

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 12

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

## AN ACT

RELATING TO LICENSURE; ENACTING THE PHYSICAL THERAPY LICENSURE  
COMPACT; AMENDING THE PHYSICAL THERAPY ACT TO PROVIDE FOR STATE  
AND FEDERAL CRIMINAL HISTORY BACKGROUND CHECKS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 and 2 of this act may be cited as the "Physical Therapy Licensure Compact".

**SECTION 2. [NEW MATERIAL] PHYSICAL THERAPY LICENSURE COMPACT**

COMPACT ENTERED INTO.--The Physical Therapy Licensure Compact is entered into law and entered into with all other jurisdictions legally joining therein in a form substantially as follows:

## "PHYSICAL THERAPY LICENSURE COMPACT

## ARTICLE 1 - Definitions

.233395.1

1           As used in the Physical Therapy Licensure Compact, and  
2 except as otherwise provided, the following definitions shall  
3 apply:

4           A. "active duty military" means full-time duty  
5 status in the active uniformed service of the United States,  
6 including members of the national guard and reserve on active  
7 duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211;

8           B. "adverse action" means disciplinary action taken  
9 by a physical therapy licensing board based on misconduct,  
10 unacceptable performance or a combination of both;

11           C. "alternative program" means a nondisciplinary  
12 monitoring or practice remediation process approved by a  
13 physical therapy licensing board. This includes, but is not  
14 limited to, substance abuse issues;

15           D. "compact privilege" means the authorization  
16 granted by a remote state to allow a licensee from another  
17 member state to practice as a physical therapist or work as a  
18 physical therapist assistant in the remote state under its laws  
19 and rules. The practice of physical therapy occurs in the  
20 member state where the patient or client is located at the time  
21 of the patient or client encounter;

22           E. "continuing competence" means a requirement, as  
23 a condition of license renewal, to provide evidence of  
24 participation in, or completion of, educational and  
25 professional activities relevant to practice or area of work;

1                   F. "data system" means a repository of information  
2 about licensees, including examination, licensure,  
3 investigative, compact privilege and adverse action;

4                   G. "encumbered license" means a license that a  
5 physical therapy licensing board has limited in any way;

6                   H. "executive board" means a group of directors  
7 elected or appointed to act on behalf of, and within the powers  
8 granted to them by, the commission;

9                   I. "home state" means the member state that is the  
10 licensee's primary state of residence;

11                  J. "investigative information" means information,  
12 records and documents received or generated by a physical  
13 therapy licensing board pursuant to an investigation;

14                  K. "jurisprudence requirement" means the assessment  
15 of an individual's knowledge of the laws and rules governing  
16 the practice of physical therapy in a state;

17                  L. "licensee" means an individual who currently  
18 holds an authorization from the state to practice as a physical  
19 therapist or to work as a physical therapist assistant;

20                  M. "member state" means a state that has enacted  
21 the compact;

22                  N. "party state" means any member state in which a  
23 licensee holds a current license or compact privilege or is  
24 applying for a license or compact privilege;

25                  O. "physical therapist" means an individual who is

.233395.1

underscored material = new  
[bracketed material] = delete

1       licensed by a state to practice physical therapy;

2               P. "physical therapist assistant" means an  
3       individual who is licensed or certified by a state and who  
4       assists the physical therapist in selected components of  
5       physical therapy;

6               Q. "physical therapy", "physical therapy practice"  
7       or "the practice of physical therapy" means the care and  
8       services provided by or under the direction and supervision of  
9       a licensed physical therapist;

10              R. "physical therapy compact commission", "compact  
11       commission" or "commission" means the national administrative  
12       body whose membership consists of all states that have enacted  
13       the Physical Therapy Licensure Compact;

14              S. "physical therapy licensing board" or "licensing  
15       board" means the agency of a state that is responsible for the  
16       licensing and regulation of physical therapists and physical  
17       therapist assistants;

18              T. "remote state" means a member state other than  
19       the home state in which a licensee is exercising or seeking to  
20       exercise the compact privilege;

21              U. "rule" means a regulation, principle or  
22       directive promulgated by the commission that has the force of  
23       law; and

24              V. "state" means any state, commonwealth, district  
25       or territory of the United States of America that regulates the

1 practice of physical therapy.

