

**HOUSE . . . . . No. 1961**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Adrian C. Madaro*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a physical therapy licensure compact.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>1/18/2019</i>

**HOUSE . . . . . No. 1961**

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By Mr. Madaro of Boston, a petition (accompanied by bill, House, No. 1961) of Adrian C. Madaro for legislation to establish a physical therapy licensure compact. Public Health.

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The Commonwealth of Massachusetts

—————  
In the One Hundred and Ninety-First General Court  
(2019-2020)  
—————

An Act establishing a physical therapy licensure compact.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. The General Laws, as appearing in the 2016 Official Edition, are hereby  
2 amended by inserting after chapter 112 the following new chapter:-

3 CHAPTER 112A PHYSICAL THERAPY LICENSURE COMPACT

4 SECTION 1. PURPOSE

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

10 This Compact is designed to achieve the following objectives:

- 11           1.       Increase public access to physical therapy services by providing for the mutual  
12 recognition of other member state licenses;
- 13           2.       Enhance the states' ability to protect the public's health and safety;
- 14           3.       Encourage the cooperation of member states in regulating multi-state physical  
15 therapy practice;
- 16           4.       Support spouses of relocating military members;
- 17           5.       Enhance the exchange of licensure, investigative, and disciplinary information  
18 between member states; and
- 19           6.       Allow a remote state to hold a provider of services with a compact privilege in  
20 that state accountable to that state's practice standards.

21           SECTION 2. DEFINITIONS

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

- 24           1.       “Active Duty Military” means full-time duty status in the active uniformed  
25 service of the United States, including members of the National Guard and Reserve on active  
26 duty orders pursuant to 10 U.S.C. Section 1209 and 1211.
- 27           2.       “Adverse Action” means disciplinary action taken by a physical therapy licensing  
28 board based upon misconduct, unacceptable performance, or a combination of both.

29           3.       “Alternative Program” means a non-disciplinary monitoring or practice  
30 remediation process approved by a physical therapy licensing board. This includes, but is not  
31 limited to, substance abuse issues.

32           4.       “Compact privilege” means the authorization granted by a remote state to allow a  
33 licensee from another member state to practice as a physical therapist or work as a physical  
34 therapist assistant in the remote state under its laws and rules. The practice of physical therapy  
35 occurs in the member state where the patient/client is located at the time of the patient/client  
36 encounter.

37           5.       “Continuing competence” means a requirement, as a condition of license  
38 renewal, to provide evidence of participation in, and/or completion of, educational and  
39 professional activities relevant to practice or area of work.

40           6.       “Data system” means a repository of information about licensees, including  
41 examination, licensure, investigative, compact privilege, and adverse action.

42           7.       “Encumbered license” means a license that a physical therapy licensing board has  
43 limited in any way.

44           8.       “Executive Board” means a group of directors elected or appointed to act on  
45 behalf of, and within the powers granted to them by, the Commission.

46           9.       “Home state” means the member state that is the licensee’s primary state of  
47 residence.

48           10.      “Investigative information” means information, records, and documents received  
49 or generated by a physical therapy licensing board pursuant to an investigation.

50           11.     “Jurisprudence Requirement” means the assessment of an individual’s knowledge  
51 of the laws and rules governing the practice of physical therapy in a state.

52           12.     “Licensee” means an individual who currently holds an authorization from the  
53 state to practice as a physical therapist or to work as a physical therapist assistant.

54           13.     “Member state” means a state that has enacted the Compact.

55           14.     “Party state” means any member state in which a licensee holds a current license  
56 or compact privilege or is applying for a license or compact privilege.

57           15.     “Physical therapist” means an individual who is licensed by a state to practice  
58 physical therapy.

59           16.     “Physical therapist assistant” means an individual who is licensed/certified by a  
60 state and who assists the physical therapist in selected components of physical therapy.

61           17.     “Physical therapy,” “physical therapy practice,” and “the practice of physical  
62 therapy” mean the care and services provided by or under the direction and supervision of a  
63 licensed physical therapist.

64           18.     “Physical Therapy Compact Commission” or “Commission” means the national  
65 administrative body whose membership consists of all states that have enacted the Compact.

66           19.     “Physical therapy licensing board” or “licensing board” means the agency of a  
67 state that is responsible for the licensing and regulation of physical therapists and physical  
68 therapist assistants.

69           20.     “Remote State” means a member state other than the home state, where a  
70 licensee is exercising or seeking to exercise the compact privilege.

71           21.     “Rule” means a regulation, principle, or directive promulgated by the  
72 Commission that has the force of law.

