

**HOUSE BILL NO. 1157**

Introduced by

Representatives B. Koppelman, D. Anderson, Roers Jones, Schneider

Senators Grabinger, Kreun, J. Lee

1 A BILL for an Act to create and enact a new chapter to title 43 of the North Dakota  
2 Century Code, relating to the physical therapy licensure compact.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new chapter to title 43 of the North Dakota Century Code is created and  
5 enacted as follows:

6 **ARTICLE I - PURPOSE**

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

12 This compact is designed to achieve the following objectives:

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

23 **ARTICLE II - DEFINITIONS**

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

- 1       1. "Active duty military" means full-time duty status in the active uniformed service of the  
2       United States, including members of the National Guard and Reserve on active duty  
3       orders pursuant to 10 U.S.C. sections 1209 and 1211.
- 4       2. "Adverse action" means disciplinary action taken by a physical therapy licensing board  
5       based upon misconduct, unacceptable performance, or a combination of both.
- 6       3. "Alternative program" means a nondisciplinary monitoring or practice remediation  
7       process approved by a physical therapy licensing board. This includes substance  
8       abuse issues.
- 9       4. "Compact privilege" means the authorization granted by a remote state to allow a  
10       licensee from another member state to practice as a physical therapist or work as a  
11       physical therapist assistant in the remote state under its laws and rules. The practice  
12       of physical therapy occurs in the member state where the patient or client is located at  
13       the time of the patient or client encounter.
- 14       5. "Continuing competence" means a requirement, as a condition of license renewal, to  
15       provide evidence of participation in, or completion of, educational and professional  
16       activities relevant to practice or area of work.
- 17       6. "Data system" means a repository of information about licensees, including  
18       examination, licensure, investigative, compact privilege, and adverse action.
- 19       7. "Encumbered license" means a license that a physical therapy licensing board has  
20       limited in any way.
- 21       8. "Executive board" means a group of directors elected or appointed to act on behalf of,  
22       and within the powers granted to them by, the commission.
- 23       9. "Home state" means the member state that is the licensee's primary state of  
24       residence.
- 25       10. "Investigative information" means information, records, and documents received or  
26       generated by a physical therapy licensing board pursuant to an investigation.
- 27       11. "Jurisprudence requirement" means the assessment of an individual's knowledge of  
28       the laws and rules governing the practice of physical therapy in a state.
- 29       12. "Licensee" means an individual who currently holds an authorization from the state to  
30       practice as a physical therapist or to work as a physical therapist assistant.
- 31       13. "Member state" means a state that has enacted the compact.

- 1       14. "Party state" means any member state in which a licensee holds a current license or  
2       compact privilege or is applying for a license or compact privilege.
- 3       15. "Physical therapist" means an individual who is licensed by a state to practice physical  
4       therapy.
- 5       16. "Physical therapist assistant" means an individual who is licensed or certified by a  
6       state and who assists the physical therapist in selected components of physical  
7       therapy.
- 8       17. "Physical therapy", "physical therapy practice", and "the practice of physical therapy"  
9       mean the care and services provided by or under the direction and supervision of a  
10      licensed physical therapist.
- 11      18. "Physical therapy compact commission" or "commission" means the national  
12      administrative body whose membership consists of all states that have enacted the  
13      compact.
- 14      19. "Physical therapy licensing board" or "licensing board" means the agency of a state  
15      that is responsible for the licensing and regulation of physical therapists and physical  
16      therapist assistants.
- 17      20. "Remote state" means a member state other than the home state, where a licensee is  
18      exercising or seeking to exercise the compact privilege.
- 19      21. "Rule" means a regulation, principle, or directive promulgated by the commission  
20      which has the force of law.
- 21      22. "State" means any state, commonwealth, district, or territory of the United States of  
22      America that regulates the practice of physical therapy.