2                   ARTICLE 2 - State Participation in Compact

3                   A. Each member state shall enforce the Physical  
4 Therapy Licensure Compact and shall take all actions necessary  
5 and appropriate to effectuate the compact's purposes and  
6 intent. The provisions of that compact and the rules  
7 promulgated pursuant to that compact shall have standing as law  
8 but shall not override existing state authority to regulate the  
9 practice of physical therapy.

10                  B. All courts shall give deference and take  
11 judicial notice of the Physical Therapy Licensure Compact and  
12 rules promulgated pursuant to that compact in any judicial or  
13 administrative proceeding in a member state pertaining to the  
14 subject matter of that compact that may affect the powers,  
15 responsibilities or actions of the physical therapy compact  
16 commission.

17                  C. The physical therapy compact commission shall be  
18 entitled to receive all services of process in such proceeding  
19 and shall have standing to intervene in the proceeding for all  
20 purposes. Failure to provide service of process to the compact  
21 commission shall render a judgment or order void as to the  
22 compact commission, the Physical Therapy Licensure Compact or  
23 promulgated rules.

24                  D. To participate in the Physical Therapy Licensure  
25 Compact, a state must:

.233395.1

underscored material = new  
[bracketed material] = delete

(1) participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;

(2) have a mechanism in place for receiving and investigating complaints about licensees;

(3) notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

(4) fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the federal bureau of investigation record search on criminal background checks and using the results in making licensure decisions in accordance with Subsection B of this article;

(5) comply with the rules of the commission;

(6) use a recognized national examination as a requirement for licensure pursuant to the rules of the commission; and

(7) have continuing competence requirements as a condition for license renewal.

E. Upon adoption of this compact, the member state shall have the authority to obtain biometric-based information from each physical therapy licensure applicant and submit this information to the federal bureau of investigation for a

criminal background check in accordance with 28 U.S.C. Section 534 and 42 U.S.C. Section 14616.

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

G. Member states may charge a fee for granting a compact privilege.

### ARTICLE 3 - Compact Privilege

A. To exercise the compact privilege under the terms and provisions of the Physical Therapy Licensure Compact, the licensee shall:

- (1) hold a license in the home state;
- (2) have no encumbrance on any state license;
- (3) be eligible for a compact privilege in any member state in accordance with Subsections D, G and H of this article;

(4) have not had any adverse action against any license or compact privilege within the previous two years;

(5) notify the commission that the licensee is seeking the compact privilege within a remote state;

(6) pay applicable fees, including any state fee, for the compact privilege;

(7) meet jurisprudence requirements established by the remote states in which the licensee is

•233395•1

1 seeking a compact privilege; and

2 (8) report to the commission adverse action  
3 taken by a nonmember state within thirty days from the date the  
4 adverse action is taken.

5 B. The compact privilege is valid until the  
6 expiration date of the home license. The licensee must comply  
7 with the requirements of Subsection A of this article to  
8 maintain the compact privilege in the remote state.

9 C. A licensee providing physical therapy in a  
10 remote state under the compact privilege shall function within  
11 the laws and rules of the remote state.

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

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

24 (1) the home state license is no longer  
25 encumbered; and

.233395.1

underscored material = new  
[bracketed material] = delete

(2) two years have elapsed from the date of the adverse action.

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

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

(1) the specific period of time for which the compact privilege was removed has ended;

(2) all fines have been paid; and

(3) two years have elapsed from the date of the adverse action.

H. Once the requirements of Subsection G of this article have been met, the licensee must meet the requirements in Subsection A of this article to obtain a compact privilege in a remote state.

**ARTICLE 4 - Active Duty Military Personnel or Their Spouses**

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

A. home of record;

B. permanent change of station; or

C. state of current residence if it is different

than the permanent change of station state or home of record.

## ARTICLE 5 - Adverse Actions

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

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

C. Nothing in the Physical Therapy Licensure Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the member state's laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

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

E. A remote state shall have the authority to:

(1) take adverse actions as set forth in

1 Subsection D of Article 3 of the Physical Therapy Licensure  
2 Compact against a licensee's compact privilege in the state;  
3 (2) issue subpoenas for both hearings and  
4 investigations that require the attendance and testimony of  
5 witnesses and the production of evidence. Subpoenas issued by  
6 a physical therapy licensing board in a party state for the  
7 attendance and testimony of witnesses, or the production of  
8 evidence from another party state, shall be enforced in the  
9 latter state by any court of competent jurisdiction, according  
10 to the practice and procedure of that court applicable to  
11 subpoenas issued in proceedings pending before it. The issuing  
12 authority shall pay witness fees, travel expenses, mileage and  
13 other fees required by the service statutes of the state where  
14 the witnesses or evidence are located; and

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

19 F. Joint Investigations

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

24 (2) Member states shall share investigative,  
25 litigation or compliance materials in furtherance of any joint

or individual investigation initiated under the compact.

