

**SUBSTITUTE FOR
HOUSE BILL NO. 4101**

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:**

PHYSICAL THERAPY LICENSURE COMPACT

ARTICLE 1. PURPOSE

7 **(1) The purpose of this compact is to facilitate interstate**
8 **practice of physical therapy with the goal of improving public**
9 **access to physical therapy services. The practice of physical**



1 therapy occurs in the state where the patient/client is located at
2 the time of the patient/client encounter. The compact preserves the
3 regulatory authority of states to protect public health and safety
4 through the current system of state licensure.

5 (2) This compact is designed to achieve the following
6 objectives:

7 (a) Increase public access to physical therapy services by
8 providing for the mutual recognition of other member state
9 licenses;

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

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

14 (d) Support spouses of relocating military members;

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

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

20 ARTICLE 2. DEFINITIONS

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

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

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



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

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

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

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

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

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

24 (i) "Home state" means the member state that is the licensee's
25 primary state of residence.

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

29 (k) "Jurisprudence requirement" means the assessment of an



1 individual's knowledge of the laws and rules governing the practice
2 of physical therapy in a state.

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

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

7 (n) "Party state" means any member state in which a licensee
8 holds a current license or compact privilege or is applying for a
9 license or compact privilege.

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

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

15 (q) "Physical therapy," "physical therapy practice," and "the
16 practice of physical therapy" mean the care and services provided
17 by or under the direction and supervision of a licensed physical
18 therapist.

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

22 (s) "Physical therapy licensing board" or "licensing board"
23 means the agency of a state that is responsible for the licensing
24 and regulation of physical therapists and physical therapist
25 assistants.

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

29 (u) "Rule" means a regulation, principle, or directive

1 promulgated by the commission that has the force of law.

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

5 ARTICLE 3. STATE PARTICIPATION IN THE COMPACT

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

7 (a) Participate fully in the commission's data system,
8 including using the commission's unique identifier as defined in
9 rules;

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

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

15 (d) Fully implement a criminal background check requirement,
16 within a time frame established by rule, by receiving the results
17 of the Federal Bureau of Investigation record search on criminal
18 background checks and use the results in making licensure decisions
19 in accordance with subsection (2);

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

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

23 (g) Have continuing competence requirements as a condition for
24 license renewal.

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



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

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

6 ARTICLE 4. COMPACT PRIVILEGE

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

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

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

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

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

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

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

19 (g) Meet any jurisprudence requirements established by the
20 remote state(s) in which the licensee is seeking a compact
21 privilege; and

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

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

29 (3) A licensee providing physical therapy in a remote state



1 under the compact privilege shall function within the laws and
2 regulations of the remote state.

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

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

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

15 (b) Two (2) years have elapsed from the date of the adverse
16 action.

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

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

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

25 (b) All fines have been paid; and

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

28 (8) Once the requirements of subsection (7) have been met, the
29 license must meet the requirements in subsection (1) to obtain a



1 compact privilege in a remote state.

2 ARTICLE 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

- 6 (a) Home of record;
7 (b) Permanent change of station (PCS); or
8 (c) State of current residence if it is different than the PCS
9 state or home of record.

10 ARTICLE 6. ADVERSE ACTIONS

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

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

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

24 (4) Any member state may investigate actual or alleged
25 violations of the statutes and rules authorizing the practice of
26 physical therapy in any other member state in which a physical
27 therapist or physical therapist assistant holds a license or
28 compact privilege.

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



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

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

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

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

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

24 **ARTICLE 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION**

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

28 (a) The commission is an instrumentality of the compact
29 states.



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

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

9 (2) The following apply to commission membership, voting, and
10 meetings:

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

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

16 (c) Any delegate may be removed or suspended from office as
17 provided by the law of the state from which the delegate is
18 appointed.

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

21 (e) Each delegate shall be entitled to one (1) vote with
22 regard to the promulgation of rules and creation of bylaws and
23 shall otherwise have an opportunity to participate in the business
24 and affairs of the commission.

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

29 (g) The commission shall meet at least once during each



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

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

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

5 (b) Establish bylaws;

6 (c) Maintain its financial records in accordance with the
7 bylaws;

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

10 (e) Promulgate uniform rules to facilitate and coordinate
11 implementation and administration of this compact. The rules shall
12 have the force and effect of law and shall be binding in all member
13 states;

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

18 (g) Purchase and maintain insurance and bonds;

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

21 (i) Hire employees, elect or appoint officers, fix
22 compensation, define duties, grant such individuals appropriate
23 authority to carry out the purposes of the compact, and to
24 establish the commission's personnel policies and programs relating
25 to conflicts of interest, qualifications of personnel, and other
26 related personnel matters;

