

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1421

5 By: Representatives Boyd, Vaught
6 By: Senator K. Hammer
7

For An Act To Be Entitled

9 AN ACT TO ESTABLISH THE INTERSTATE PHYSICAL THERAPY
10 LICENSURE COMPACT IN ARKANSAS; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

14 TO ESTABLISH THE INTERSTATE PHYSICAL
15 THERAPY LICENSURE COMPACT IN ARKANSAS.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 17, Chapter 93, is amended to add an
22 additional subchapter to read as follows:

Subchapter 5 – Physical Therapy Licensure Compact

24
25 17-93-501. Text of compact.

26 The Physical Therapy Licensure Compact is enacted into law and entered
27 into by this state with all states legally joining therein and in the form
28 substantially as follows:
29

PHYSICAL THERAPY LICENSURE COMPACT

SECTION 1. PURPOSE

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32 The purpose of this Compact is to facilitate interstate practice of physical
33 therapy with the goal of improving public access to physical therapy
34 services. The practice of physical therapy occurs in the state where the
35 patient/client is located at the time of the patient/client encounter. The
36



1 Compact preserves the regulatory authority of states to protect public health
2 and safety through the current system of state licensure.

3 This Compact is designed to achieve the following objectives:

4 1. Increase public access to physical therapy services by providing
5 for the mutual recognition of other member state licenses;

6 2. Enhance the states' ability to protect the public's health and
7 safety;

8 3. Encourage the cooperation of member states in regulating multi-
9 state physical therapy practice;

10 4. Support spouses of relocating military members;

11 5. Enhance the exchange of licensure, investigative, and disciplinary
12 information between member states; and

13 6. Allow a remote state to hold a provider of services with a compact
14 privilege in that state accountable to that state's practice standards.

15
16 SECTION 2. DEFINITIONS

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

19 1. "Active Duty Military" means full-time duty status in the active
20 uniformed service of the United States, including members of the National
21 Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209
22 and 1211.

23 2. "Adverse Action" means disciplinary action taken by a physical
24 therapy licensing board based upon misconduct, unacceptable performance, or a
25 combination of both.

26 3. "Alternative Program" means a non-disciplinary monitoring or
27 practice remediation process approved by a physical therapy licensing board.
28 This includes, but is not limited to, substance abuse issues.

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

35 5. "Continuing competence" means a requirement, as a condition of
36 license renewal, to provide evidence of participation in, and/or completion

1 of, educational and professional activities relevant to practice or area of
2 work.

3 6. "Data system" means a repository of information about licensees,
4 including examination, licensure, investigative, compact privilege, and
5 adverse action.

6 7. "Encumbered license" means a license that a physical therapy
7 licensing board has limited in any way.

8 8. "Executive Board" means a group of directors elected or appointed
9 to act on behalf of, and within the powers granted to them by, the
10 Commission.

11 9. "Home state" means the member state that is the licensee's primary
12 state of residence.

13 10. "Investigative information" means information, records, and
14 documents received or generated by a physical therapy licensing board
15 pursuant to an investigation.

16 11. "Jurisprudence Requirement" means the assessment of an
17 individual's knowledge of the laws and rules governing the practice of
18 physical therapy in a state.

19 12. "Licensee" means an individual who currently holds an
20 authorization from the state to practice as a physical therapist or to work
21 as a physical therapist assistant.

22 13. "Member state" means a state that has enacted the Compact.

23 14. "Party state" means any member state in which a licensee holds a
24 current license or compact privilege or is applying for a license or compact
25 privilege.

26 15. "Physical therapist" means an individual who is licensed by a
27 state to practice physical therapy.

28 16. "Physical therapist assistant" means an individual who is
29 licensed/certified by a state and who assists the physical therapist in
30 selected components of physical therapy.

31 17. "Physical therapy," "physical therapy practice," and "the practice
32 of physical therapy" mean the care and services provided by or under the
33 direction and supervision of a licensed physical therapist.

34 18. "Physical Therapy Compact Commission" or "Commission" means the
35 national administrative body whose membership consists of all states that
36 have enacted the Compact.