## ARTICLE 6 - Establishment of the Physical Therapy Compact Commission

A. The compact member states hereby create and establish a joint public agency known as the "physical therapy compact commission".

(1) The commission is an instrumentality of the compact states.

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

(3) Nothing in the Physical Therapy Licensure Compact shall be construed to be a waiver of sovereign immunity.

## B. Membership, Voting and Meetings

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

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

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

(4) The member state board shall fill any vacancy occurring in the commission.

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

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

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

C. The commission shall have the following powers and duties:

(1) establish the fiscal year of the commission:

(2) establish bylaws:

(3) maintain the commission's financial records in accordance with the bylaws;

(4) meet and take such actions as are consistent with the provisions of this compact and the bylaws:

(5) promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states;

(6) bring and prosecute legal proceedings or actions in the name of the commission; provided that the standing of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected;

(7) purchase and maintain insurance and bonds;

(8) borrow, accept or contract for services of personnel, including, but not limited to, employees of a member state;

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

(10) accept appropriate donations and grants of money, equipment, supplies, materials and services and receive, use and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(11) lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any

1 property, real, personal or mixed; provided that at all times  
2 the commission shall avoid any appearance of impropriety;

3 (12) sell, convey, mortgage, pledge, lease,  
4 exchange, abandon or otherwise dispose of property real,  
5 personal or mixed;

6 (13) establish a budget and make expenditures;

7 (14) borrow money;

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

13 (16) provide and receive information from, and  
14 cooperate with, law enforcement agencies;

15 (17) establish and elect an executive board;  
16 and

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

21 D. The Executive Board

22 The executive board shall have the power to act on behalf  
23 of the commission according to the terms of this compact.

24 (1) The executive board shall be composed of  
25 nine members:

.233395.1

underscored material = new  
[bracketed material] = delete

(a) seven voting members who are elected by the commission from the current membership of the commission;

(b) one ex-officio, nonvoting member from the recognized national physical therapy professional association; and

(c) one ex-officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

(2) The ex-officio members will be selected by their respective organizations.

(3) The commission may remove a member of the executive board as provided in bylaws.

(4) The executive board shall meet at least annually.

(5) The executive board shall have the following duties and responsibilities:

(a) recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues and any commission compact fee charged to licensees for the compact privilege;

(b) ensure that compact administration services are appropriately provided, contractual or otherwise;

(c) prepare and recommend the budget;

(d) maintain financial records on behalf of the commission;

(e) monitor compact compliance of member states and provide compliance reports to the commission;

(f) establish additional committees as necessary; and

(g) perform other duties as provided in rules or bylaws.

#### E. Meetings of the Commission

(1) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article 8 of the Physical Therapy Licensure Compact.

(2) The commission or the executive board or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive board or other committees of the commission must discuss:

(a) noncompliance of a member state with its obligations under the compact;

(b) the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(c) current, threatened or reasonably anticipated litigation;

•233395•1

(d) negotiation of contracts for the purchase, lease or sale of goods, services or real estate;

(e) accusation of any person of a crime or formally censuring any person;

(f) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(g) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) disclosure of investigative records compiled for law enforcement purposes;

(i) disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(j) matters specifically exempted from disclosure by federal or member state statute.

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

(4) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting

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

8 F. Financing of the Commission

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

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

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

24 (4) The commission shall not incur obligations  
25 of any kind prior to securing the funds adequate to meet the

1 same; nor shall the commission pledge the credit of any of the  
2 member states, except by and with the authority of the member  
3 state.

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

13 G. Qualified Immunity, Defense and Indemnification

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

underscored material = new  
[bracketed material] = delete

1 wanton misconduct of that person. The liability of the  
2 interstate commission within any member state may not exceed  
3 the limits of liability set forth under the constitution and  
4 laws of that state for state officials, employees and agents.  
5 The interstate commission is considered to be an  
6 instrumentality of the states for the purpose of any such  
7 action.

