

SENATE BILL NO. 203

BY SENATOR PEACOCK

1 AN ACT

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

8 Be it enacted by the Legislature of Louisiana:

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

12 Section 2. Part II of Chapter 29 of Title 37 of the Louisiana Revised Statutes of
13 1950, comprised of R.S. 37:2425, is hereby enacted to read as follows:

14 **PART II. PHYSICAL THERAPY LICENSURE COMPACT**

15 **§2425. Physical Therapy Licensure Compact; adoption**

16 **The Physical Therapy Licensure Compact is hereby recognized and**
17 **enacted into law and entered into by this state with all states legally joining**
18 **therein in the form substantially as follows:**

19 **SECTION 1. PURPOSE**

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

22 **The practice of physical therapy occurs in the state where the patient/client is**
23 **located at the time of the patient/client encounter. The compact preserves the**
24 **regulatory authority of states to protect public health and safety through the**
25 **current system of state licensure.**

26 **This compact is designed to achieve the following objectives:**

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

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

4 **(3) Encourage the cooperation of member states in regulating multi-state**
5 **physical therapy practice.**

6 **(4) Support spouses of relocating military members.**

7 **(5) Enhance the exchange of licensure, investigative, and disciplinary**
8 **information between member states.**

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

11 **SECTION 2. DEFINITIONS**

12 **As used in this compact, and except as otherwise provided, the following**
13 **definitions shall apply:**

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

18 **(2) "Adverse action" means disciplinary action taken by a physical**
19 **therapy licensing board based upon misconduct, unacceptable performance, or**
20 **a combination of both.**

21 **(3) "Alternative program" means a nondisciplinary monitoring or**
22 **practice remediation process approved by a physical therapy licensing board.**
23 **This includes but is not limited to substance abuse issues.**

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

29 **(5) "Continuing competence" means a requirement, as a condition of**
30 **license renewal, to provide evidence of participation in, and/or completion of,**

1 educational and professional activities relevant to practice or area of work.

2 (6) "Data system" means a repository of information about licensees,
3 including examination, licensure, investigative, compact privilege, and adverse
4 action.

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

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

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

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

14 (11) "Jurisprudence requirement" means the assessment of an
15 individual's knowledge of the laws and rules governing the practice of physical
16 therapy in a state.

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

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

21 (14) "Party state" means any member state in which a licensee holds a
22 current license or compact privilege or is applying for a license or compact
23 privilege.

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

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

29 (17) "Physical therapy", "physical therapy practice", and "the practice
30 of physical therapy" mean the care and services provided by or under the

1 direction and supervision of a licensed physical therapist.

2 (18) "Physical Therapy Compact Commission" or "commission" means
3 the national administrative body whose membership consists of all states that
4 have enacted the compact.

5 (19) "Physical therapy licensing board" or "licensing board" means the
6 agency of a state that is responsible for the licensing and regulation of physical
7 therapists and physical therapist assistants.

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

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

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

14 SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

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

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

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

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

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

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

30 (7) Have continuing competence requirements as a condition for license

1 renewal.

2 B. Upon adoption of this statute, the member state shall have the
3 authority to obtain biometric-based information from each physical therapy
4 licensure applicant and submit this information to the Federal Bureau of
5 Investigation for a criminal background check in accordance with 28 U.S.C.
6 §534 and 42 U.S.C. §14616.

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

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

11 SECTION 4. COMPACT PRIVILEGE

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

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

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

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

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

20 (5) Notify the commission that the licensee is seeking the compact
21 privilege within a remote state(s).

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

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

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

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

1 C. A licensee providing physical therapy in a remote state under the
2 compact privilege shall function within the laws and regulations of the remote
3 state.

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

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

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

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

15 F. Once an encumbered license in the home state is restored to good
16 standing, the licensee must meet the requirements of Section 4(A) to obtain a
17 compact privilege in any remote state.

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

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

23 (2) All fines have been paid.

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

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

28 SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

1 A. Home of record.

2 B. Permanent change of station (PCS).

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

5 SECTION 6. ADVERSE ACTIONS

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

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

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

17 D. Any member state may investigate actual or alleged violations of the
18 statutes and rules authorizing the practice of physical therapy in any other
19 member state in which a physical therapist or physical therapist assistant holds
20 a license or compact privilege.

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

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

24 (2) Issue subpoenas for both hearings and investigations that require the
25 attendance and testimony of witnesses, and the production of evidence.
26 Subpoenas issued by a physical therapy licensing board in a party state for the
27 attendance and testimony of witnesses, and/or the production of evidence from
28 another party state, shall be enforced in the latter state by any court of
29 competent jurisdiction, according to the practice and procedure of that court
30 applicable to subpoenas issued in proceedings pending before it. The issuing

1 authority shall pay any witness fees, travel expenses, mileage, and other fees
2 required by the service statutes of the state where the witnesses and/or evidence
3 are located.

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

7 F. Joint Investigations

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

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

15 SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY

16 COMPACT COMMISSION

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

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

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

25 (3) Nothing in this compact shall be construed to be a waiver of sovereign
26 immunity.

27 B. Membership, voting, and meetings

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

30 (2) The delegate shall be a current member of the licensing board, who

1 is a physical therapist, physical therapist assistant, public member, or the board
2 administrator.

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

5 (4) The member state board shall fill any vacancy occurring in the
6 commission.

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

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

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

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

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

17 (2) Establish bylaws.

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

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

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

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

27 (7) Purchase and maintain insurance and bonds.

28 (8) Borrow, accept, or contract for services of personnel, including but
29 not limited to employees of a member state.

30 (9) Hire employees, elect or appoint officers, fix compensation, define

1 duties, grant such individuals appropriate authority to carry out the purposes
2 of the compact, and to establish the commission's personnel policies and
3 programs relating to conflicts of interest, qualifications of personnel, and other
4 related personnel matters.