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

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

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

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

10
11 SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

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

15 2. Have a mechanism in place for receiving and investigating
16 complaints about licensees;

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

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

25 5. Comply with the rules of the Commission;

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

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

30 B. Upon adoption of this statute, the member state shall have the
31 authority to obtain biometric-based information from each physical therapy
32 licensure applicant and submit this information to the Federal Bureau of
33 Investigation for a criminal background check in accordance with 28 U.S.C. §
34 534 and 42 U.S.C. §14616.

35 C. A member state shall grant the compact privilege to a licensee
36 holding a valid unencumbered license in another member state in accordance

1 with the terms of the Compact and rules.

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

3
4 SECTION 4. COMPACT PRIVILEGE

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

7 1. Hold a license in the home state;

8 2. Have no encumbrance on any state license;

9 3. Be eligible for a compact privilege in any member state in
10 accordance with Sections 4D, G and H;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 2. All fines have been paid; and

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

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

15
 16 SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

20 A. Home of record;

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

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

24
 25 SECTION 6. ADVERSE ACTIONS

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

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

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

1 authorization from such other member state.

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

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

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

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

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

22 F. Joint Investigations

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

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

30
31 SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION.

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

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

35 2. Venue is proper and judicial proceedings by or against the
36 Commission shall be brought solely and exclusively in a court of competent

1 jurisdiction where the principal office of the Commission is located. The
2 Commission may waive venue and jurisdictional defenses to the extent it
3 adopts or consents to participate in alternative dispute resolution
4 proceedings.

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

7 B. Membership, Voting, and Meetings

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

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

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

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

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

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

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

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

26 1. Establish the fiscal year of the Commission;

27 2. Establish bylaws;

28 3. Maintain its financial records in accordance with the bylaws;

29 4. Meet and take such actions as are consistent with the
30 provisions of this Compact and the bylaws;

31 5. Promulgate uniform rules to facilitate and coordinate
32 implementation and administration of this Compact. The rules shall have the
33 force and effect of law and shall be binding in all member states;

34 6. Bring and prosecute legal proceedings or actions in the name
35 of the Commission, provided that the standing of any state physical therapy
36 licensing board to sue or be sued under applicable law shall not be affected;

1 7. Purchase and maintain insurance and bonds;

2 8. Borrow, accept, or contract for services of personnel,
3 including, but not limited to, employees of a member state;

4 9. Hire employees, elect or appoint officers, fix compensation,
5 define duties, grant such individuals appropriate authority to carry out the
6 purposes of the Compact, and to establish the Commission's personnel policies
7 and programs relating to conflicts of interest, qualifications of personnel,
8 and other related personnel matters;

9 10. Accept any and all appropriate donations and grants of
10 money, equipment, supplies, materials and services, and to receive, utilize
11 and dispose of the same; provided that at all times the Commission shall
12 avoid any appearance of impropriety and/or conflict of interest;

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

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

19 13. Establish a budget and make expenditures;

20 14. Borrow money;

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

25 16. Provide and receive information from, and cooperate with,
26 law enforcement agencies;

27 17. Establish and elect an Executive Board; and

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

31 D. The Executive Board

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

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

35 a. Seven voting members who are elected by the Commission
36 from the current membership of the Commission;

1 b. One ex-officio, nonvoting member from the recognized
2 national physical therapy professional association; and

3 c. One ex-officio, nonvoting member from the recognized
4 membership organization of the physical therapy licensing boards.

5 2. The ex-officio members will be selected by their respective
6 organizations.

7 3. The Commission may remove any member of the Executive Board
8 as provided in bylaws.

9 4. The Executive Board shall meet at least annually.