8 (2) The commission shall defend any member,  
9 officer, executive director, employee or representative of the  
10 commission in any civil action seeking to impose liability  
11 arising out of any actual or alleged act, error or omission  
12 that occurred within the scope of commission employment, duties  
13 or responsibilities or that the person against whom the claim  
14 is made had a reasonable basis for believing occurred within  
15 the scope of commission employment, duties or responsibilities;  
16 provided that nothing in this paragraph shall be construed to  
17 prohibit that person from retaining that person's own counsel;  
18 and provided further that the actual or alleged act, error or  
19 omission did not result from that person's intentional or  
20 willful or wanton misconduct.

21 (3) The commission shall indemnify and hold  
22 harmless any member, officer, executive director, employee or  
23 representative of the commission for the amount of any  
24 settlement or judgment obtained against that person arising out  
25 of any actual or alleged act, error or omission that occurred

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

## ARTICLE 7 - Data System

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

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom the Physical Therapy Licensure Compact is applicable as required by the rules of the commission, including:

(1) identifying information;

(2) licensure data;

(3) adverse actions against a license or

compact privilege;

(4) non-confidential information related to  
ram participation;

(5) any denial of application for licensure for such denial; and

233305 1

(6) other information that may facilitate the administration of this compact, as determined by the rules of the commission.

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

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

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

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

G. All information provided to the interstate commission or distributed by member boards shall be confidential, filed under seal and used only for investigatory or disciplinary matters; provided that information submitted to the physical therapy board is subject to the confidentiality and transparency requirements imposed by New Mexico law or

court order.

## ARTICLE 8 - Rulemaking

A. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted pursuant to the Physical Therapy Licensure Compact. Rules and amendments shall become binding as of the date specified in each rule or amendment.

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

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

D. Prior to promulgation and adoption of a final rule or rules by the commission, and at least thirty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking on the websites of:

(1) the commission or other publicly accessible platform; and

(2) each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

1                   E. The notice of proposed rulemaking shall include:

2                   (1) the proposed time, date and location of  
3 the meeting in which the rule will be considered and voted  
4 upon;

5                   (2) the text of the proposed rule or amendment  
6 and the reason for the proposed rule;

7                   (3) a request for comments on the proposed  
8 rule from any interested person; and

9                   (4) the manner in which interested persons may  
10 submit notice to the commission of their intention to attend  
11 the public hearing and any written comments.

12                  F. Prior to adoption of a proposed rule, the  
13 commission shall allow persons to submit written data, facts,  
14 opinions and arguments that shall be made available to the  
15 public.

16                  G. The commission shall grant an opportunity for a  
17 public hearing before it adopts a rule or amendment if a  
18 hearing is requested by:

19                   (1) at least twenty-five persons;  
20                   (2) a state or federal governmental  
21 subdivision or agency; or  
22                   (3) an association having at least twenty-five  
23 members.

24                  H. If a hearing is held on the proposed rule or  
25 amendment, the commission shall publish the place, time and

.233395.1

underscored material = new  
[bracketed material] = delete

1 date of the scheduled public hearing. If the hearing is held  
2 via electronic means, the commission shall publish the  
3 mechanism for access to the electronic hearing.

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

9 (2) Hearings shall be conducted in a manner  
10 that provides each person who wishes to comment a fair and  
11 reasonable opportunity to comment orally or in writing.

12 (3) All hearings shall be recorded. A copy of  
13 the recording shall be made available on request.

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

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

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

1                   K. The commission, by majority vote of all members,  
2 shall take final action on the proposed rule and shall  
3 determine the effective date of the rule, if any, based on the  
4 rulemaking record and the full text of the rule.

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

14                   (1) meet an imminent threat to public health,  
15 safety or welfare;

16                   (2) prevent a loss of commission or member  
17 state funds;

18                   (3) meet a deadline for the promulgation of an  
19 administrative rule that is established by federal law or rule;  
20 or

21                   (4) protect public health and safety.

22                   M. The commission or an authorized committee of the  
23 commission may direct revisions to a previously adopted rule or  
24 amendment for purposes of correcting typographical errors,  
25 errors in format, errors in consistency or grammatical errors.

underscored material = new  
[bracketed material] = delete

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

11           ARTICLE 9 - Oversight, Dispute Resolution and Enforcement

12           A.    Oversight

13               (1)   The executive, legislative and judicial  
14       branches of state government in each member state shall enforce  
15       the Physical Therapy Licensure Compact and take all actions  
16       necessary and appropriate to effectuate the compact's purposes  
17       and intent. The provisions of the compact and the rules  
18       promulgated pursuant to the compact shall have standing as  
19       statutory law.

