

SENATE BILL NO. 22

January 15, 2019, Introduced by Senator ZORN and referred to the Committee on Health Policy and Human Services.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 17801 (MCL 333.17801), as amended by 2009 PA
55, and by adding sections 16188, 17820a, and 17820b.

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**

1 the form substantially as follows:

2 PHYSICAL THERAPY LICENSURE COMPACT

3 ARTICLE 1. PURPOSE

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

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

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

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

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

20 (d) Support spouses of relocating military members;

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

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

26 ARTICLE 2. DEFINITIONS

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

29 (a) "Active duty military" means full-time duty status in the

1 active uniformed service of the United States, including members of
2 the National Guard and Reserve on active duty orders pursuant to 10
3 USC 1209 and 1211.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (s) "Physical therapy licensing board" or "licensing board"
29 means the agency of a state that is responsible for the licensing

1 and regulation of physical therapists and physical therapist
2 assistants.

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

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

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

11 ARTICLE 3. STATE PARTICIPATION IN THE COMPACT

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

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

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

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

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

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

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

29 (g) Have continuing competence requirements as a condition for

1 license renewal.

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

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

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

12 ARTICLE 4. COMPACT PRIVILEGE

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

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

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

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

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

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

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

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

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

1 action is taken.

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

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

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

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

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

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

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

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

29 (a) The specific period of time for which the compact

1 privilege was removed has ended;

2 (b) All fines have been paid; and

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

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

8 ARTICLE 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

12 (a) Home of record;

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

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

16 ARTICLE 6. ADVERSE ACTIONS

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

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

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

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

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

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

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

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

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

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

1 ARTICLE 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

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

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

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

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

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

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

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

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

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

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

1 and affairs of the commission.

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

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

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

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

11 (b) Establish bylaws;

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

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

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

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

24 (g) Purchase and maintain insurance and bonds;

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

27 (i) Hire employees, elect or appoint officers, fix
28 compensation, define duties, grant such individuals appropriate
29 authority to carry out the purposes of the compact, and to

1 establish the commission's personnel policies and programs relating
2 to conflicts of interest, qualifications of personnel, and other
3 related personnel matters;

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

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

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

15 (m) Establish a budget and make expenditures;

16 (n) Borrow money;

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

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

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

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

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

1 following apply to the executive board:

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

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

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

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

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

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

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

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

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

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

22 (iii) Prepare and recommend the budget;

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

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

26 (vi) Establish additional committees as necessary; and

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

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

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

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

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

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

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

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

17 (v) Accusing any person of a crime or formally censuring any
18 person;

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

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

24 (viii) Disclosure of investigative records compiled for law
25 enforcement purposes;

26 (ix) Disclosure of information related to any investigative
27 reports prepared by or on behalf of or for use of the commission or
28 other committee charged with responsibility of investigation or

1 determination of compliance issues pursuant to the compact; or

2 (x) Matters specifically exempted from disclosure by federal
3 or member state statute.

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

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

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

18 (a) The commission shall pay, or provide for the payment of,
19 the reasonable expenses of its establishment, organization, and
20 ongoing activities.

21 (b) The commission may accept any and all appropriate revenue
22 sources, donations, and grants of money, equipment, supplies,
23 materials, and services.

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

1 annual assessment amount shall be allocated based upon a formula to
2 be determined by the commission, which shall promulgate a rule
3 binding upon all member states.

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

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

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

28 (8) The commission shall defend any member, officer, executive
29 director, employee or representative of the commission in any civil

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

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

21 ARTICLE 8. DATA SYSTEM

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

27 (2) Notwithstanding any other provision of state law to the
28 contrary, a member state shall submit a uniform data set to the
29 data system on all individuals to whom this compact is applicable

1 as required by the rules of the commission, including:

2 (a) Identifying information;

3 (b) Licensure data;

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

5 (d) Non-confidential information related to alternative
6 program participation;

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

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

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

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

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

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

25 ARTICLE 9. RULEMAKING

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

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

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

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

12 (a) On the website of the commission or other publicly
13 accessible platform; and

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

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

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

21 (b) The text of the proposed rule or amendment and the reason
22 for the proposed rule;

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

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

28 (6) Prior to adoption of a proposed rule, the commission shall
29 allow persons to submit written data, facts, opinions, and

1 arguments, which shall be made available to the public.

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

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

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

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

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

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

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

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

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

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

1 received.

2 (10) If no written notice of intent to attend the public
3 hearing by interested parties is received, the commission may
4 proceed with promulgation of the proposed rule without a public
5 hearing.