10 5. The Executive Board shall have the following Duties and
11 responsibilities:

12 a. Recommend to the entire Commission changes to the rules
13 or bylaws, changes to this Compact legislation, fees paid by Compact member
14 states such as annual dues, and any commission Compact fee charged to
15 licensees for the compact privilege;

16 b. Ensure Compact administration services are
17 appropriately provided, contractual or otherwise;

18 c. Prepare and recommend the budget;

19 d. Maintain financial records on behalf of the Commission;

20 e. Monitor Compact compliance of member states and provide
21 compliance reports to the Commission;

22 f. Establish additional committees as necessary; and

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

24 E. Meetings of the Commission

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

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

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

33 b. The employment, compensation, discipline or other
34 matters, practices or procedures related to specific employees or other
35 matters related to the Commission's internal personnel practices and
36 procedures;

1 c. Current, threatened, or reasonably anticipated
2 litigation;

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

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

7 f. Disclosure of trade secrets or commercial or financial
8 information that is privileged or confidential;

9 g. Disclosure of information of a personal nature where
10 disclosure would constitute a clearly unwarranted invasion of personal
11 privacy;

12 h. Disclosure of investigative records compiled for law
13 enforcement purposes;

14 i. Disclosure of information related to any investigative
15 reports prepared by or on behalf of or for use of the Commission or other
16 committee charged with responsibility of investigation or determination of
17 compliance issues pursuant to the Compact; or

18 j. Matters specifically exempted from disclosure by
19 federal or member state statute.

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

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

31 F. Financing of the Commission

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

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

1 services.

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

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

13 5. The Commission shall keep accurate accounts of all receipts
14 and disbursements. The receipts and disbursements of the Commission shall be
15 subject to the audit and accounting procedures established under its bylaws.
16 However, all receipts and disbursements of funds handled by the Commission
17 shall be audited yearly by a certified or licensed public accountant, and the
18 report of the audit shall be included in and become part of the annual report
19 of the Commission.

20 G. Qualified Immunity, Defense, and Indemnification

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

32 2. The Commission shall defend any member, officer, executive
33 director, employee or representative of the Commission in any civil action
34 seeking to impose liability arising out of any actual or alleged act, error,
35 or omission that occurred within the scope of Commission employment, duties,
36 or responsibilities, or that the person against whom the claim is made had a

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

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

15
16 SECTION 8. DATA SYSTEM

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

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

25 1. Identifying information;

26 2. Licensure data;

27 3. Adverse actions against a license or compact privilege;

28 4. Non-confidential information related to alternative program
29 participation;

30 5. Any denial of application for licensure, and the reason(s)
31 for such denial; and

32 6. Other information that may facilitate the administration of
33 this Compact, as determined by the rules of the Commission.

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

36 D. The Commission shall promptly notify all member states of any

1 adverse action taken against a licensee or an individual applying for a
2 license. Adverse action information pertaining to a licensee in any member
3 state will be available to any other member state.

4 E. Member states contributing information to the data system may
5 designate information that may not be shared with the public without the
6 express permission of the contributing state.

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

10
11 SECTION 9. RULEMAKING

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

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

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

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

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

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

31 E. The Notice of Proposed Rulemaking shall include:

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

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

36 3. A request for comments on the proposed rule from any

1 interested person; and

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

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

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

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

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

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

13 H. If a hearing is held on the proposed rule or amendment, the
14 Commission shall publish the place, time, and date of the scheduled public
15 hearing. If the hearing is held via electronic means, the Commission shall
16 publish the mechanism for access to the electronic hearing.

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

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

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

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

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

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

35 K. The Commission shall, by majority vote of all members, take final
36 action on the proposed rule and shall determine the effective date of the

1 rule, if any, based on the rulemaking record and the full text of the rule.

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

9 1. Meet an imminent threat to public health, safety, or welfare;

10 2. Prevent a loss of Commission or member state funds;

11 3. Meet a deadline for the promulgation of an administrative
 12 rule that is established by federal law or rule; or

13 4. Protect public health and safety.

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

26 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

27 A. Oversight

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

33 2. All courts shall take judicial notice of the Compact and the
 34 rules in any judicial or administrative proceeding in a member state
 35 pertaining to the subject matter of this Compact which may affect the powers,
 36

1 responsibilities or actions of the Commission.

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

7 B. Default, Technical Assistance, and Termination

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

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

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

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

22 3. Termination of membership in the Compact shall be imposed
23 only after all other means of securing compliance have been exhausted. Notice
24 of intent to suspend or terminate shall be given by the Commission to the
25 governor, the majority and minority leaders of the defaulting state's
26 legislature, and each of the member states.