27 (j) Accept any and all appropriate donations and grants of
28 money, equipment, supplies, materials and services, and to receive,
29 utilize and dispose of the same; provided that at all times the



1 commission shall avoid any appearance of impropriety and/or
2 conflict of interest;

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

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

9 (m) Establish a budget and make expenditures;

10 (n) Borrow money;

11 (o) Appoint committees, including standing committees composed
12 of members, state regulators, state legislators or their
13 representatives, and consumer representatives, and such other
14 interested persons as may be designated in this compact and the
15 bylaws;

16 (p) Provide and receive information from, and cooperate with,
17 law enforcement agencies;

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

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

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

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

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

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



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

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

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

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

8 (e) The executive board shall have the following duties and
9 responsibilities:

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

14 (ii) Ensure compact administration services are appropriately
15 provided, contractual or otherwise;

16 (iii) Prepare and recommend the budget;

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

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

20 (vi) Establish additional committees as necessary; and

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

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

23 (a) All meetings shall be open to the public, and public
24 notice of meetings shall be given in the same manner as required
25 under the rulemaking provisions in article 9.

26 (b) The commission or the executive board or other committees
27 of the commission may convene in a closed, non-public meeting if
28 the commission or executive board or other committees of the
29 commission must discuss:



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

3 (ii) The employment, compensation, discipline or other matters,
4 practices or procedures related to specific employees or other
5 matters related to the commission's internal personnel practices
6 and procedures;

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

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

10 (v) Accusing any person of a crime or formally censuring any
11 person;

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

14 (vii) Disclosure of information of a personal nature where
15 disclosure would constitute a clearly unwarranted invasion of
16 personal privacy;

17 (viii) Disclosure of investigative records compiled for law
18 enforcement purposes;

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

23 (x) Matters specifically exempted from disclosure by federal
24 or member state statute.

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

29 (d) The commission shall keep minutes that fully and clearly



1 describe all matters discussed in a meeting and shall provide a
2 full and accurate summary of actions taken, and the reasons
3 therefore, including a description of the views expressed. All
4 documents considered in connection with an action shall be
5 identified in such minutes. All minutes and documents of a closed
6 meeting shall remain under seal, subject to release by a majority
7 vote of the commission or order of a court of competent
8 jurisdiction.

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

10 (a) The commission shall pay, or provide for the payment of,
11 the reasonable expenses of its establishment, organization, and
12 ongoing activities.

13 (b) The commission may accept any and all appropriate revenue
14 sources, donations, and grants of money, equipment, supplies,
15 materials, and services.

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

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

29 (e) The commission shall keep accurate accounts of all



1 receipts and disbursements. The receipts and disbursements of the
2 commission shall be subject to the audit and accounting procedures
3 established under its bylaws. However, all receipts and
4 disbursements of funds handled by the commission shall be audited
5 yearly by a certified or licensed public accountant, and the report
6 of the audit shall be included in and become part of the annual
7 report of the commission.

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

20 (8) The commission shall defend any member, officer, executive
21 director, employee or representative of the commission in any civil
22 action seeking to impose liability arising out of any actual or
23 alleged act, error, or omission that occurred within the scope of
24 commission employment, duties, or responsibilities, or that the
25 person against whom the claim is made had a reasonable basis for
26 believing occurred within the scope of commission employment,
27 duties, or responsibilities; provided that nothing herein shall be
28 construed to prohibit that person from retaining his or her own
29 counsel; and provided further, that the actual or alleged act,



1 error, or omission did not result from that person's intentional or
2 willful or wanton misconduct.

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

13 ARTICLE 8. DATA SYSTEM

14 (1) The commission shall provide for the development,
15 maintenance, and utilization of a coordinated database and
16 reporting system containing licensure, adverse action, and
17 investigative information on all licensed individuals in member
18 states.

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

- 23 (a) Identifying information;
24 (b) Licensure data;
25 (c) Adverse actions against a license or compact privilege;
26 (d) Non-confidential information related to alternative
27 program participation;
28 (e) Any denial of application for licensure, and the reason(s)
29 for such denial; and



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

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

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

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

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

17 ARTICLE 9. RULEMAKING

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

22 (2) If a majority of the legislatures of the member states
23 rejects a rule, by enactment of a statute or resolution in the same
24 manner used to adopt the compact within four (4) years of the date
25 of adoption of the rule, then such rule shall have no further force
26 and effect in any member state.

