

2018 Regular Session

SENATE BILL NO. 203

BY SENATOR PEACOCK

PHYSICAL THERAPISTS. Provides relative to the Physical Therapy Licensure Compact.
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AN ACT

To enact Part II of Chapter 29 of Title 37 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 37:2425, relative to the Physical Therapy Licensure Compact; to provide for enactment of the model language required to participate in the compact; to designate Chapter 29 of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:2401 through 2424, "PART I. PHYSICAL THERAPISTS"; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The provisions of Chapter 29 of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:2401 through 2424, are hereby designated "PART I. PHYSICAL THERAPISTS".

Section 2. Part II of Chapter 29 of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:2425, is hereby enacted to read as follows:

PART II. PHYSICAL THERAPY LICENSURE COMPACT

§2425. Physical Therapy Licensure Compact; adoption

The Physical Therapy Licensure Compact is hereby recognized and enacted into law and entered into by this state with all states legally joining

1 therein in the form substantially as follows:

2 SECTION 1. PURPOSE

3 The purpose of this compact is to facilitate interstate practice of physical
4 therapy with the goal of improving public access to physical therapy services.

5 The practice of physical therapy occurs in the state where the patient/client is
6 located at the time of the patient/client encounter. The compact preserves the
7 regulatory authority of states to protect public health and safety through the
8 current system of state licensure.

9 This compact is designed to achieve the following objectives:

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

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

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

15 (4) Support spouses of relocating military members.

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

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

20 SECTION 2. DEFINITIONS

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

23 (1) "Active duty military" means full-time duty status in the active
24 uniformed service of the United States, including members of the National
25 Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209
26 and 1211.

27 (2) "Adverse action" means disciplinary action taken by a physical
28 therapy licensing board based upon misconduct, unacceptable performance, or
29 a combination of both.

1 **(3) "Alternative program" means a nondisciplinary monitoring or**
2 **practice remediation process approved by a physical therapy licensing board.**

3 **This includes but is not limited to substance abuse issues.**

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

9 **(5) "Continuing competence" means a requirement, as a condition of**
10 **license renewal, to provide evidence of participation in, and/or completion of,**
11 **educational and professional activities relevant to practice or area of work.**

12 **(6) "Data system" means a repository of information about licensees,**
13 **including examination, licensure, investigative, compact privilege, and adverse**
14 **action.**

15 **(7) "Encumbered license" means a license that a physical therapy**
16 **licensing board has limited in any way.**

17 **(8) "Executive board" means a group of directors elected or appointed**
18 **to act on behalf of, and within the powers granted to them by, the commission.**

19 **(9) "Home state" means the member state that is the licensee's primary**
20 **state of residence.**

21 **(10) "Investigative information" means information, records, and**
22 **documents received or generated by a physical therapy licensing board**
23 **pursuant to an investigation.**

24 **(11) "Jurisprudence requirement" means the assessment of an**
25 **individual's knowledge of the laws and rules governing the practice of physical**
26 **therapy in a state.**

27 **(12) "Licensee" means an individual who currently holds an**
28 **authorization from the state to practice as a physical therapist or to work as a**
29 **physical therapist assistant.**

1 **(13) "Member state" means a state that has enacted the compact.**

2 **(14) "Party state" means any member state in which a licensee holds a**
3 **current license or compact privilege or is applying for a license or compact**
4 **privilege.**

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

7 **(16) "Physical therapist assistant" means an individual who is**
8 **licensed/certified by a state and who assists the physical therapist in selected**
9 **components of physical therapy.**

10 **(17) "Physical therapy", "physical therapy practice", and "the practice**
11 **of physical therapy" mean the care and services provided by or under the**
12 **direction and supervision of a licensed physical therapist.**

13 **(18) "Physical Therapy Compact Commission" or "commission" means**
14 **the national administrative body whose membership consists of all states that**
15 **have enacted the compact.**

16 **(19) "Physical therapy licensing board" or "licensing board" means the**
17 **agency of a state that is responsible for the licensing and regulation of physical**
18 **therapists and physical therapist assistants.**

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

21 **(21) "Rule" means a regulation, principle, or directive promulgated by**
22 **the commission that has the force of law.**

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

25 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

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

27 **(1) Participate fully in the commission's data system, including using the**
28 **commission's unique identifier as defined in rules.**

29 **(2) Have a mechanism in place for receiving and investigating complaints**

1 about licensees.

