

HOUSE BILL NO. 4504

May 04, 2023, Introduced by Reps. Fitzgerald, Rogers, Zorn, Byrnes, Brabec, Coffia, Bierlein, Meerman, BeGole, Schmaltz, Aragona, Wozniak, Bezotte, DeSana, Martus, Hoskins, Wilson, Shannon, Andrews, Tsernoglou, Brixie, Scott, Grant, Roth, Glanville and VanderWall and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 16188.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 16188. (1) The Physical Therapy Licensure Compact is**
2 **enacted into law and entered into by this state as a party state**
3 **with all other jurisdictions that legally join in the compact, in**
4 **the form substantially as follows:**

1 PHYSICAL THERAPY LICENSURE COMPACT

2 ARTICLE 1. PURPOSE

3 (1) The purpose of this compact is to facilitate interstate
4 practice of physical therapy with the goal of improving public
5 access to physical therapy services. The practice of physical
6 therapy occurs in the state where the patient/client is located at
7 the time of the patient/client encounter. The compact preserves the
8 regulatory authority of states to protect public health and safety
9 through the current system of state licensure.

10 (2) This compact is designed to achieve the following
11 objectives:

12 (a) Increase public access to physical therapy services by
13 providing for the mutual recognition of other member state
14 licenses;

15 (b) Enhance the states' ability to protect the public's health
16 and safety;

17 (c) Encourage the cooperation of member states in regulating
18 multi-state physical therapy practice;

19 (d) Support spouses of relocating military members;

20 (e) Enhance the exchange of licensure, investigative, and
21 disciplinary information between member states; and

22 (f) Allow a remote state to hold a provider of services with a
23 compact privilege in that state accountable to that state's
24 practice standards.

25 ARTICLE 2. DEFINITIONS

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

28 (a) "Active duty military" means full-time duty status in the
29 active uniformed service of the United States, including members of

1 the National Guard and Reserve on active duty orders pursuant to 10
2 USC 1209 and 1211.

3 (b) "Adverse action" means disciplinary action taken by a
4 physical therapy licensing board based upon misconduct,
5 unacceptable performance, or a combination of both.

6 (c) "Alternative program" means a non-disciplinary monitoring
7 or practice remediation process approved by a physical therapy
8 licensing board. This includes, but is not limited to, substance
9 abuse issues.

10 (d) "Compact privilege" means the authorization granted by a
11 remote state to allow a licensee from another member state to
12 practice as a physical therapist or work as a physical therapist
13 assistant in the remote state under its laws and rules. The
14 practice of physical therapy occurs in the member state where the
15 patient/client is located at the time of the patient/client
16 encounter.

17 (e) "Continuing competence" means a requirement, as a
18 condition of license renewal, to provide evidence of participation
19 in, and/or completion of, educational and professional activities
20 relevant to practice or area of work.

21 (f) "Data system" means a repository of information about
22 licensees, including examination, licensure, investigative, compact
23 privilege, and adverse action.

24 (g) "Encumbered license" means a license that a physical
25 therapy licensing board has limited in any way.

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

29 (i) "Home state" means the member state that is the licensee's

1 primary state of residence.

2 (j) "Investigative information" means information, records,
3 and documents received or generated by a physical therapy licensing
4 board pursuant to an investigation.

5 (k) "Jurisprudence requirement" means the assessment of an
6 individual's knowledge of the laws and rules governing the practice
7 of physical therapy in a state.

8 (l) "Licensee" means an individual who currently holds an
9 authorization from the state to practice as a physical therapist or
10 to work as a physical therapist assistant.

11 (m) "Member state" means a state that has enacted the compact.

12 (n) "Party state" means any member state in which a licensee
13 holds a current license or compact privilege or is applying for a
14 license or compact privilege.

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

17 (p) "Physical therapist assistant" means an individual who is
18 licensed/certified by a state and who assists the physical
19 therapist in selected components of physical therapy.

20 (q) "Physical therapy," "physical therapy practice," and "the
21 practice of physical therapy" mean the care and services provided
22 by or under the direction and supervision of a licensed physical
23 therapist.

24 (r) "Physical therapy compact commission" or "commission"
25 means the national administrative body whose membership consists of
26 all states that have enacted the compact.