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

29 (4) Prior to promulgation and adoption of a final rule or

1 rules by the commission, and at least thirty (30) days in advance
 2 of the meeting at which the rule will be considered and voted upon,
 3 the commission shall file a notice of proposed rulemaking:

4 (a) On the website of the commission or other publicly
 5 accessible platform; and

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

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

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

13 (b) The text of the proposed rule or amendment and the reason
 14 for the proposed rule;

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

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

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

23 (7) The commission shall grant an opportunity for a public
 24 hearing before it adopts a rule or amendment if a hearing is
 25 requested by:

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

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

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

29 (8) If a hearing is held on the proposed rule or amendment,



1 the commission shall publish the place, time, and date of the
2 scheduled public hearing. If the hearing is held via electronic
3 means, the commission shall publish the mechanism for access to the
4 electronic hearing. The following apply to public hearings of the
5 commission:

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

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

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

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

19 (9) Following the scheduled hearing date, or by the close of
20 business on the scheduled hearing date if the hearing was not held,
21 the commission shall consider all written and oral comments
22 received.

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

27 (11) The commission shall, by majority vote of all members,
28 take final action on the proposed rule and shall determine the
29 effective date of the rule, if any, based on the rulemaking record



1 and the full text of the rule.

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

11 (a) Meet an imminent threat to public health, safety, or
12 welfare;

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

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

16 (d) Protect public health and safety.

17 (13) The commission or an authorized committee of the
18 commission may direct revisions to a previously adopted rule or
19 amendment for purposes of correcting typographical errors, errors
20 in format, errors in consistency, or grammatical errors. Public
21 notice of any revisions shall be posted on the website of the
22 commission. The revision shall be subject to challenge by any
23 person for a period of thirty (30) days after posting. The revision
24 may be challenged only on grounds that the revision results in a
25 material change to a rule. A challenge shall be made in writing,
26 and delivered to the chair of the commission prior to the end of
27 the notice period. If no challenge is made, the revision will take
28 effect without further action. If the revision is challenged, the
29 revision may not take effect without the approval of the



1 commission.

2 ARTICLE 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

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

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

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

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

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

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

24 (i) Provide written notice to the defaulting state and other
25 member states of the nature of the default, the proposed means of
26 curing the default and/or any other action to be taken by the
27 commission; and

28 (ii) Provide remedial training and specific technical
29 assistance regarding the default.



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

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

14 (d) A state that has been terminated is responsible for all
15 assessments, obligations, and liabilities incurred through the
16 effective date of termination, including obligations that extend
17 beyond the effective date of termination.

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

22 (f) The defaulting state may appeal the action of the
23 commission by petitioning the U.S. District Court for the District
24 of Columbia or the federal district where the commission has its
25 principal offices. The prevailing member shall be awarded all costs
26 of such litigation, including reasonable attorney's fees.

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

29 (a) Upon request by a member state, the commission shall



1 attempt to resolve disputes related to the compact that arise among
2 member states and between member and non-member states.

3 (b) The commission shall promulgate a rule providing for both
4 mediation and binding dispute resolution for disputes as
5 appropriate.

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

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

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

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

21 **ARTICLE 11. DATE OF IMPLEMENTATION OF THE INTERSTATE**
22 **COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES,**
23 **WITHDRAWAL, AND AMENDMENT**

24 (1) The compact shall come into effect on the date on which
25 the compact statute is enacted into law in the tenth member state.
26 The provisions, which become effective at that time, shall be
27 limited to the powers granted to the commission relating to
28 assembly and the promulgation of rules. Thereafter, the commission
29 shall meet and exercise rulemaking powers necessary to the



1 implementation and administration of the compact.

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

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

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

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

17 (4) Nothing contained in this compact shall be construed to
18 invalidate or prevent any physical therapy licensure agreement or
19 other cooperative arrangement between a member state and a non-
20 member state that does not conflict with the provisions of this
21 compact.

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

26 ARTICLE 12. CONSTRUCTION AND SEVERABILITY

27 This compact shall be liberally construed so as to effectuate
28 the purposes thereof. The provisions of this compact shall be
29 severable and if any phrase, clause, sentence or provision of this



1 compact is declared to be contrary to the constitution of any party
2 state or of the United States or the applicability thereof to any
3 government, agency, person or circumstance is held invalid, the
4 validity of the remainder of this compact and the applicability
5 thereof to any government, agency, person or circumstance shall not
6 be affected thereby. If this compact shall be held contrary to the
7 constitution of any party state, the compact shall remain in full
8 force and effect as to the remaining party states and in full force
9 and effect as to the party state affected as to all severable
10 matters.

11 (2) Except as to a civil action for the enforcement of the
12 physical therapy licensure compact among member states, an
13 individual may bring a civil action related to this compact in any
14 court of this state or federal court that would otherwise have
15 jurisdiction.

16 (3) As used in this article, subsection (1) may be known as
17 the "physical therapy licensure compact".

18 Enacting section 1. This amendatory act takes effect 1 year
19 after the date it is enacted into law.

20 Enacting section 2. This amendatory act does not take effect
21 unless House Bill No. 4380 of the 103rd Legislature is enacted into
22 law.