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

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

9 (5) Comply with the rules of the commission.

10 (6) Utilize a recognized national examination as a requirement for
11 licensure pursuant to the rules of the commission.

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

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

19 C. A member state shall grant the compact privilege to a licensee holding
20 a valid unencumbered license in another member state in accordance with the
21 terms of the compact and rules.

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

23 SECTION 4. COMPACT PRIVILEGE

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

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

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

28 (3) Be eligible for a compact privilege in any member state in accordance
29 with Sections 4(D), (G), and (H).

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

3 **(5) Notify the commission that the licensee is seeking the compact**
4 **privilege within a remote state(s).**

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

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

9 **(8) Report to the commission adverse action taken by any nonmember**
10 **state within thirty days from the date the adverse action is taken.**

11 **B. The compact privilege is valid until the expiration date of the home**
12 **license. The licensee must comply with the requirements of Section 4(A) to**
13 **maintain the compact privilege in the remote state.**

14 **C. A licensee providing physical therapy in a remote state under the**
15 **compact privilege shall function within the laws and regulations of the remote**
16 **state.**

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

24 **E. If a home state license is encumbered, the licensee shall lose the**
25 **compact privilege in any remote state until the following occur:**

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

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

28 **F. Once an encumbered license in the home state is restored to good**
29 **standing, the licensee must meet the requirements of Section 4(A) to obtain a**

1 compact privilege in any remote state.

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

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

7 (2) All fines have been paid.

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

9 H. Once the requirements of Section 4(G) have been met, the licensee
10 must meet the requirements in Section 4(A) to obtain a compact privilege in a
11 remote state.

12 SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

15 A. Home of record.

16 B. Permanent change of station (PCS).

17 C. State of current residence if it is different than the PCS state or home
18 of record.

19 SECTION 6. ADVERSE ACTIONS

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

22 B. A home state may take adverse action based on the investigative
23 information of a member state.

24 C. Nothing in this compact shall override a member state's decision that
25 participation in an alternative program may be used in lieu of adverse action
26 and that such participation shall remain nonpublic if required by the member
27 state's laws. Member states must require licensees who enter any alternative
28 programs in lieu of discipline to agree not to practice in any other member state
29 during the term of the alternative program without prior authorization from

1 such other member state.

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

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

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

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

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

22 F. Joint Investigations

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

27 (2) Member states shall share any investigative, litigation, or compliance
28 materials in furtherance of any joint or individual investigation initiated under
29 the compact.

1 **SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY**

2 **COMPACT COMMISSION**

3 **A. The compact member states hereby create and establish a joint public**
4 **agency known as the Physical Therapy Compact Commission:**

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

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

11 **(3) Nothing in this compact shall be construed to be a waiver of sovereign**
12 **immunity.**

13 **B. Membership, voting, and meetings**

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

16 **(2) The delegate shall be a current member of the licensing board, who**
17 **is a physical therapist, physical therapist assistant, public member, or the board**
18 **administrator.**

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

21 **(4) The member state board shall fill any vacancy occurring in the**
22 **commission.**

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

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

29 **(7) The commission shall meet at least once during each calendar year.**

1 Additional meetings shall be held as set forth in the bylaws.

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

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

4 (2) Establish bylaws.

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

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

8 (5) Promulgate uniform rules to facilitate and coordinate implementation
9 and administration of this compact. The rules shall have the force and effect of
10 law and shall be binding in all member states.