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

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

13 (12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or
14 otherwise dispose 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
18 members, state regulators, state legislators or their representatives, and
19 consumer representatives, and such other interested persons as may be
20 designated in this compact and the bylaws.

21 (16) Provide and receive information from, and cooperate with, law
22 enforcement agencies.

23 (17) Establish and elect an executive board.

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

27 D. The executive board

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

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

1 **(a) Seven voting members who are elected by the commission from the**
2 **current membership of the commission.**

3 **(b) One ex-officio, nonvoting member from the recognized national**
4 **physical therapy professional association.**

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

7 **(2) The ex-officio members will be selected by their respective**
8 **organizations.**

9 **(3) The commission may remove any member of the executive board as**
10 **provided in bylaws.**

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

12 **(5) The executive board shall have the following duties and**
13 **responsibilities:**

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

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

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

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

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

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

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

26 **E. Meetings of the commission**

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

30 **(2) The commission or the executive board or other committees of the**

1 commission may convene in a closed, nonpublic meeting if the commission or
2 executive board or other committees of the commission must discuss:

3 (a) Noncompliance of a member state with its obligations under the
4 compact.

5 (b) The employment, compensation, discipline or other matters, practices
6 or procedures related to specific employees or other matters related to the
7 commission's internal personnel practices and procedures.

8 (c) Current, threatened, or reasonably anticipated litigation.

9 (d) Negotiation of contracts for the purchase, lease, or sale of goods,
10 services, or real estate.

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

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

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

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

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

22 (j) Matters specifically exempted from disclosure by federal or member
23 state statute.

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

27 (4) The commission shall keep minutes that fully and clearly describe all
28 matters discussed in a meeting and shall provide a full and accurate summary
29 of actions taken, and the reasons therefore, including a description of the views
30 expressed. All documents considered in connection with an action shall be

1 identified in such minutes. All minutes and documents of a closed meeting shall
2 remain under seal, subject to release by a majority vote of the commission or
3 order of a court of competent jurisdiction.

4 F. Financing of the commission

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

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

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

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

21 (5) The commission shall keep accurate accounts of all receipts and
22 disbursements. The receipts and disbursements of the commission shall be
23 subject to the audit and accounting procedures established under its bylaws.
24 However, all receipts and disbursements of funds handled by the commission
25 shall be audited yearly by a certified or licensed public accountant, and the
26 report of the audit shall be included in and become part of the annual report of
27 the commission.

28 G. Qualified immunity, defense, and indemnification

29 (1) The members, officers, executive director, employees, and
30 representatives of the commission shall be immune from suit and liability, either

1 personally or in their official capacity, for any claim for damage to or loss of
2 property or personal injury or other civil liability caused by or arising out of
3 any actual or alleged act, error or omission that occurred, or that the person
4 against whom the claim is made had a reasonable basis for believing occurred
5 within the scope of commission employment, duties or responsibilities; provided
6 that nothing in this paragraph shall be construed to protect any such person
7 from suit and/or liability for any damage, loss, injury, or liability caused by the
8 intentional or willful or wanton misconduct of that person.

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

19 (3) The commission shall indemnify and hold harmless any member,
20 officer, executive director, employee, or representative of the commission for
21 the amount of any settlement or judgment obtained against that person arising
22 out of any actual or alleged act, error, or omission that occurred within the
23 scope of commission employment, duties, or responsibilities, or that such person
24 had a reasonable basis for believing occurred within the scope of commission
25 employment, duties, or responsibilities, provided that the actual or alleged act,
26 error, or omission did not result from the intentional or willful or wanton
27 misconduct of that person.

28 SECTION 8. DATA SYSTEM

29 A. The commission shall provide for the development, maintenance, and
30 utilization of a coordinated database and reporting system containing licensure,

1 adverse action, and investigative information on all licensed individuals in
2 member states.

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

7 (1) Identifying information.

8 (2) Licensure data.

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

10 (4) Nonconfidential information related to alternative program
11 participation.

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

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

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

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

22 E. Member states contributing information to the data system may
23 designate information that may not be shared with the public without the
24 express permission of the contributing state.

25 F. Any information submitted to the data system that is subsequently
26 required to be expunged by the laws of the member state contributing the
27 information shall be removed from the data system.

28 SECTION 9. RULEMAKING

29 A. The commission shall exercise its rulemaking powers pursuant to the
30 criteria set forth in this Section and the rules adopted thereunder. Rules and

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

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

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

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

13 (1) On the website of the commission or other publicly accessible
14 platform.

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

18 E. The notice of proposed rulemaking shall include:

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

21 (2) The text of the proposed rule or amendment and the reason for the
22 proposed rule.

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

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

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

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

3 (1) At least twenty-five persons;

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

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

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

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

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

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

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

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

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

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

1 L. Upon determination that an emergency exists, the commission may
 2 consider and adopt an emergency rule without prior notice, opportunity for
 3 comment, or hearing, provided that the usual rulemaking procedures provided
 4 in the compact and in this Section shall be retroactively applied to the rule as
 5 soon as reasonably possible, in no event later than ninety days after the effective
 6 date of the rule. For the purposes of this provision, an emergency rule is one
 7 that must be adopted immediately in order to:

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

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

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

12 (4) Protect public health and safety.

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

24 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION,

25 AND ENFORCEMENT

26 A. Oversight

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

1 statutory law.

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

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

11 **B. Default, technical assistance, and termination**

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

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

18 (b) Provide remedial training and specific technical assistance regarding
19 the default.

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

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

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

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

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

12 C. Dispute resolution

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

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

18 D. Enforcement

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

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

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

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

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

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

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

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

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

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

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

30 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.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____