23                   **ARTICLE III - STATE PARTICIPATION IN THE COMPACT**

- 24      1. To participate in the compact, a state must:
- 25          a. Participate fully in the commission's data system, including using the  
26          commission's unique identifier as defined in rules;
- 27          b. Have a mechanism in place for receiving and investigating complaints about  
28          licensees;
- 29          c. Notify the commission, in compliance with the terms of the compact and rules, of  
30          any adverse action or the availability of investigative information regarding a  
31          licensee;

- 1           d. Fully implement a criminal background check requirement, within a time frame
- 2                 established by rule, by receiving the results of the federal bureau of investigation
- 3                 record search on criminal background checks and use the results in making
- 4                 licensure decisions in accordance with subsection 2;
- 5           e. Comply with the rules of the commission;
- 6           f. Utilize a recognized national examination as a requirement for licensure pursuant
- 7                 to the rules of the commission; and
- 8           g. Have continuing competence requirements as a condition for license renewal.
- 9         2. Upon adoption of this statute, the member state may obtain biometric-based
- 10            information from each physical therapy licensure applicant and submit this information
- 11            to the federal bureau of investigation for a criminal background check in accordance
- 12            with 28 U.S.C. section 534 and 42 U.S.C. section 14616.
- 13         3. A member state shall grant the compact privilege to a licensee holding a valid
- 14            unencumbered license in another member state in accordance with the terms of the
- 15            compact and rules.
- 16         4. Member states may charge a fee for granting a compact privilege.

#### **ARTICLE IV - COMPACT PRIVILEGE**

- 18         1. To exercise the compact privilege under the terms and provisions of the compact, the
- 19            licensee shall:
- 20            a. Hold a license in the home state;
- 21            b. Have no encumbrance on any state license;
- 22            c. Be eligible for a compact privilege in any member state in accordance with
- 23                 subsections 4, 7, and 8;
- 24            d. Have not had any adverse action against any license or compact privilege within
- 25                 the previous two years;
- 26            e. Notify the commission the licensee is seeking the compact privilege within a
- 27                 remote state;
- 28            f. Pay any applicable fees, including any state fee, for the compact privilege;
- 29            g. Meet any jurisprudence requirements established by the remote state in which
- 30                 the licensee is seeking a compact privilege; and

- 1           h. Report to the commission adverse action taken by any nonmember state within  
2           thirty days from the date the adverse action is taken.
- 3           2. The compact privilege is valid until the expiration date of the home license. The  
4           licensee must comply with the requirements of subsection 1 to maintain the compact  
5           privilege in the remote state.
- 6           3. A licensee providing physical therapy in a remote state under the compact privilege  
7           shall function within the laws and regulations of the remote state.
- 8           4. A licensee providing physical therapy in a remote state is subject to that state's  
9           regulatory authority. A remote state may, in accordance with due process and that  
10           state's laws, remove a licensee's compact privilege in the remote state for a specific  
11           period of time, impose fines, or take any other necessary actions to protect the health  
12           and safety of its citizens. The licensee is not eligible for a compact privilege in any  
13           state until the specific time for removal has passed and all fines are paid.
- 14           5. If a home state license is encumbered, the licensee loses the compact privilege in any  
15           remote state until the following occur:
- 16           a. The home state license is no longer encumbered; and  
17           b. Two years have elapsed from the date of the adverse action.
- 18           6. Once an encumbered license in the home state is restored to good standing, the  
19           licensee shall meet the requirements of subsection 1 to obtain a compact privilege in  
20           any remote state.
- 21           7. If a licensee's compact privilege in any remote state is removed, the individual loses  
22           the compact privilege in any remote state until the following occur:
- 23           a. The specific period of time for which the compact privilege was removed has  
24           ended;
- 25           b. All fines have been paid; and  
26           c. Two years have elapsed from the date of the adverse action.
- 27           8. Once the requirements of subsection 7 have been met, the licensee shall meet the  
28           requirements in subsection 1 to obtain a compact privilege in a remote state.

29           **ARTICLE V - ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

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

- 1        1. Home of record;
- 2        2. Permanent change of station; or
- 3        3. State of current residence if it is different from the permanent change of station state
- 4        or home of record.