11 (6) Bring and prosecute legal proceedings or actions in the name of the
12 commission, provided that the standing of any state physical therapy licensing
13 board to sue or be 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 personnel, including but
16 not limited to employees of a member state.

17 (9) Hire employees, elect or appoint officers, fix compensation, define
18 duties, grant such individuals appropriate authority to carry out the purposes
19 of the compact, and to establish the commission's personnel policies and
20 programs relating to conflicts of interest, qualifications of personnel, and other
21 related personnel matters.

22 (10) Accept any and all appropriate donations and grants of money,
23 equipment, supplies, materials and services, and to receive, utilize, and dispose
24 of the same; provided that at all times the commission shall avoid any
25 appearance of impropriety and/or conflict of interest.

26 (11) Lease, purchase, accept appropriate gifts or donations of, or
27 otherwise to own, hold, improve or use, any property, real, personal or mixed;
28 provided that at all times the commission shall avoid any appearance of
29 impropriety.

1 (12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or
2 otherwise dispose of any property real, personal, or mixed.

3 (13) Establish a budget and make expenditures.

4 (14) Borrow money.

5 (15) Appoint committees, including standing committees composed of
6 members, state regulators, state legislators or their representatives, and
7 consumer representatives, and such other interested persons as may be
8 designated in this compact and the bylaws.

9 (16) Provide and receive information from, and cooperate with, law
10 enforcement agencies.

11 (17) Establish and elect an executive board.

12 (18) Perform such other functions as may be necessary or appropriate
13 to achieve the purposes of this compact consistent with the state regulation of
14 physical therapy licensure and practice.

15 D. The executive board

16 The executive board shall have the power to act on behalf of the
17 commission according to the terms of this compact.

18 (1) The executive board shall be comprised of nine members:

19 (a) Seven voting members who are elected by the commission from the
20 current membership of the commission.

21 (b) One ex-officio, nonvoting member from the recognized national
22 physical therapy professional association.

23 (c) One ex-officio, nonvoting member from the recognized membership
24 organization of the physical therapy licensing boards.

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

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

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

1 **(5) The executive board shall have the following duties and**
2 **responsibilities:**

3 **(a) Recommend to the entire commission changes to the rules or bylaws,**
4 **changes to this compact legislation, fees paid by compact member states such**
5 **as annual dues, and any commission compact fee charged to licensees for the**
6 **compact privilege.**

7 **(b) Ensure compact administration services are appropriately provided,**
8 **contractual or otherwise.**

9 **(c) Prepare and recommend the budget.**

10 **(d) Maintain financial records on behalf of the commission.**

11 **(e) Monitor compact compliance of member states and provide**
12 **compliance reports to the commission.**

13 **(f) Establish additional committees as necessary.**

14 **(g) Other duties as provided in rules or bylaws.**

15 **E. Meetings of the commission**

16 **(1) All meetings shall be open to the public, and public notice of meetings**
17 **shall be given in the same manner as required under the rulemaking provisions**
18 **in Section (9).**

19 **(2) The commission or the executive board or other committees of the**
20 **commission may convene in a closed, nonpublic meeting if the commission or**
21 **executive board or other committees of the commission must discuss:**

22 **(a) Noncompliance of a member state with its obligations under the**
23 **compact.**

24 **(b) The employment, compensation, discipline or other matters, practices**
25 **or procedures related to specific employees or other matters related to the**
26 **commission's internal personnel practices and procedures.**

27 **(c) Current, threatened, or reasonably anticipated litigation.**

28 **(d) Negotiation of contracts for the purchase, lease, or sale of goods,**
29 **services, or real estate.**

1 (e) Accusing any person of a crime or formally censuring any person.

2 (f) Disclosure of trade secrets or commercial or financial information
3 that is privileged or confidential.

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

6 (h) Disclosure of investigative records compiled for law enforcement
7 purposes.

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

12 (j) Matters specifically exempted from disclosure by federal or member
13 state statute.

