the Commission shall publish the mechanism for access to the electronic hearing.

49 (1) All persons wishing to be heard at the hearing shall notify the executive director
50 of the Commission or other designated member in writing of their desire to

- 1 appear and testify at the hearing not less than five business days before the
2 scheduled date of the hearing.
- 3 (2) Hearings shall be conducted in a manner providing each person who wishes to
4 comment a fair and reasonable opportunity to comment orally or in writing.
- 5 (3) All hearings will be recorded. A copy of the recording will be made available
6 on request.
- 7 (4) Nothing in this section shall be construed as requiring a separate hearing on
8 each rule. Rules may be grouped for the convenience of the Commission at
9 hearings required by this section.
- 10 (i) Following the scheduled hearing date, or by the close of business on the scheduled
11 hearing date if the hearing was not held, the Commission shall consider all written and oral
12 comments received.
- 13 (j) If no written notice of intent to attend the public hearing by interested parties is
14 received, the Commission may proceed with promulgation of the proposed rule without a public
15 hearing.
- 16 (k) The Commission shall, by majority vote of all members, take final action on the
17 proposed rule and shall determine the effective date of the rule, if any, based on the rule-making
18 record and the full text of the rule.
- 19 (l) Upon determination that an emergency exists, the Commission may consider and adopt
20 an emergency rule without prior notice, opportunity for comment, or hearing, provided that the
21 usual rule-making procedures provided in the Compact and in this section shall be retroactively
22 applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective
23 date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted
24 immediately in order to do any of the following:
- 25 (1) Meet an imminent threat to public health, safety, or welfare.
- 26 (2) Prevent a loss of Commission or member state funds.
- 27 (3) Meet a deadline for the promulgation of an administrative rule that is
28 established by federal law or rule.
- 29 (4) Protect public health and safety.
- 30 (m) The Commission or an authorized committee of the Commission may direct revisions
31 to a previously adopted rule or amendment for purposes of correcting typographical errors, errors
32 in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be
33 posted on the website of the Commission. The revision shall be subject to challenge by any person
34 for a period of 30 days after posting. The revision may be challenged only on grounds that the
35 revision results in a material change to a rule. A challenge shall be made in writing, and delivered
36 to the chair of the Commission prior to the end of the notice period. If no challenge is made, the
37 revision will take effect without further action. If the revision is challenged, the revision may not
38 take effect without the approval of the Commission.
- 39 **"§ 90-270.129. Oversight, dispute resolution, and enforcement.**
- 40 (a) Oversight. –
- 41 (1) The executive, legislative, and judicial branches of state government in each
42 member state shall enforce this Compact and take all actions necessary and
43 appropriate to effectuate the Compact's purposes and intent. The provisions of
44 this Compact and the rules promulgated hereunder shall have standing as
45 statutory law.
- 46 (2) All courts shall take judicial notice of the Compact and the rules in any judicial
47 or administrative proceeding in a member state pertaining to the subject matter
48 of this Compact which may affect the powers, responsibilities or actions of the
49 Commission.
- 50 (3) The Commission shall be entitled to receive service of process in any such
51 proceeding, and shall have standing to intervene in such a proceeding for all

1 purposes. Failure to provide service of process to the Commission shall render a
2 judgment or order void as to the Commission, this Compact, or promulgated
3 rules.

4 (b) Default, Technical Assistance, and Termination. –

5 (1) If the Commission determines that a member state has defaulted in the
6 performance of its obligations or responsibilities under this Compact or the
7 promulgated rules, the Commission shall do all of the following:

8 a. Provide written notice to the defaulting state and other member states of
9 the nature of the default, the proposed means of curing the default
10 and/or any other action to be taken by the Commission.

11 b. Provide remedial training and specific technical assistance regarding the
12 default.

13 (2) If a state in default fails to cure the default, the defaulting state may be
14 terminated from the Compact upon an affirmative vote of a majority of the
15 member states, and all rights, privileges and benefits conferred by this Compact
16 may be terminated on the effective date of termination. A cure of the default
17 does not relieve the offending state of obligations or liabilities incurred during
18 the period of default.

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

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

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

30 (6) The defaulting state may appeal the action of the Commission by petitioning
31 the U.S. District Court for the District of Columbia or the federal district where
32 the Commission has its principal offices. The prevailing member shall be
33 awarded all costs of such litigation, including reasonable attorney's fees.

34 (c) Dispute Resolution. –

35 (1) Upon request by a member state, the Commission shall attempt to resolve
36 disputes related to the Compact that arise among member states and between
37 member and non-member states.

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

40 (d) Enforcement. –

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

43 (2) By majority vote, the Commission may initiate legal action in the United States
44 District Court for the District of Columbia or the federal district where the
45 Commission has its principal offices against a member state in default to
46 enforce compliance with the provisions of the Compact and its promulgated
47 rules and bylaws. The relief sought may include both injunctive relief and
48 damages. In the event judicial enforcement is necessary, the prevailing member
49 shall be awarded all costs of such litigation, including reasonable attorney's
50 fees.

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

4 "**§ 90-270.130. Date of implementation of the interstate Commission for Physical Therapy**
5 **Practice and associated rules, withdrawal and amendment.**

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

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

15 (c) Any member state may withdraw from this Compact by enacting a statute repealing the
16 same.

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

19 (2) Withdrawal shall not affect the continuing requirement of the withdrawing
20 state's physical therapy licensing board to comply with the investigative and
21 adverse action reporting requirements of this act prior to the effective date of
22 withdrawal.

23 (d) Nothing contained in this Compact shall be construed to invalidate or prevent any
24 physical therapy licensure agreement or other cooperative arrangement between a member state
25 and a non-member state that does not conflict with the provisions of this Compact.

26 (e) This Compact may be amended by the member states. No amendment to this Compact
27 shall become effective and binding upon any member state until it is enacted into the laws of all
28 member states.

29 "**§ 90-270.131. Construction and severability.**

30 This Compact shall be liberally construed so as to effectuate the purposes thereof. The
31 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of
32 this Compact is declared to be contrary to the constitution of any party state or of the United States
33 or the applicability thereof to any government, agency, person or circumstance is held invalid, the
34 validity of the remainder of this Compact and the applicability thereof to any government, agency,
35 person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the
36 constitution of any party state, the Compact shall remain in full force and effect as to the
37 remaining party states and in full force and effect as to the party state affected as to all severable
38 matters."

39 **SECTION 2.** This act becomes effective October 1, 2017.