**ARTICLE VI - ADVERSE ACTIONS**

- 6        1. A home state has the exclusive power to impose adverse action against a license
- 7        issued by the home state.
- 8        2. A home state may take adverse action based on the investigative information of a
- 9        remote state, if the home state follows its own procedures for imposing adverse action.
- 10       3. This compact does not override a member state's decision that participation in an
- 11       alternative program may be used in lieu of adverse action and that such participation
- 12       must remain nonpublic if required by the member state's laws. Member states shall
- 13       require licensees who enter any alternative programs in lieu of discipline to agree not
- 14       to practice in any other member state during the term of the alternative program
- 15       without prior authorization from such other member state.
- 16       4. Any member state may investigate actual or alleged violations of the statutes and
- 17       rules authorizing the practice of physical therapy in any other member state in which a
- 18       physical therapist or physical therapist assistant holds a license or compact privilege.
- 19       5. A remote state may:
  - 20       a. Take adverse actions as set forth in subsection 4 of article IV against a licensee's
  - 21       compact privilege in the state;
  - 22       b. Issue subpoenas for both hearings and investigations which require the
  - 23       attendance and testimony of witnesses, and the production of evidence.
  - 24       Subpoenas issued by a physical therapy licensing board in a party state for the
  - 25       attendance and testimony of witnesses, or the production of evidence from
  - 26       another party state, must be enforced in the latter state by any court of
  - 27       competent jurisdiction, according to the practice and procedure of that court
  - 28       applicable to subpoenas issued in proceedings pending before it. The issuing
  - 29       authority shall pay any witness fees, travel expenses, mileage, and other fees
  - 30       required by the service statutes of the state where the witnesses or evidence are
  - 31       located; and

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

4           6. Joint investigations.

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

8           b. Member states shall share any investigative, litigation, or compliance materials in  
9           furtherance of any joint or individual investigation initiated under the compact.

10       **ARTICLE VII - ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION**

11       1. The compact member states hereby create and establish a joint public agency known  
12       as the physical therapy compact commission:

13       a. The commission is an instrumentality of the compact states.

14       b. Venue is proper and judicial proceedings by or against the commission must be  
15       brought solely and exclusively in a court of competent jurisdiction where the  
16       principal office of the commission is located. The commission may waive venue  
17       and jurisdictional defenses to the extent it adopts or consents to participate in  
18       alternative dispute resolution proceedings.

19       c. This compact may not be construed to be a waiver of sovereign immunity.

20       2. Membership, voting, and meetings.

21       a. Each member state is limited to one delegate selected by that member state's  
22       licensing board.

23       b. The delegate must be a current member of the licensing board, who is a physical  
24       therapist, physical therapist assistant, public member, or the board administrator.

25       c. Any delegate may be removed or suspended from office as provided by the law  
26       of the state from which the delegate is appointed.

27       d. The member state board shall fill any vacancy occurring in the commission.

28       e. Each delegate is entitled to one vote with regard to the promulgation of rules and  
29       creation of bylaws and shall otherwise have an opportunity to participate in the  
30       business and affairs of the commission.

- 1           f. A delegate shall vote in person or by such other means as provided in the  
2           bylaws. The bylaws may provide for delegates' participation in meetings by  
3           telephone or other means of communication.
- 4           g. The commission shall meet at least once during each calendar year. Additional  
5           meetings must be held as set forth in the bylaws.
- 6        3. The commission shall have the following powers and duties:
- 7           a. Establish the fiscal year of the commission;
- 8           b. Establish bylaws;
- 9           c. Maintain its financial records in accordance with the bylaws;
- 10          d. Meet and take such actions as are consistent with the provisions of this compact  
11          and the bylaws;
- 12          e. Promulgate uniform rules to facilitate and coordinate implementation and  
13          administration of this compact. The rules have the force and effect of law and are  
14          binding in all member states;
- 15          f. Bring and prosecute legal proceedings or actions in the name of the commission,  
16          provided the standing of any state physical therapy licensing board to sue or be  
17          sued under applicable law may not be affected;
- 18          g. Purchase and maintain insurance and bonds;
- 19          h. Borrow, accept, or contract for services of personnel, including employees of a  
20          member state;
- 21          i. Hire employees; elect or appoint officers; fix compensation; define duties; grant  
22          such individuals appropriate authority to carry out the purposes of the compact;  
23          and to establish the commission's personnel policies and programs relating to  
24          conflicts of interest, qualifications of personnel, and other related personnel  
25          matters;
- 26          j. Accept any and all appropriate donations and grants of money, equipment,  
27          supplies, materials, and services, and to receive, utilize, and dispose of the  
28          same, provided that at all times the commission shall avoid any appearance of  
29          impropriety or conflict of interest;