73           22.     “State” means any state, commonwealth, district, or territory of the United States  
74 of America that regulates the practice of physical therapy.

### 75           SECTION 3. STATE PARTICIPATION IN THE COMPACT

76           A.     To participate in the Compact, a state must:

77           1.     Participate fully in the Commission’s data system, including using the  
78 Commission’s unique identifier as defined in rules;

79           2.     Have a mechanism in place for receiving and investigating complaints about  
80 licensees;

81           3.     Notify the Commission, in compliance with the terms of the Compact and rules,  
82 of any adverse action or the availability of investigative information regarding a licensee;

83           4.     Fully implement a criminal background check requirement, within a time frame  
84 established by rule, by receiving the results of the Federal Bureau of Investigation record search  
85 on criminal background checks and use the results in making licensure decisions in accordance  
86 with Section 3.B.;

87           5.     Comply with the rules of the Commission;

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

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

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

95           C.     A member state shall grant the compact privilege to a licensee holding a valid  
96 unencumbered license in another member state in accordance with the terms of the Compact and  
97 rules.

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

99           SECTION 4. COMPACT PRIVILEGE

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

102           1.     Hold a license in the home state;

103           2.     Have no encumbrance on any state license;

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

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

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

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

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

113           8.     Report to the Commission adverse action taken by any non-member state within  
114 30 days from the date the adverse action is taken.

115           B.     The compact privilege is valid until the expiration date of the home license. The  
116 licensee must comply with the requirements of Section 4.A. to maintain the compact privilege in  
117 the remote state.

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

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

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

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



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

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

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

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

137           2.     All fines have been paid; and

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

139           H.     Once the requirements of Section 4G have been met, the license must meet the  
140 requirements in Section 4A to obtain a compact privilege in a remote state.

#### 141           SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

144           A.     Home of record;

145           B.     Permanent Change of Station (PCS); or

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

#### 147           SECTION 6. ADVERSE ACTIONS

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

150           B.     A home state may take adverse action based on the investigative information of a  
151 remote state, so long as the home state follows its own procedures for imposing adverse action.

152           C.     Nothing in this Compact shall override a member state's decision that  
153 participation in an alternative program may be used in lieu of adverse action and that such  
154 participation shall remain non-public if required by the member state's laws. Member states must  
155 require licensees who enter any alternative programs in lieu of discipline to agree not to practice  
156 in any other member state during the term of the alternative program without prior authorization  
157 from such other member state.

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

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

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

164           2.     Issue subpoenas for both hearings and investigations that require the attendance  
165 and testimony of witnesses, and the production of evidence. Subpoenas issued by a physical  
166 therapy licensing board in a party state for the attendance and testimony of witnesses, and/or the  
167 production of evidence from another party state, shall be enforced in the latter state by any court  
168 of competent jurisdiction, according to the practice and procedure of that court applicable to

169 subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness  
170 fees, travel expenses, mileage, and other fees required by the service statutes of the state where  
171 the witnesses and/or evidence are located; and

172           3.       If otherwise permitted by state law, recover from the licensee the costs of  
173 investigations and disposition of cases resulting from any adverse action taken against that  
174 licensee.

175           F.       Joint Investigations

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

179           2.       Member states shall share any investigative, litigation, or compliance materials in  
180 furtherance of any joint or individual investigation initiated under the Compact.

181           SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT  
182 COMMISSION.

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

185           1.       The Commission is an instrumentality of the Compact states.

186           2.       Venue is proper and judicial proceedings by or against the Commission shall be  
187 brought solely and exclusively in a court of competent jurisdiction where the principal office of  
188 the Commission is located. The Commission may waive venue and jurisdictional defenses to the  
189 extent it adopts or consents to participate in alternative dispute resolution proceedings.

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

191 B. Membership, Voting, and Meetings

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

194 2. The delegate shall be a current member of the licensing board, who is a physical  
195 therapist, physical therapist assistant, public member, or the board administrator.