20               (2)   All courts shall take judicial notice of  
21       the compact and the rules in any judicial or administrative  
22       proceeding in a member state pertaining to the subject matter  
23       of the compact that may affect the powers, responsibilities or  
24       actions of the commission.

25               (3)   The commission shall be entitled to

.233395.1

receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, the compact or promulgated rules.

#### B. Default, Technical Assistance and Termination

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

(a) written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default or any other action to be taken by the commission; and

(b) remedial training and specific technical assistance regarding the default.

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

(3) Termination of membership in the compact

1 shall be imposed only after all other means of securing  
2 compliance have been exhausted. Notice of intent to suspend or  
3 terminate shall be given by the commission to the governor, the  
4 majority and minority leaders of the defaulting member state's  
5 legislature and each of the member states.

6 (4) A member state that has been terminated is  
7 responsible for all assessments, obligations and liabilities  
8 incurred through the effective date of termination, including  
9 obligations that extend beyond the effective date of  
10 termination.

11 (5) The commission shall not bear any costs  
12 related to a member state that is found to be in default or  
13 that has been terminated from the compact, unless agreed upon  
14 in writing between the commission and the defaulting state.

15 (6) The defaulting member state may appeal the  
16 action of the commission by petitioning the United States  
17 district court for the District of Columbia, a federal court of  
18 New Mexico or the federal district where the commission has its  
19 principal offices. The prevailing member shall be awarded all  
20 costs of such litigation, including reasonable attorney fees.

21 C. Dispute Resolution

22 (1) Upon request by a member state, the  
23 commission shall attempt to resolve disputes related to the  
24 compact that arise among member states and between member and  
25 nonmember states.

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

#### D. Enforcement

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

(2) By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia, a federal court of New Mexico or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event that judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

(3) The remedies provided in this article shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE 10 - Date of Implementation of the Interstate  
Commission for Physical Therapy Practice and  
Associated Rules, Withdrawal and Amendment

A. The Physical Therapy Licensure Compact shall

.233395.1

underscored material = new  
[bracketed material] = delete

1 come into effect on the date on which the compact statute is  
2 enacted into law in the tenth member state. The provisions,  
3 which become effective at that time, shall be limited to the  
4 powers granted to the commission relating to assembly and the  
5 promulgation of rules. Thereafter, the commission shall meet  
6 and exercise rulemaking powers necessary to the implementation  
7 and administration of the compact.

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

14                   C. Any member state may withdraw from this compact  
15 by enacting a statute repealing the compact.

16                   (1) A member state's withdrawal shall not take  
17 effect until six months after enactment of the repealing  
18 statute.

19                   (2) Withdrawal shall not affect the continuing  
20 requirement of the withdrawing member state's physical therapy  
21 licensing board to comply with the investigative and adverse  
22 action reporting requirements of this compact prior to the  
23 effective date of withdrawal.

24                   D. Nothing contained in the compact shall be  
25 construed to invalidate or prevent any physical therapy

1 licensure agreement or other cooperative arrangement between a  
2 member state and a nonmember state that does not conflict with  
3 the provisions of the compact.

4 E. The compact may be amended by the member states.  
5 No amendment to the compact shall become effective and binding  
6 upon any member state until it is enacted into the laws of all  
7 member states.

8 ARTICLE 11 - Construction and Severability

9 The Physical Therapy Licensure Compact shall be liberally  
10 construed so as to effectuate its purposes. The provisions of  
11 the compact shall be severable, and if any phrase, clause,  
12 sentence or provision of the compact is declared to be contrary  
13 to the constitution of any party state or of the United States  
14 or its applicability to any government, agency, person or  
15 circumstance is held invalid, the validity of the remainder of  
16 the compact and its applicability to any government, agency,  
17 person or circumstance shall not be affected. If the compact  
18 shall be held contrary to the constitution of any party state,  
19 the compact shall remain in full force and effect as to the  
20 remaining party states and in full force and effect as to the  
21 party state affected as to all severable matters.