27 (s) "Physical therapy licensing board" or "licensing board"
28 means the agency of a state that is responsible for the licensing
29 and regulation of physical therapists and physical therapist

1 assistants.

2 (t) "Remote state" means a member state other than the home
3 state, where a licensee is exercising or seeking to exercise the
4 compact privilege.

5 (u) "Rule" means a regulation, principle, or directive
6 promulgated by the commission that has the force of law.

7 (v) "State" means any state, commonwealth, district, or
8 territory of the United States of America that regulates the
9 practice of physical therapy.

10 ARTICLE 3. STATE PARTICIPATION IN THE COMPACT

11 (1) To participate in the compact, a state must:

12 (a) Participate fully in the commission's data system,
13 including using the commission's unique identifier as defined in
14 rules;

15 (b) Have a mechanism in place for receiving and investigating
16 complaints about licensees;

17 (c) Notify the commission, in compliance with the terms of the
18 compact and rules, of any adverse action or the availability of
19 investigative information regarding a licensee;

20 (d) Fully implement a criminal background check requirement,
21 within a time frame established by rule, by receiving the results
22 of the Federal Bureau of Investigation record search on criminal
23 background checks and use the results in making licensure decisions
24 in accordance with subsection (2);

25 (e) Comply with the rules of the commission;

26 (f) Utilize a recognized national examination as a requirement
27 for licensure pursuant to the rules of the commission; and

28 (g) Have continuing competence requirements as a condition for
29 license renewal.

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

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

9 (4) Member states may charge a fee for granting a compact
10 privilege.

11 ARTICLE 4. COMPACT PRIVILEGE

12 (1) To exercise the compact privilege under the terms and
13 provisions of the compact, the licensee shall:

14 (a) Hold a license in the home state;

15 (b) Have no encumbrance on any state license;

16 (c) Be eligible for a compact privilege in any member state in
17 accordance with subsection (4), (7), and (8);

18 (d) Have not had any adverse action against any license or
19 compact privilege within the previous two (2) years;

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

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

24 (g) Meet any jurisprudence requirements established by the
25 remote state(s) in which the licensee is seeking a compact
26 privilege; and

27 (h) Report to the commission adverse action taken by any non-
28 member state within thirty (30) days from the date the adverse
29 action is taken.

1 (2) The compact privilege is valid until the expiration date
2 of the home license. The licensee must comply with the requirements
3 of subsection (1) to maintain the compact privilege in the remote
4 state.

5 (3) A licensee providing physical therapy in a remote state
6 under the compact privilege shall function within the laws and
7 regulations of the remote state.

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

16 (5) If a home state license is encumbered, the licensee shall
17 lose the compact privilege in any remote state until the following
18 occur:

19 (a) The home state license is no longer encumbered; and

20 (b) Two (2) years have elapsed from the date of the adverse
21 action.

22 (6) Once an encumbered license in the home state is restored
23 to good standing, the licensee must meet the requirements of
24 subsection (1) to obtain a compact privilege in any remote state.

25 (7) If a licensee's compact privilege in any remote state is
26 removed, the individual shall lose the compact privilege in any
27 remote state until the following occur:

28 (a) The specific period of time for which the compact
29 privilege was removed has ended;

1 (b) All fines have been paid; and

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

4 (8) Once the requirements of subsection (7) have been met, the
5 license must meet the requirements in subsection (1) to obtain a
6 compact privilege in a remote state.

7 ARTICLE 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

11 (a) Home of record;

12 (b) Permanent change of station (PCS); or

13 (c) State of current residence if it is different than the PCS
14 state or home of record.

15 ARTICLE 6. ADVERSE ACTIONS

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

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

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

29 (4) Any member state may investigate actual or alleged

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

5 (5) A remote state shall have the authority to:

6 (a) Take adverse actions as set forth in article 4(4) against
7 a licensee's compact privilege in the state;

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

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

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

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

29 ARTICLE 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

1 (1) The compact member states hereby create and establish a
2 joint public agency known as the physical therapy compact
3 commission:

4 (a) The commission is an instrumentality of the compact
5 states.

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

12 (c) Nothing in this compact shall be construed to be a waiver
13 of sovereign immunity.