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

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

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

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

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

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

208 1. Establish the fiscal year of the Commission;

- 209           2.     Establish bylaws;
- 210           3.     Maintain its financial records in accordance with the bylaws;
- 211           4.     Meet and take such actions as are consistent with the provisions of this Compact  
212 and the bylaws;
- 213           5.     Promulgate uniform rules to facilitate and coordinate implementation and  
214 administration of this Compact. The rules shall have the force and effect of law and shall be  
215 binding in all member states;
- 216           6.     Bring and prosecute legal proceedings or actions in the name of the Commission,  
217 provided that the standing of any state physical therapy licensing board to sue or be sued under  
218 applicable law shall not be affected;
- 219           7.     Purchase and maintain insurance and bonds;
- 220           8.     Borrow, accept, or contract for services of personnel, including, but not limited to,  
221 employees of a member state;
- 222           9.     Hire employees, elect or appoint officers, fix compensation, define duties, grant  
223 such individuals appropriate authority to carry out the purposes of the Compact, and to establish  
224 the Commission's personnel policies and programs relating to conflicts of interest, qualifications  
225 of personnel, and other related personnel matters;
- 226           10.    Accept any and all appropriate donations and grants of money, equipment,  
227 supplies, materials and services, and to receive, utilize and dispose of the same; provided that at  
228 all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

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

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

234           13.     Establish a budget and make expenditures;

235           14.     Borrow money;

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

239           16.     Provide and receive information from, and cooperate with, law enforcement  
240 agencies;

241           17.     Establish and elect an Executive Board; and

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

245           D.     The Executive Board

246           The Executive Board shall have the power to act on behalf of the Commission according  
247 to the terms of this Compact

248           1.     The Executive Board shall be composed of nine members:

- 249           a.       Seven voting members who are elected by the Commission from the current  
250 membership of the Commission;
- 251           b.       One ex-officio, nonvoting member from the recognized national physical therapy  
252 professional association; and
- 253           c.       One ex-officio, nonvoting member from the recognized membership organization  
254 of the physical therapy licensing boards.
- 255           2.       The ex-officio members will be selected by their respective organizations.
- 256           3.       The Commission may remove any member of the Executive Board as provided in  
257 bylaws.
- 258           4.       The Executive Board shall meet at least annually.
- 259           5.       The Executive Board shall have the following Duties and responsibilities:
- 260           a.       Recommend to the entire Commission changes to the rules or bylaws, changes to  
261 this Compact legislation, fees paid by Compact member states such as annual dues, and any  
262 commission Compact fee charged to licensees for the compact privilege;
- 263           b.       Ensure Compact administration services are appropriately provided, contractual  
264 or otherwise;
- 265           c.       Prepare and recommend the budget;
- 266           d.       Maintain financial records on behalf of the Commission;

267 e. Monitor Compact compliance of member states and provide compliance reports to  
268 the Commission;

269 f. Establish additional committees as necessary; and

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

271 E. Meetings of the Commission

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

274 2. The Commission or the Executive Board or other committees of the Commission  
275 may convene in a closed, non-public meeting if the Commission or Executive Board or other  
276 committees of the Commission must discuss:

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

278 b. The employment, compensation, discipline or other matters, practices or  
279 procedures related to specific employees or other matters related to the Commission's internal  
280 personnel practices and procedures;

281 c. Current, threatened, or reasonably anticipated litigation;

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

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



- 285 f. Disclosure of trade secrets or commercial or financial information that is  
286 privileged or confidential;
- 287 g. Disclosure of information of a personal nature where disclosure would constitute  
288 a clearly unwarranted invasion of personal privacy;
- 289 h. Disclosure of investigative records compiled for law enforcement purposes;
- 290 i. Disclosure of information related to any investigative reports prepared by or on  
291 behalf of or for use of the Commission or other committee charged with responsibility of  
292 investigation or determination of compliance issues pursuant to the Compact; or
- 293 j. Matters specifically exempted from disclosure by federal or member state statute.

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

297 4. The Commission shall keep minutes that fully and clearly describe all matters  
298 discussed in a meeting and shall provide a full and accurate summary of actions taken, and the  
299 reasons therefore, including a description of the views expressed. All documents considered in  
300 connection with an action shall be identified in such minutes. All minutes and documents of a  
301 closed meeting shall remain under seal, subject to release by a majority vote of the Commission  
302 or order of a court of competent jurisdiction.

303 F. Financing of the Commission

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

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

308           3.       The Commission may levy on and collect an annual assessment from each  
309 member state or impose fees on other parties to cover the cost of the operations and activities of  
310 the Commission and its staff, which must be in a total amount sufficient to cover its annual  
311 budget as approved each year for which revenue is not provided by other sources. The aggregate  
312 annual assessment amount shall be allocated based upon a formula to be determined by the  
313 Commission, which shall promulgate a rule binding upon all member states.

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

317           5.       The Commission shall keep accurate accounts of all receipts and disbursements.  
318 The receipts and disbursements of the Commission shall be subject to the audit and accounting  
319 procedures established under its bylaws. However, all receipts and disbursements of funds  
320 handled by the Commission shall be audited yearly by a certified or licensed public accountant,  
321 and the report of the audit shall be included in and become part of the annual report of the  
322 Commission.