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

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

24 F. Financing of the commission

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

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

29 (3) The commission may levy on and collect an annual assessment from

1 each member state or impose fees on other parties to cover the cost of the
2 operations and activities of the commission and its staff, which must be in a
3 total amount sufficient to cover its annual budget as approved each year for
4 which revenue is not provided by other sources. The aggregate annual
5 assessment amount shall be allocated based upon a formula to be determined
6 by the commission, which shall promulgate a rule binding upon all member
7 states.

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

12 (5) The commission shall keep accurate accounts of all receipts and
13 disbursements. The receipts and disbursements of the commission shall be
14 subject to the audit and accounting procedures established under its bylaws.
15 However, all receipts and disbursements of funds handled by the commission
16 shall be audited yearly by a certified or licensed public accountant, and the
17 report of the audit shall be included in and become part of the annual report of
18 the commission.

19 G. Qualified immunity, defense, and indemnification

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

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

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

20 **SECTION 8. DATA SYSTEM**

21 **A. The commission shall provide for the development, maintenance, and**
22 **utilization of a coordinated database and reporting system containing licensure,**
23 **adverse action, and investigative information on all licensed individuals in**
24 **member states.**

25 **B. Notwithstanding any other provision of state law to the contrary, a**
26 **member state shall submit a uniform data set to the data system on all**
27 **individuals to whom this compact is applicable as required by the rules of the**
28 **commission, including:**

29 **(1) Identifying information.**

1 **(2) Licensure data.**

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

3 **(4) Nonconfidential information related to alternative program**
4 **participation.**

5 **(5) Any denial of application for licensure, and the reason(s) for such**
6 **denial.**

7 **(6) Other information that may facilitate the administration of this**
8 **compact, as determined by the rules of the commission.**

9 **C. Investigative information pertaining to a licensee in any member state**
10 **will only be available to other party states.**

11 **D. The commission shall promptly notify all member states of any**
12 **adverse action taken against a licensee or an individual applying for a license.**
13 **Adverse action information pertaining to a licensee in any member state will be**
14 **available to any other member state.**

15 **E. Member states contributing information to the data system may**
16 **designate information that may not be shared with the public without the**
17 **express permission of the contributing state.**

18 **F. Any information submitted to the data system that is subsequently**
19 **required to be expunged by the laws of the member state contributing the**
20 **information shall be removed from the data system.**

21 **SECTION 9. RULEMAKING**

22 **A. The commission shall exercise its rulemaking powers pursuant to the**
23 **criteria set forth in this Section and the rules adopted thereunder. Rules and**
24 **amendments shall become binding as of the date specified in each rule or**
25 **amendment.**

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

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

3 D. Prior to promulgation and adoption of a final rule or rules by the
4 commission, and at least thirty days in advance of the meeting at which the rule
5 will be considered and voted upon, the commission shall file a notice of
6 proposed rulemaking:

7 (1) On the website of the commission or other publicly accessible
8 platform.

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

12 E. The notice of proposed rulemaking shall include:

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

15 (2) The text of the proposed rule or amendment and the reason for the
16 proposed rule.

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

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

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

25 G. The commission shall grant an opportunity for a public hearing
26 before it adopts a rule or amendment if a hearing is requested by:

27 (1) At least twenty-five persons;

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

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

1 H. If a hearing is held on the proposed rule or amendment, the
2 commission shall publish the place, time, and date of the scheduled public
3 hearing. If the hearing is held via electronic means, the commission shall
4 publish the mechanism for access to the electronic hearing.

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

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

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

14 (4) Nothing in this section shall be construed as requiring a separate
15 hearing on each rule. Rules may be grouped for the convenience of the
16 commission at hearings required by this Section.

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

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

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

26 L. Upon determination that an emergency exists, the commission may
27 consider and adopt an emergency rule without prior notice, opportunity for
28 comment, or hearing, provided that the usual rulemaking procedures provided
29 in the compact and in this Section shall be retroactively applied to the rule as

1 soon as reasonably possible, in no event later than ninety days after the effective
2 date of the rule. For the purposes of this provision, an emergency rule is one
3 that must be adopted immediately in order to:

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

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

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

8 (4) Protect public health and safety.