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

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

19 (a) Meet an imminent threat to public health, safety, or
20 welfare;

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

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

24 (d) Protect public health and safety.

25 (13) The commission or an authorized committee of the
26 commission may direct revisions to a previously adopted rule or
27 amendment for purposes of correcting typographical errors, errors
28 in format, errors in consistency, or grammatical errors. Public
29 notice of any revisions shall be posted on the website of the

1 commission. The revision shall be subject to challenge by any
2 person for a period of thirty (30) days after posting. The revision
3 may be challenged only on grounds that the revision results in a
4 material change to a rule. A challenge shall be made in writing,
5 and delivered to the chair of the commission prior to the end of
6 the notice period. If no challenge is made, the revision will take
7 effect without further action. If the revision is challenged, the
8 revision may not take effect without the approval of the
9 commission.

10 ARTICLE 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

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

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

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

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

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

29 (a) If the commission determines that a member state has

1 defaulted in the performance of its obligations or responsibilities
2 under this compact or the promulgated rules, the commission shall:

3 (i) Provide written notice to the defaulting state and other
4 member states of the nature of the default, the proposed means of
5 curing the default and/or any other action to be taken by the
6 commission; and

7 (ii) Provide remedial training and specific technical
8 assistance regarding the default.

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

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

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

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

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

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

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

11 (b) The commission shall promulgate a rule providing for both
12 mediation and binding dispute resolution for disputes as
13 appropriate.

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

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

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

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

29 ARTICLE 11. DATE OF IMPLEMENTATION OF THE INTERSTATE

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

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

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

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

5 ARTICLE 12. CONSTRUCTION AND SEVERABILITY

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

19 (2) As used in this article, subsection (1) shall be known and
20 may be cited as the "physical therapy licensure compact".

21 Sec. 17801. (1) As used in this part:

22 (a) "Physical therapist" means an individual **who is** licensed
23 under this article **or authorized under section 17820a** to engage in
24 the practice of physical therapy.

25 (b) "Physical therapist assistant" means an individual with a
26 health profession subfield license under this part, **or is**
27 **authorized under section 17820b to engage in practice as a physical**
28 **therapist assistant under the supervision of a physical therapist,**
29 who assists a physical therapist in physical therapy intervention.

1 (c) **"Physical therapy licensure compact" means the physical**
2 **therapy licensure compact as enacted in section 16188.**

3 (d) ~~(e)~~—"Practice as physical therapist assistant" means the
4 practice of physical therapy performed under the supervision of a
5 physical therapist licensed under this part.

6 (e) ~~(d)~~—"Practice of physical therapy" means the evaluation
7 of, education of, consultation with, or treatment of an individual
8 by the employment of effective properties of physical measures and
9 the use of therapeutic exercises and rehabilitative procedures,
10 with or without assistive devices, for the purpose of preventing,
11 correcting, or alleviating a physical or mental disability.
12 Physical therapy includes treatment planning, performance of tests
13 and measurements, interpretation of referrals, initiation of
14 referrals, instruction, consultative services, and supervision of
15 personnel. Physical measures include massage, mobilization, heat,
16 cold, air, light, water, electricity, and sound. Practice of
17 physical therapy does not include the identification of underlying
18 medical problems or etiologies, establishment of medical diagnoses,
19 or the prescribing of treatment.

20 (2) In addition to the definitions in this part, article 1
21 contains general definitions and principles of construction
22 applicable to all articles in this code and part 161 contains
23 definitions applicable to this part.

24 **Sec. 17820a. (1) An individual who holds a multistate license**
25 **to practice physical therapy under the physical therapy licensure**
26 **compact is authorized to engage in the practice of physical therapy**
27 **under this article.**

28 (2) For purposes of this article, including the obligations of
29 an individual who is licensed as a physical therapist, an

1 individual who holds a multistate license to practice physical
2 therapy under the physical therapy licensure compact is considered
3 a physical therapist who is licensed under this part.

4 Sec. 17820b. (1) An individual who holds a multistate license
5 to practice physical therapy under the physical therapy licensure
6 compact is authorized to engage in practice as a physical therapist
7 assistant under this article under the supervision of a physical
8 therapist.

9 (2) For purposes of this article, including the obligations of
10 an individual who is licensed as a physical therapist assistant, an
11 individual who holds a multistate license to practice physical
12 therapy under the physical therapy licensure compact is considered
13 a physical therapist assistant who is licensed under this part.

14 Enacting section 1. This amendatory act takes effect 90 days
15 after the date it is enacted into law.