323           G.       Qualified Immunity, Defense, and Indemnification

324           1.       The members, officers, executive director, employees and representatives of the  
325 Commission shall be immune from suit and liability, either personally or in their official  
326 capacity, for any claim for damage to or loss of property or personal injury or other civil liability  
327 caused by or arising out of any actual or alleged act, error or omission that occurred, or that the

328 person against whom the claim is made had a reasonable basis for believing occurred within the  
329 scope of Commission employment, duties or responsibilities; provided that nothing in this  
330 paragraph shall be construed to protect any such person from suit and/or liability for any damage,  
331 loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

332           2.       The Commission shall defend any member, officer, executive director, employee  
333 or representative of the Commission in any civil action seeking to impose liability arising out of  
334 any actual or alleged act, error, or omission that occurred within the scope of Commission  
335 employment, duties, or responsibilities, or that the person against whom the claim is made had a  
336 reasonable basis for believing occurred within the scope of Commission employment, duties, or  
337 responsibilities; provided that nothing herein shall be construed to prohibit that person from  
338 retaining his or her own counsel; and provided further, that the actual or alleged act, error, or  
339 omission did not result from that person's intentional or willful or wanton misconduct.

340           3.       The Commission shall indemnify and hold harmless any member, officer,  
341 executive director, employee, or representative of the Commission for the amount of any  
342 settlement or judgment obtained against that person arising out of any actual or alleged act, error  
343 or omission that occurred within the scope of Commission employment, duties, or  
344 responsibilities, or that such person had a reasonable basis for believing occurred within the  
345 scope of Commission employment, duties, or responsibilities, provided that the actual or alleged  
346 act, error, or omission did not result from the intentional or willful or wanton misconduct of that  
347 person.

348           SECTION 8. DATA SYSTEM

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

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

- 355           1.     Identifying information;
- 356           2.     Licensure data;
- 357           3.     Adverse actions against a license or compact privilege;
- 358           4.     Non-confidential information related to alternative program participation;
- 359           5.     Any denial of application for licensure, and the reason(s) for such denial; and
- 360           6.     Other information that may facilitate the administration of this Compact, as  
361 determined by the rules of the Commission.

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

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

367 E. Member states contributing information to the data system may designate  
368 information that may not be shared with the public without the express permission of the  
369 contributing state.

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

### 373 SECTION 9. RULEMAKING

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

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

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

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

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

387           2.       On the website of each member state physical therapy licensing board or other  
388 publicly accessible platform or the publication in which each state would otherwise publish  
389 proposed rules.

390           E.       The Notice of Proposed Rulemaking shall include:

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

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

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

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

397           F.       Prior to adoption of a proposed rule, the Commission shall allow persons to  
398 submit written data, facts, opinions, and arguments, which shall be made available to the public.

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

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

402           2.       A state or federal governmental subdivision or agency; or

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

404           H.       If a hearing is held on the proposed rule or amendment, the Commission shall  
405 publish the place, time, and date of the scheduled public hearing. If the hearing is held via

406 electronic means, the Commission shall publish the mechanism for access to the electronic  
407 hearing.

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

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

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

415 4. Nothing in this section shall be construed as requiring a separate hearing on each  
416 rule. Rules may be grouped for the convenience of the Commission at hearings required by this  
417 section.

418 I. Following the scheduled hearing date, or by the close of business on the  
419 scheduled hearing date if the hearing was not held, the Commission shall consider all written and  
420 oral comments received.

421 J. If no written notice of intent to attend the public hearing by interested parties is  
422 received, the Commission may proceed with promulgation of the proposed rule without a public  
423 hearing.

424 K. The Commission shall, by majority vote of all members, take final action on the  
425 proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking  
426 record and the full text of the rule.

427 L. Upon determination that an emergency exists, the Commission may consider and  
428 adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that  
429 the usual rulemaking procedures provided in the Compact and in this section shall be  
430 retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90)  
431 days after the effective date of the rule. For the purposes of this provision, an emergency rule is  
432 one that must be adopted immediately in order to:

- 433 1. Meet an imminent threat to public health, safety, or welfare;
- 434 2. Prevent a loss of Commission or member state funds;
- 435 3. Meet a deadline for the promulgation of an administrative rule that is established  
436 by federal law or rule; or
- 437 4. Protect public health and safety.