22 ARTICLE 12 - Preservation of State Authority

23 A. This compact creates a new pathway for physical  
24 therapy licensure in this state but does not otherwise change  
25 or limit the effect of the Physical Therapy Act.

1                   B. This compact adopts the prevailing standard for  
2 licensure and affirms that the practice of physical therapy  
3 occurs where the patient is located at the time of a physical  
4 therapy patient encounter and, therefore, requires the physical  
5 therapist to be under the jurisdiction of the state physical  
6 therapy board where the patient is located.

7                   C. A state physical therapy board that participates  
8 in this compact retains the authority to impose an adverse  
9 action against a license to practice physical therapy in that  
10 state, including licenses issued to physical therapists through  
11 procedures provided by this compact.

12                   ARTICLE 13 - BINDING EFFECT OF COMPACT

13                   A. Nothing in this compact prevents the enforcement  
14 of any other law of a participating state that is not  
15 inconsistent with this compact.

16                   B. Any laws in a participating state in conflict  
17 with this compact are superseded to the extent of the conflict.

18                   C. All agreements between the commission and the  
19 participating states are binding in accordance with their  
20 terms.

21                   D. If any provision of this compact exceeds the  
22 constitutional limits imposed on the legislature of any member  
23 state, such provision shall be ineffective to the extent of the  
24 conflict with the constitutional provision in question in that  
25 member state.".

1           SECTION 3. Section 61-12D-1 NMSA 1978 (being Laws 1997,  
2 Chapter 89, Section 1) is amended to read:

3           "61-12D-1. SHORT TITLE.--[This act] Chapter 61, Article  
4 12D NMSA 1978 may be cited as the "Physical Therapy Act"."

5           SECTION 4. Section 61-12D-5 NMSA 1978 (being Laws 1997,  
6 Chapter 89, Section 5, as amended) is amended to read:

7           "61-12D-5. POWERS AND DUTIES--CRIMINAL HISTORY BACKGROUND  
8 CHECKS.--The board:

9           A. shall examine all applicants for licensure to  
10 practice physical therapy and issue licenses or permits to  
11 those who are duly qualified;

12           B. shall regulate the practice of physical therapy  
13 by interpreting and enforcing the provisions of the Physical  
14 Therapy Act;

15           C. may promulgate rules in accordance with the  
16 State Rules Act to carry out the provisions of the Physical  
17 Therapy Act;

18           D. may meet as often as it deems necessary. A  
19 majority of the members constitutes a quorum for the  
20 transaction of business. The board shall keep an official  
21 record of all its proceedings;

22           E. may establish requirements for assessing  
23 continuing competency;

24           F. may collect fees;

25           G. may elect such officers as it deems necessary

.233395.1

underscored material = new  
[bracketed material] = delete

1 for the operations and obligations of the board. Terms of  
2 office shall be one year;

3 H. shall provide for the timely orientation and  
4 training of new professional and public appointees to the  
5 board, including training in licensing and disciplinary  
6 procedures and orientation to all statutes, rules, policies and  
7 procedures of the board;

8 I. may establish ad hoc committees and pay per diem  
9 and mileage to the members;

10 J. may enter into contracts;

11 K. may deny, suspend or revoke a license or take  
12 other disciplinary action in accordance with the Uniform  
13 Licensing Act;

14 L. shall report final disciplinary action taken  
15 against a physical therapist or physical therapist assistant to  
16 the national disciplinary database;

17 M. shall publish at least annually final  
18 disciplinary action taken against any physical therapist or  
19 physical therapist assistant; [and]

20 N. may prescribe the forms of license certificates,  
21 application forms and such other documents as it deems  
22 necessary to carry out the provisions of the Physical Therapy  
23 Act;

24 O. shall prescribe procedures, forms and manner of  
25 submitting an applicant's full set of fingerprints for state

.233395.1

1 and federal criminal history background reports that the board  
2 uses to evaluate the applicant's qualification for licensure;  
3 and

4 P. shall require an applicant, as a condition of  
5 eligibility for initial licensure or initial privilege to  
6 practice under the Physical Therapy Licensure Compact, to  
7 submit a full set of fingerprints to the department of public  
8 safety to obtain state and national criminal history record  
9 information on the applicant. State and national criminal  
10 history record reports are confidential and not public records.