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

20 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION,

21 AND ENFORCEMENT

22 A. Oversight

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

28 (2) All courts shall take judicial notice of the compact and the rules in
29 any judicial or administrative proceeding in a member state pertaining to the

1 subject matter of this compact which may affect the powers, responsibilities or
2 actions of the commission.

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

8 B. Default, technical assistance, and termination

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

12 (a) Provide written notice to the defaulting state and other member
13 states of the nature of the default, the proposed means of curing the default,
14 and/or any other action to be taken by the commission; and

15 (b) Provide remedial training and specific technical assistance regarding
16 the default.

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

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

28 (4) A state that has been terminated is responsible for all assessments,
29 obligations, and liabilities incurred through the effective date of termination,

1 including obligations that extend beyond the effective date of termination.

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

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

10 C. Dispute resolution

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

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

16 D. Enforcement

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

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

26 (3) The remedies herein shall not be the exclusive remedies of the
27 commission. The commission may pursue any other remedies available under
28 federal or state law.

29 SECTION 11. DATE OF IMPLEMENTATION OF THE

1 INTERSTATE COMMISSION FOR PHYSICAL THERAPY PRACTICE
2 AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

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

9 B. Any state that joins the compact subsequent to the commission's
10 initial adoption of the rules shall be subject to the rules as they exist on the date
11 on which the compact becomes law in that state. Any rule that has been
12 previously adopted by the commission shall have the full force and effect of law
13 on the day the compact becomes law in that state.

14 C. Any member state may withdraw from this compact by enacting a
15 statute repealing the same.

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

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

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

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

29 SECTION 12. CONSTRUCTION AND SEVERABILITY

1 **This compact shall be liberally construed so as to effectuate the purposes**
2 **thereof. The provisions of this compact shall be severable and if any phrase,**
3 **clause, sentence, or provision of this compact is declared to be contrary to the**
4 **constitution of any party state or of the United States or the applicability**
5 **thereof to any government, agency, person, or circumstance is held invalid, the**
6 **validity of the remainder of this compact and the applicability thereof to any**
7 **government, agency, person, or circumstance shall not be affected thereby. If**
8 **this compact shall be held contrary to the constitution of any party state, the**
9 **compact shall remain in full force and effect as to the remaining party states**
10 **and in full force and effect as to the party state affected as to all severable**
11 **matters.**

12 Section 3. This Act shall become effective upon signature by the governor or, if not
13 signed by the governor, upon expiration of the time for bills to become law without signature
14 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
15 vetoed by the governor and subsequently approved by the legislature, this Act shall become
16 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Christine Arbo Peck.

	DIGEST	
SB 203 Engrossed	2018 Regular Session	Peacock

Proposed law enacts the Physical Therapy Licensure Compact. Proposed law allows Louisiana to join a multi-state compact for physical therapists to obtain multi-state license privileges to practice in participating compact states to decrease redundancies in the consideration and issuance of physical therapist licenses and provide opportunity for interstate practice by physical therapists who meet the uniform licensure requirements.

Proposed law provides that each participating state in the compact adopt similar requirements for criminal background checks, licensure, and education. Proposed law requires verification of licensure information through the commission's data system, including the use of the commission's unique identifiers, and exchange of information regarding discipline and adverse actions by all participating states.

Proposed law requires a physical therapist leaving his home state to practice in a participating state comply with the laws of the participating state. Proposed law provides for a home state license and process for changing home state and location of primary residence. Proposed law provides that the home state is responsible for taking adverse action against physical therapists in violation of practice act requirements, including deactivation of multi-state licensure privileges.

Proposed law establishes the Physical Therapy Compact Commission and grants each participating state a single seat on the commission.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 37:2425)