438 M. The Commission or an authorized committee of the Commission may direct  
439 revisions to a previously adopted rule or amendment for purposes of correcting typographical  
440 errors, errors in format, errors in consistency, or grammatical errors. Public notice of any  
441 revisions shall be posted on the website of the Commission. The revision shall be subject to  
442 challenge by any person for a period of thirty (30) days after posting. The revision may be  
443 challenged only on grounds that the revision results in a material change to a rule. A challenge  
444 shall be made in writing, and delivered to the chair of the Commission prior to the end of the  
445 notice period. If no challenge is made, the revision will take effect without further action. If the  
446 revision is challenged, the revision may not take effect without the approval of the Commission.

#### 447 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT



448           A.     Oversight

449           1.     The executive, legislative, and judicial branches of state government in each  
450 member state shall enforce this Compact and take all actions necessary and appropriate to  
451 effectuate the Compact's purposes and intent. The provisions of this Compact and the rules  
452 promulgated hereunder shall have standing as statutory law.

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

456           3.     The Commission shall be entitled to receive service of process in any such  
457 proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to  
458 provide service of process to the Commission shall render a judgment or order void as to the  
459 Commission, this Compact, or promulgated rules.

460           B.     Default, Technical Assistance, and Termination

461           1.     If the Commission determines that a member state has defaulted in the  
462 performance of its obligations or responsibilities under this Compact or the promulgated rules,  
463 the Commission shall:

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

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

468           2.       If a state in default fails to cure the default, the defaulting state may be terminated  
469 from the Compact upon an affirmative vote of a majority of the member states, and all rights,  
470 privileges and benefits conferred by this Compact may be terminated on the effective date of  
471 termination. A cure of the default does not relieve the offending state of obligations or liabilities  
472 incurred during the period of default.

473           3.       Termination of membership in the Compact shall be imposed only after all other  
474 means of securing compliance have been exhausted. Notice of intent to suspend or terminate  
475 shall be given by the Commission to the governor, the majority and minority leaders of the  
476 defaulting state’s legislature, and each of the member states.

477           4.       A state that has been terminated is responsible for all assessments, obligations,  
478 and liabilities incurred through the effective date of termination, including obligations that  
479 extend beyond the effective date of termination.

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

483           6.       The defaulting state may appeal the action of the Commission by petitioning the  
484 U.S. District Court for the District of Columbia or the federal district where the Commission has  
485 its principal offices. The prevailing member shall be awarded all costs of such litigation,  
486 including reasonable attorney’s fees.

487           C.       Dispute Resolution

488           1.       Upon request by a member state, the Commission shall attempt to resolve  
489 disputes related to the Compact that arise among member states and between member and non-  
490 member states.

491           2.       The Commission shall promulgate a rule providing for both mediation and  
492 binding dispute resolution for disputes as appropriate.

493           D.       Enforcement

494           1.       The Commission, in the reasonable exercise of its discretion, shall enforce the  
495 provisions and rules of this Compact.

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

502           3.       The remedies herein shall not be the exclusive remedies of the Commission. The  
503 Commission may pursue any other remedies available under federal or state law.

504           SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE  
505 COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES,  
506 WITHDRAWAL, AND AMENDMENT

507           A.       The Compact shall come into effect on the date on which the Compact statute is  
508 enacted into law in the tenth member state. The provisions, which become effective at that time,

509 shall be limited to the powers granted to the Commission relating to assembly and the  
510 promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers  
511 necessary to the implementation and administration of the Compact.

512           B.       Any state that joins the Compact subsequent to the Commission’s initial adoption  
513 of the rules shall be subject to the rules as they exist on the date on which the Compact becomes  
514 law in that state. Any rule that has been previously adopted by the Commission shall have the  
515 full force and effect of law on the day the Compact becomes law in that state.

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

518           1.       A member state’s withdrawal shall not take effect until six (6) months after  
519 enactment of the repealing statute.

520           2.       Withdrawal shall not affect the continuing requirement of the withdrawing state’s  
521 physical therapy licensing board to comply with the investigative and adverse action reporting  
522 requirements of this act prior to the effective date of withdrawal.

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

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

529           SECTION 12. CONSTRUCTION AND SEVERABILITY

530           This Compact shall be liberally construed so as to effectuate the purposes thereof. The  
531 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of  
532 this Compact is declared to be contrary to the constitution of any party state or of the United  
533 States or the applicability thereof to any government, agency, person or circumstance is held  
534 invalid, the validity of the remainder of this Compact and the applicability thereof to any  
535 government, agency, person or circumstance shall not be affected thereby. If this Compact shall  
536 be held contrary to the constitution of any party state, the Compact shall remain in full force and  
537 effect as to the remaining party states and in full force and effect as to the party state affected as  
538 to all severable matters.