- 1           k. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own,  
2           hold, improve, or use, any property, real, personal, or mixed, provided that at all  
3           times the commission shall avoid any appearance of impropriety;
- 4           l. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose  
5           of any property real, personal, or mixed;
- 6           m. Establish a budget and make expenditures;
- 7           n. Borrow money;
- 8           o. Appoint committees, including standing committees comprised of members, state  
9           regulators, state legislators or their representatives, and consumer  
10          representatives, and such other interested persons as may be designated in this  
11          compact and the bylaws;
- 12          p. Provide and receive information from, and cooperate with, law enforcement  
13          agencies;
- 14          q. Establish and elect an executive board; and
- 15          r. Perform such other functions as may be necessary or appropriate to achieve the  
16          purposes of this compact consistent with the state regulation of physical therapy  
17          licensure and practice.
- 18          4. The executive board may act on behalf of the commission according to the terms of  
19          this compact:
- 20           a. The executive board must be comprised of nine members:
- 21               (1) Seven voting members who are elected by the commission from the current  
22               membership of the commission;
- 23               (2) One ex officio, nonvoting member from the recognized national physical  
24               therapy professional association; and
- 25               (3) One ex officio, nonvoting member from the recognized membership  
26               organization of the physical therapy licensing boards.
- 27           b. The ex officio members are selected by their respective organizations.
- 28           c. The commission may remove any member of the executive board as provided in  
29           bylaws.
- 30           d. The executive board shall meet at least annually.
- 31           e. The executive board shall:

- 1           (1) Recommend to the entire commission changes to the rules or bylaws,
- 2           changes to this compact legislation, fees paid by compact member states
- 3           such as annual dues, and any commission compact fee charged to
- 4           licensees for the compact privilege;
- 5           (2) Ensure compact administration services are appropriately provided,
- 6           contractual or otherwise;
- 7           (3) Prepare and recommend the budget;
- 8           (4) Maintain financial records on behalf of the commission;
- 9           (5) Monitor compact compliance of member states and provide compliance
- 10          reports to the commission;
- 11          (6) Establish additional committees as necessary; and
- 12          (7) Other duties as provided in rules or bylaws.
- 13        5. Meetings of the commission.
- 14        a. All meetings are open to the public, and public notice of meetings must be given
- 15        in the same manner as required under the rulemaking provisions in article IX.
- 16        b. The commission or the executive board or other committees of the commission
- 17        may convene in a closed, nonpublic meeting if the commission or executive
- 18        board or other committees of the commission must discuss:
- 19        (1) Noncompliance of a member state with its obligations under the compact;
- 20        (2) The employment, compensation, discipline, or other matters, practices, or
- 21        procedures related to specific employees or other matters related to the
- 22        commission's internal personnel practices and procedures;
- 23        (3) Current, threatened, or reasonably anticipated litigation;
- 24        (4) Negotiation of contracts for the purchase, lease, or sale of goods, services,
- 25        or real estate;
- 26        (5) Accusing any person of a crime or formally censuring any person;
- 27        (6) Disclosure of trade secrets or commercial or financial information that is
- 28        privileged or confidential;
- 29        (7) Disclosure of information of a personal nature if disclosure would constitute
- 30        a clearly unwarranted invasion of personal privacy;
- 31        (8) Disclosure of investigative records compiled for law enforcement purposes;

- 1           (9) Disclosure of information related to any investigative reports prepared by or  
2           on behalf of or for use of the commission or other committee charged with  
3           responsibility of investigation or determination of compliance issues  
4           pursuant to the compact; or
- 5           (10) Matters specifically exempted from disclosure by federal or member state  
6           statute.
- 7           c. If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
8           commission's legal counsel or designee shall certify that the meeting may be  
9           closed and shall reference each relevant exempting provision.
- 10          d. The commission shall keep minutes that fully and clearly describe all matters  
11          discussed in a meeting and shall provide a full and accurate summary of actions  
12          taken, and the reasons therefore, including a description of the views expressed.  
13          All documents considered in connection with an action must be identified in such  
14          minutes. All minutes and documents of a closed meeting must remain under seal,  
15          subject to release by a majority vote of the commission or order of a court of  
16          competent jurisdiction.
- 17          6. Financing of the commission.
- 18          a. The commission shall pay, or provide for the payment of, the reasonable  
19          expenses of its establishment, organization, and ongoing activities.
- 20          b. The commission may accept any and all appropriate revenue sources, donations,  
21          and grants of money, equipment, supplies, materials, and services.
- 22          c. The commission may levy on and collect an annual assessment from each  
23          member state or impose fees on other parties to cover the cost of the operations  
24          and activities of the commission and its staff, which must be in a total amount  
25          sufficient to cover its annual budget as approved each year for which revenue is  
26          not provided by other sources. The aggregate annual assessment amount must  
27          be allocated based upon a formula to be determined by the commission, which  
28          shall promulgate a rule binding upon all member states.
- 29          d. The commission may not incur obligations of any kind before securing the funds  
30          adequate to meet the same, nor may the commission pledge the credit of any of  
31          the member states, except by and with the authority of the member state.