14 (2) The following apply to commission membership, voting, and
15 meetings:

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

18 (b) The delegate shall be a current member of the licensing
19 board, who is a physical therapist, physical therapist assistant,
20 public member, or the board administrator.

21 (c) Any delegate may be removed or suspended from office as
22 provided by the law of the state from which the delegate is
23 appointed.

24 (d) The member state board shall fill any vacancy occurring in
25 the commission.

26 (e) Each delegate shall be entitled to one (1) vote with
27 regard to the promulgation of rules and creation of bylaws and
28 shall otherwise have an opportunity to participate in the business
29 and affairs of the commission.

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

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

8 (3) The commission shall have the following powers and duties:

9 (a) Establish the fiscal year of the commission;

10 (b) Establish bylaws;

11 (c) Maintain its financial records in accordance with the
12 bylaws;

13 (d) Meet and take such actions as are consistent with the
14 provisions of this compact and the bylaws;

15 (e) Promulgate uniform rules to facilitate and coordinate
16 implementation and administration of this compact. The rules shall
17 have the force and effect of law and shall be binding in all member
18 states;

19 (f) Bring and prosecute legal proceedings or actions in the
20 name of the commission, provided that the standing of any state
21 physical therapy licensing board to sue or be sued under applicable
22 law shall not be affected;

23 (g) Purchase and maintain insurance and bonds;

24 (h) Borrow, accept, or contract for services of personnel,
25 including, but not limited to, employees of a member state;

26 (i) Hire employees, elect or appoint officers, fix
27 compensation, define duties, grant such individuals appropriate
28 authority to carry out the purposes of the compact, and to
29 establish the commission's personnel policies and programs relating

1 to conflicts of interest, qualifications of personnel, and other
2 related personnel matters;

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

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

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

14 (m) Establish a budget and make expenditures;

15 (n) Borrow money;

16 (o) Appoint committees, including standing committees composed
17 of members, state regulators, state legislators or their
18 representatives, and consumer representatives, and such other
19 interested persons as may be designated in this compact and the
20 bylaws;

21 (p) Provide and receive information from, and cooperate with,
22 law enforcement agencies;

23 (q) Establish and elect an executive board; and

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

27 (4) The executive board shall have the power to act on behalf
28 of the commission according to the terms of this compact. The
29 following apply to the executive board:

1 (a) The executive board shall be composed of nine (9) members:

2 (i) Seven (7) voting members who are elected by the commission
3 from the current membership of the commission;

4 (ii) One (1) ex-officio, nonvoting member from the recognized
5 national physical therapy professional association; and

6 (iii) One (1) ex-officio, nonvoting member from the recognized
7 membership organization of the physical therapy licensing boards.

8 (b) The ex-officio members will be selected by their
9 respective organizations.

10 (c) The commission may remove any member of the executive
11 board as provided in bylaws.

12 (d) The executive board shall meet at least annually.

13 (e) The executive board shall have the following duties and
14 responsibilities:

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

19 (ii) Ensure compact administration services are appropriately
20 provided, contractual or otherwise;

21 (iii) Prepare and recommend the budget;

22 (iv) Maintain financial records on behalf of the commission;

23 (v) Monitor compact compliance of member states and provide
24 compliance reports to the commission;

25 (vi) Establish additional committees as necessary; and

26 (vii) Other duties as provided in rules or bylaws.

27 (5) The following apply to meetings of the commission:

28 (a) All meetings shall be open to the public, and public
29 notice of meetings shall be given in the same manner as required

1 under the rulemaking provisions in article 9.

2 (b) The commission or the executive board or other committees
3 of the commission may convene in a closed, non-public meeting if
4 the commission or executive board or other committees of the
5 commission must discuss:

6 (i) Non-compliance of a member state with its obligations under
7 the compact;

8 (ii) The employment, compensation, discipline or other matters,
9 practices or procedures related to specific employees or other
10 matters related to the commission's internal personnel practices
11 and procedures;

12 (iii) Current, threatened, or reasonably anticipated litigation;

13 (iv) Negotiation of contracts for the purchase, lease, or sale
14 of goods, services, or real estate;

15 (v) Accusing any person of a crime or formally censuring any
16 person;

17 (vi) Disclosure of trade secrets or commercial or financial
18 information that is privileged or confidential;

19 (vii) Disclosure of information of a personal nature where
20 disclosure would constitute a clearly unwarranted invasion of
21 personal privacy;

22 (viii) Disclosure of investigative records compiled for law
23 enforcement purposes;

24 (ix) Disclosure of information related to any investigative
25 reports prepared by or on behalf of or for use of the commission or
26 other committee charged with responsibility of investigation or
27 determination of compliance issues pursuant to the compact; or

28 (x) Matters specifically exempted from disclosure by federal
29 or member state statute.