27 4. A state that has been terminated is responsible for all
28 assessments, obligations, and liabilities incurred through the effective date
29 of termination, including obligations that extend beyond the effective date
30 of termination.

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

35 6. The defaulting state may appeal the action of the Commission
36 by petitioning the U.S. District Court for the District of Columbia or the

1 federal district where the Commission has its principal offices. The
2 prevailing member shall be awarded all costs of such litigation, including
3 reasonable attorney's fees.

4 C. Dispute Resolution

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

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

10 D. Enforcement

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

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

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

24
25 SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR
26 PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

27 A. The Compact shall come into effect on the date on which the Compact
28 statute is enacted into law in the tenth member state. The provisions, which
29 become effective at that time, shall be limited to the powers granted to the
30 Commission relating to assembly and the promulgation of rules. Thereafter,
31 the Commission shall meet and exercise rulemaking powers necessary to the
32 implementation and administration of the Compact.

33 B. Any state that joins the Compact subsequent to the Commission's
34 initial adoption of the rules shall be subject to the rules as they exist on
35 the date on which the Compact becomes law in that state. Any rule that has
36 been previously adopted by the Commission shall have the full force and

1 effect of law on the day the Compact becomes law in that state.

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

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

6 2. Withdrawal shall not affect the continuing requirement of the
7 withdrawing state's physical therapy licensing board to comply with the
8 investigative and adverse action reporting requirements of this act prior to
9 the effective date of withdrawal.

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

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

17
18 SECTION 12. CONSTRUCTION AND SEVERABILITY

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

30
31 17-93-502. Administration of compact – Rules.

32 (a) The Arkansas State Board of Physical Therapy is the Physical
33 Therapy Licensure Compact administrator for this state.

34 (b)(1) The board may adopt rules necessary to implement this
35 subchapter.

36 (2)(A) When adopting the initial rules to implement this

1 subchapter, the final rule shall be filed with the Secretary of State for
2 adoption under § 25-15-204(f):

3 (i) On or before January 1, 2020; or

4 (ii) If approval under § 10-3-309 has not occurred
5 by January 1, 2020, as soon as practicable after approval under § 10-3-309.

6 (B) The board shall file the proposed rule with the
7 Legislative Council under § 10-3-309(c) sufficiently in advance of January 1,
8 2020, so that the Legislative Council may consider the rule for approval
9 before January 1, 2020.

10 (c) The board is not required to adopt the rules of the Physical
11 Therapy Compact Commission.

12
13 17-93-503. Disclosure of personal information.

14 (a) In reporting information to the coordinated database and reporting
15 system under the Physical Therapy Licensure Compact, the Arkansas State Board
16 of Physical Therapy may disclose personally identifiable information about a
17 physical therapist or physical therapist assistant, including the Social
18 Security number of the individual.

19 (b) The coordinated database and reporting system shall not share
20 personally identifiable information with a state that is not a party to the
21 compact unless the state agrees to not disclose that information to any other
22 person.

23
24 17-93-504. Participation in compact as condition of employment.

25 (a) An employer shall not require a physical therapist or a physical
26 therapist assistant to seek licensure through the Physical Therapy Licensure
27 Compact as a condition of initial or continued employment as a physical
28 therapist or physical therapist assistant in this state.

29 (b) An employer may require that a physical therapist or physical
30 therapist assistant obtain and maintain a license to practice physical
31 therapy in multiple states if the physical therapist or physical therapist
32 assistant is free to obtain and maintain the licenses by any means authorized
33 by the laws of the respective states.

34
35 17-93-505. Criminal background check.

36 (a) The Arkansas State Board of Physical Therapy shall forward

1 fingerprints of each applicant for licensure to the Department of Arkansas
2 State Police.

3 (b) The department shall conduct a state and national criminal
4 background check and provide the results of the criminal background check to
5 the board.

6 (c) The board shall use the results of the criminal background check
7 when making licensure determinations.

8 (d) Initial licensure under §§ 17-93-303 and 17-93-304 is conditioned
9 upon a criminal background check.

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12 **APPROVED: 3/5/19**
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