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

7        7. Qualified immunity, defense, and indemnification.

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

18          b. The commission shall defend any member, officer, executive director, employee,  
19          or representative of the commission in any civil action seeking to impose liability  
20          arising out of any actual or alleged act, error, or omission that occurred within the  
21          scope of commission employment, duties, or responsibilities, or that the person  
22          against whom the claim is made had a reasonable basis for believing occurred  
23          within the scope of commission employment, duties, or responsibilities, provided  
24          this subdivision may not be construed to prohibit that person from retaining that  
25          person's own counsel, and provided further, that the actual or alleged act, error,  
26          or omission did not result from that person's intentional, willful, or wanton  
27          misconduct.

28          c. The commission shall indemnify and hold harmless any member, officer,  
29          executive director, employee, or representative of the commission for the amount  
30          of any settlement or judgment obtained against that person arising out of any  
31          actual or alleged act, error, or omission that occurred within the scope of

1 commission employment, duties, or responsibilities, or that such person had a  
2 reasonable basis for believing occurred within the scope of commission  
3 employment, duties, or responsibilities, provided that the actual or alleged act,  
4 error, or omission did not result from the intentional, willful, or wanton misconduct  
5 of that person.

#### **ARTICLE VIII - DATA SYSTEM**

- 7 1. The commission shall provide for the development, maintenance, and utilization of a  
8 coordinated database and reporting system containing licensure, adverse action, and  
9 investigative information on all licensed individuals in member states.
- 10 2. Notwithstanding any other provision of state law to the contrary, a member state shall  
11 submit a uniform data set to the data system on all individuals to whom this compact is  
12 applicable as required by the rules of the commission, including:
- 13 a. Identifying information;  
14 b. Licensure data;  
15 c. Adverse actions against a license or compact privilege;  
16 d. Nonconfidential information related to alternative program participation;  
17 e. Any denial of application for licensure, and the reason for such denial; and  
18 f. Other information that may facilitate the administration of this compact, as  
19 determined by the rules of the commission.
- 20 3. Investigative information pertaining to a licensee in any member state will only be  
21 available to other party states.
- 22 4. The commission promptly shall notify all member states of any adverse action taken  
23 against a licensee or an individual applying for a license. Adverse action information  
24 pertaining to a licensee in any member state is available to any other member state.
- 25 5. Member states contributing information to the data system may designate information  
26 that may not be shared with the public without the express permission of the  
27 contributing state.
- 28 6. Any information submitted to the data system that is subsequently required to be  
29 expunged by the laws of the member state contributing the information must be  
30 removed from the data system.