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

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

14 (6) The following apply to the financing of the commission:

15 (a) The commission shall pay, or provide for the payment of,
16 the reasonable expenses of its establishment, organization, and
17 ongoing activities.

18 (b) The commission may accept any and all appropriate revenue
19 sources, donations, and grants of money, equipment, supplies,
20 materials, and services.

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

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

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

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

25 (8) The commission shall defend any member, officer, executive
26 director, employee or representative of the commission in any civil
27 action seeking to impose liability arising out of any actual or
28 alleged act, error, or omission that occurred within the scope of
29 commission employment, duties, or responsibilities, or that the

1 person against whom the claim is made had a reasonable basis for
2 believing occurred within the scope of commission employment,
3 duties, or responsibilities; provided that nothing herein shall be
4 construed to prohibit that person from retaining his or her own
5 counsel; and provided further, that the actual or alleged act,
6 error, or omission did not result from that person's intentional or
7 willful or wanton misconduct.

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

18 ARTICLE 8. DATA SYSTEM

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

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

- 28 (a) Identifying information;
29 (b) Licensure data;

1 (c) Adverse actions against a license or compact privilege;

2 (d) Non-confidential information related to alternative
3 program participation;

4 (e) Any denial of application for licensure, and the reason(s)
5 for such denial; and

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

8 (3) Investigative information pertaining to a licensee in any
9 member state will only be available to other party states.

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

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

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

22 ARTICLE 9. RULEMAKING

23 (1) The commission shall exercise its rulemaking powers
24 pursuant to the criteria set forth in this article and the rules
25 adopted thereunder. Rules and amendments shall become binding as of
26 the date specified in each rule or amendment.

27 (2) If a majority of the legislatures of the member states
28 rejects a rule, by enactment of a statute or resolution in the same
29 manner used to adopt the compact within four (4) years of the date

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

3 (3) Rules or amendments to the rules shall be adopted at a
4 regular or special meeting of the commission.

5 (4) Prior to promulgation and adoption of a final rule or
6 rules by the commission, and at least thirty (30) days in advance
7 of the meeting at which the rule will be considered and voted upon,
8 the commission shall file a notice of proposed rulemaking:

9 (a) On the website of the commission or other publicly
10 accessible platform; and

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

15 (5) The notice of proposed rulemaking shall include:

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

18 (b) The text of the proposed rule or amendment and the reason
19 for the proposed rule;

20 (c) A request for comments on the proposed rule from any
21 interested person; and

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

25 (6) Prior to adoption of a proposed rule, the commission shall
26 allow persons to submit written data, facts, opinions, and
27 arguments, which shall be made available to the public.

28 (7) The commission shall grant an opportunity for a public
29 hearing before it adopts a rule or amendment if a hearing is

1 requested by:

2 (a) At least twenty-five (25) persons;

3 (b) A state or federal governmental subdivision or agency; or

4 (c) An association having at least twenty-five (25) members.

5 (8) If a hearing is held on the proposed rule or amendment,
6 the commission shall publish the place, time, and date of the
7 scheduled public hearing. If the hearing is held via electronic
8 means, the commission shall publish the mechanism for access to the
9 electronic hearing. The following apply to public hearings of the
10 commission:

11 (a) All persons wishing to be heard at the hearing shall
12 notify the executive director of the commission or other designated
13 member in writing of their desire to appear and testify at the
14 hearing not less than five (5) business days before the scheduled
15 date of the hearing.

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

19 (c) All hearings will be recorded. A copy of the recording
20 will be made available on request.

21 (d) Nothing in this article shall be construed as requiring a
22 separate hearing on each rule. Rules may be grouped for the
23 convenience of the commission at hearings required by this article.

24 (9) Following the scheduled hearing date, or by the close of
25 business on the scheduled hearing date if the hearing was not held,
26 the commission shall consider all written and oral comments
27 received.

28 (10) If no written notice of intent to attend the public
29 hearing by interested parties is received, the commission may

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

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

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

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

18 (b) Prevent a loss of commission or member state funds;

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

21 (d) Protect public health and safety.

22 (13) The commission or an authorized committee of the
23 commission may direct revisions to a previously adopted rule or
24 amendment for purposes of correcting typographical errors, errors
25 in format, errors in consistency, or grammatical errors. Public
26 notice of any revisions shall be posted on the website of the
27 commission. The revision shall be subject to challenge by any
28 person for a period of thirty (30) days after posting. The revision
29 may be challenged only on grounds that the revision results in a

1 material change to a rule. A challenge shall be made in writing,
2 and delivered to the chair of the commission prior to the end of
3 the notice period. If no challenge is made, the revision will take
4 effect without further action. If the revision is challenged, the
5 revision may not take effect without the approval of the
6 commission.

7 ARTICLE 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

8 (1) The following relate to oversight of the compact:

9 (a) The executive, legislative, and judicial branches of state
10 government in each member state shall enforce this compact and take
11 all actions necessary and appropriate to effectuate the compact's
12 purposes and intent. The provisions of this compact and the rules
13 promulgated hereunder shall have standing as statutory law.

14 (b) All courts shall take judicial notice of the compact and
15 the rules in any judicial or administrative proceeding in a member
16 state pertaining to the subject matter of this compact which may
17 affect the powers, responsibilities or actions of the commission.

18 (c) The commission shall be entitled to receive service of
19 process in any such proceeding, and shall have standing to
20 intervene in such a proceeding for all purposes. Failure to provide
21 service of process to the commission shall render a judgment or
22 order void as to the commission, this compact, or promulgated
23 rules.

24 (2) The following apply to issues of default, technical
25 assistance, and termination:

26 (a) If the commission determines that a member state has
27 defaulted in the performance of its obligations or responsibilities
28 under this compact or the promulgated rules, the commission shall:

29 (i) Provide written notice to the defaulting state and other

1 member states of the nature of the default, the proposed means of
2 curing the default and/or any other action to be taken by the
3 commission; and

4 (ii) Provide remedial training and specific technical
5 assistance regarding the default.

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

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

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

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

27 (f) The defaulting state may appeal the action of the
28 commission by petitioning the U.S. District Court for the District
29 of Columbia or the federal district where the commission has its

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

3 (3) The following relate to dispute resolution related to the
4 compact:

5 (a) Upon request by a member state, the commission shall
6 attempt to resolve disputes related to the compact that arise among
7 member states and between member and non-member states.

8 (b) The commission shall promulgate a rule providing for both
9 mediation and binding dispute resolution for disputes as
10 appropriate.

11 (4) The following relate to enforcement of the compact:

12 (a) The commission, in the reasonable exercise of its
13 discretion, shall enforce the provisions and rules of this compact.

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

23 (c) The remedies herein shall not be the exclusive remedies of
24 the commission. The commission may pursue any other remedies
25 available under federal or state law.

26 ARTICLE 11. DATE OF IMPLEMENTATION OF THE INTERSTATE
27 COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES,
28 WITHDRAWAL, AND AMENDMENT

29 (1) The compact shall come into effect on the date on which

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

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

13 (3) Any member state may withdraw from this compact by
14 enacting a statute repealing the same. The following apply to
15 withdrawal:

16 (a) A member state's withdrawal shall not take effect until
17 six (6) months after enactment of the repealing statute.

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

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

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

1 states.

2 ARTICLE 12. CONSTRUCTION AND SEVERABILITY

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

16 (2) Except as to a civil action for the enforcement of the
17 physical therapy licensure compact among member states, an
18 individual may bring a civil action related to this compact in any
19 court of this state or federal court that would otherwise have
20 jurisdiction.

21 (3) As used in this article, subsection (1) may be cited as
22 the "physical therapy licensure compact".

23 Enacting section 1. This amendatory act does not take effect
24 unless Senate Bill No.____ or House Bill No. 4505 (request no.
25 02331'23) of the 102nd Legislature is enacted into law.