#### **ARTICLE IX - RULEMAKING**

- 1       1. The commission shall exercise its rulemaking powers pursuant to the criteria set forth  
2           in this article and the rules adopted under this article. Rules and amendments become  
3           binding as of the date specified in each rule or amendment.
- 4       2. If a majority of the legislatures of the member states reject a rule, by enactment of a  
5           statute or resolution in the same manner used to adopt the compact within four years  
6           of the date of adoption of the rule, then such rule has no further force and effect in any  
7           member state.
- 8       3. Rules or amendments to the rules must be adopted at a regular or special meeting of  
9           the commission.
- 10      4. Before promulgation and adoption of a final rule or rules by the commission, and at  
11           least thirty days in advance of the meeting at which the rule will be considered and  
12           voted upon, the commission shall file a notice of proposed rulemaking:
  - 13           a. On the website of the commission or other publicly accessible platform; and
  - 14           b. On the website of each member state physical therapy licensing board or other  
15               publicly accessible platform or the publication in which each state would  
16               otherwise publish proposed rules.
- 17      5. The notice of proposed rulemaking must include:
  - 18           a. The proposed time, date, and location of the meeting in which the rule will be  
19               considered and voted upon;
  - 20           b. The text of the proposed rule or amendment and the reason for the proposed  
21               rule;
  - 22           c. A request for comments on the proposed rule from any interested person; and
  - 23           d. The manner in which interested persons may submit notice to the commission of  
24               the interested persons' intentions to attend the public hearing and any written  
25               comments.
- 26      6. Before adoption of a proposed rule, the commission shall allow persons to submit  
27           written data, facts, opinions, and arguments, which must be made available to the  
28           public.
- 29      7. The commission shall grant an opportunity for a public hearing before it adopts a rule  
30           or amendment if a hearing is requested by:
  - 31           a. At least twenty-five persons;

- 1           b. A state or federal governmental subdivision or agency; or  
2           c. An association having at least twenty-five members.  
3       8. If a hearing is held on the proposed rule or amendment, the commission shall publish  
4       the place, time, and date of the scheduled public hearing. If the hearing is held via  
5       electronic means, the commission shall publish the mechanism for access to the  
6       electronic hearing.  
7           a. All persons wishing to be heard at the hearing shall notify the executive director  
8           of the commission or other designated member in writing of their desire to appear  
9           and testify at the hearing not less than five business days before the scheduled  
10          date of the hearing.  
11          b. Hearings must be conducted in a manner providing each person who wishes to  
12          comment a fair and reasonable opportunity to comment orally or in writing.  
13          c. All hearings must be recorded. A copy of the recording must be made available  
14          on request.  
15          d. This section may not be construed as requiring a separate hearing on each rule.  
16          Rules may be grouped for the convenience of the commission at hearings  
17          required by this section.  
18       9. Following the scheduled hearing date, or by the close of business on the scheduled  
19       hearing date if the hearing was not held, the commission shall consider all written and  
20       oral comments received.  
21       10. If written notice of intent to attend the public hearing by interested parties is not  
22       received, the commission may proceed with promulgation of the proposed rule without  
23       a public hearing.  
24       11. By majority vote of all members, the commission shall take final action on the  
25       proposed rule and shall determine the effective date of the rule, if any, based on the  
26       rulemaking record and the full text of the rule.  
27       12. Upon determination that an emergency exists, the commission may consider and  
28       adopt an emergency rule without prior notice, opportunity for comment, or hearing,  
29       provided that the usual rulemaking procedures provided in the compact and in this  
30       section must be retroactively applied to the rule as soon as reasonably possible, in no

- 1 event later than ninety days after the effective date of the rule. For the purposes of this  
2 provision, an emergency rule is one that must be adopted immediately in order to:  
3 a. Meet an imminent threat to public health, safety, or welfare;  
4 b. Prevent a loss of commission or member state funds;  
5 c. Meet a deadline for the promulgation of an administrative rule that is established  
6 by federal law or rule; or  
7 d. Protect public health and safety.

- 8 13. The commission or an authorized committee of the commission may direct revisions to  
9 a previously adopted rule or amendment for purposes of correcting typographical  
10 errors, errors in format, errors in consistency, or grammatical errors. Public notice of  
11 any revisions must be posted on the website of the commission. The revision is  
12 subject to challenge by any person for a period of thirty days after posting. The  
13 revision may be challenged only on grounds the revision results in a material change  
14 to a rule. A challenge must be made in writing, and delivered to the chair of the  
15 commission before the end of the notice period. If a challenge is not made, the  
16 revision takes effect without further action. If the revision is challenged, the revision  
17 may not take effect without the approval of the commission.

18 **ARTICLE X - OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

- 19 1. Oversight.  
20 a. The executive, legislative, and judicial branches of state government in each  
21 member state shall enforce this compact and take all actions necessary and  
22 appropriate to effectuate the compact's purposes and intent. The provisions of  
23 this compact and the rules promulgated under this compact have standing as  
24 statutory law.  
25 b. All courts shall take judicial notice of the compact and the rules in any judicial or  
26 administrative proceeding in a member state pertaining to the subject matter of  
27 this compact which may affect the powers, responsibilities, or actions of the  
28 commission.  
29 c. The commission is entitled to receive service of process in any such proceeding,  
30 and has standing to intervene in such a proceeding for all purposes. Failure to



1                   provide service of process to the commission renders a judgment or order void  
2                   as to the commission, this compact, or promulgated rules.

3           2. Default, technical assistance, and termination.

4           a. If the commission determines that a member state has defaulted in the  
5           performance of its obligations or responsibilities under this compact or the  
6           promulgated rules, the commission shall:

7                   (1) Provide written notice to the defaulting state and other member states of the  
8                   nature of the default, the proposed means of curing the default, and any  
9                   other action to be taken by the commission; and

10                   (2) Provide remedial training and specific technical assistance regarding the  
11                   default.

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

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

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

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

29           f. The defaulting state may appeal the action of the commission by petitioning the  
30           United States district court for the District of Columbia or the federal district

- 1           where the commission has its principal offices. The prevailing member must be  
2           awarded all costs of such litigation, including reasonable attorney's fees.
- 3        3. Dispute resolution.
- 4        a. Upon request by a member state, the commission shall attempt to resolve  
5           disputes related to the compact which arise among member states and between  
6           member and nonmember states.
- 7        b. The commission shall promulgate a rule providing for both mediation and binding  
8           dispute resolution for disputes as appropriate.
- 9        4. Enforcement.
- 10       a. The commission, in the reasonable exercise of its discretion, shall enforce the  
11           provisions and rules of this compact.
- 12       b. By majority vote, the commission may initiate legal action in the United States  
13           district court for the District of Columbia or the federal district where the  
14           commission has its principal offices against a member state in default to enforce  
15           compliance with the provisions of the compact and its promulgated rules and  
16           bylaws. The relief sought may include both injunctive relief and damages. If  
17           judicial enforcement is necessary, the prevailing member must be awarded all  
18           costs of such litigation, including reasonable attorney's fees.
- 19       c. The remedies herein are not the exclusive remedies of the commission. The  
20           commission may pursue any other remedies available under federal or state law.

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

- 24        1. The compact comes into effect on the date on which the compact statute is enacted  
25           into law in the tenth member state. The provisions, which become effective at that  
26           time, are limited to the powers granted to the commission relating to assembly and the  
27           promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking  
28           powers necessary to the implementation and administration of the compact.
- 29        2. Any state that joins the compact after the commission's initial adoption of the rules is  
30           subject to the rules as they exist on the date on which the compact becomes law in

- 1           that state. Any rule that has been previously adopted by the commission has the full  
2           force and effect of law on the day the compact becomes law in that state.
- 3        3. Any member state may withdraw from this compact by enacting a statute repealing the  
4           same.
- 5           a. A member state's withdrawal does not take effect until six months after  
6           enactment of the repealing statute.
- 7           b. Withdrawal does not affect the continuing requirement of the withdrawing state's  
8           physical therapy licensing board to comply with the investigative and adverse  
9           action reporting requirements of this compact before the effective date of  
10          withdrawal.
- 11        4. This compact may not be construed to invalidate or prevent any physical therapy  
12          licensure agreement or other cooperative arrangement between a member state and a  
13          nonmember state which does not conflict with the provisions of this compact.
- 14        5. This compact may be amended by the member states. An amendment to this compact  
15          may not become effective and binding upon any member state until it is enacted into  
16          the laws of all member states.

#### 17                           **ARTICLE XII - CONSTRUCTION AND SEVERABILITY**

18        This compact must be liberally construed so as to effectuate the purposes of the compact.  
19        The provisions of this compact are severable and if any phrase, clause, sentence, or provision  
20        of this compact is declared to be contrary to the constitution of any party state or of the United  
21        States or the applicability thereof to any government, agency, person, or circumstance is held  
22        invalid, the validity of the remainder of this compact and the applicability of the remainder of this  
23        compact to any government, agency, person, or circumstance is not affected thereby. If this  
24        compact is held contrary to the constitution of any party state, the compact remains in full force  
25        and effect as to the remaining party states and in full force and effect as to the party state  
26        affected as to all severable matters.