11 The board shall not disseminate criminal history record  
12 information across state lines."

13 SECTION 5. A new section of the Physical Therapy Act is  
14 enacted to read:

15 "[NEW MATERIAL] PARTICIPATION IN PHYSICAL THERAPY  
16 LICENSURE COMPACT AS CONDITION OF EMPLOYMENT PROHIBITED.--An  
17 employer shall not require a physical therapist licensed in  
18 this state pursuant to the Physical Therapy Act to seek  
19 licensure through the Physical Therapy Licensure Compact as a  
20 condition of initial or continued employment as a physical  
21 therapist in this state. An employer may require that a  
22 physical therapist obtain and maintain a license to practice  
23 physical therapy in multiple states if the physical therapist  
24 is free to obtain and maintain the licenses by any means  
25 authorized by the laws of the respective states."

.233395.1

underscored material = new  
[bracketed material] = delete

1           SECTION 6. A new section of the Physical Therapy Act is  
2 enacted to read:

3           "[NEW MATERIAL] PHYSICAL THERAPY LICENSURE COMPACT  
4 COMMISSION--COMMISSIONER DUTIES.--

5           A. If a meeting, or a portion of a meeting, of the  
6 physical therapy compact commission is closed pursuant to  
7 Paragraph (2) of Subsection E of Article 6 of the Physical  
8 Therapy Licensure Compact, commissioners appointed to represent  
9 New Mexico on the commission shall request the commission's  
10 legal counsel or designee to certify that the meeting may be  
11 closed by citing each provision of that paragraph that is  
12 applicable. Commissioners may satisfy this section by making a  
13 motion, or voting in the affirmative on a motion, to have the  
14 physical therapy compact commission's legal counsel or designee  
15 certify that the meeting may be closed.

16           B. Any time the physical therapy compact commission  
17 is voting on what to include in the commission's minutes,  
18 commissioners appointed to represent New Mexico on the  
19 commission shall vote to include in the minutes:

20                   (1) all actions taken by the commission and  
21 the reasons for each action, including a description of the  
22 views expressed; and

23                   (2) identification of all documents considered  
24 by the commission that relate to an action taken by the  
25 commission."

underscored material = new  
[bracketed material] = delete

1           SECTION 7. A new section of the Physical Therapy Act is  
2 enacted to read:

3           "[NEW MATERIAL] BOARD OBLIGATIONS--PUBLIC POSTING.--The  
4 board shall post on the board's public website:

5           A. copies of the physical therapy compact  
6 commission's current bylaws and rules;

7           B. notice of any physical therapy compact  
8 commission action that may affect the license of a physical  
9 therapist in this state within thirty days of the commission's  
10 action being taken; and

11           C. any minutes or documents of the physical therapy  
12 compact commission that are released pursuant to a vote of the  
13 commission. All minutes and documents of a closed meeting of  
14 the physical therapy compact commission shall remain under  
15 seal, subject to release by a majority vote of the commission  
16 or an order of a court of competent jurisdiction."

17           SECTION 8. A new section of the Physical Therapy Act is  
18 enacted to read:

19           "[NEW MATERIAL] JOINT INVESTIGATIONS--INVESTIGATIVE  
20 SUBPOENAS.--The board may enter into joint investigations with  
21 other state physical therapist boards pursuant to the Physical  
22 Therapy Licensure Compact; provided that participation in the  
23 joint investigation is governed by a written agreement among  
24 the board and the other participating physical therapist  
25 boards."

.233395.1

underscored material = new  
[bracketed material] = delete

1                   **SECTION 9. CONTINGENT REPEAL.--**

2                   A. Sections 1, 2 and 5 through 8 of this act are  
3                   repealed if a state or federal court of New Mexico finds that a  
4                   rule or decision of the physical therapy compact commission or  
5                   a court order regarding a rule or decision relating to the  
6                   Physical Therapy Licensure Compact would change the scope of  
7                   practice of a physical therapist or the definition of  
8                   "unprofessional conduct" for a physical therapist in a manner  
9                   that is inconsistent with the Physical Therapy Act or any other  
10                   state law relating to the practice of physical therapy. A  
11                   person who is or may be affected by a rule or decision at issue  
12                   under this subsection shall have standing to seek a  
13                   determination by the district court.

14                   B. The physical therapy board shall certify to  
15                   the director of the legislative council service and the  
16                   executive director of the New Mexico compilation commission the  
17                   date on which the action described in Subsection A of this  
18                   section occurs.

19                   C. Repeal of the Physical Therapy Licensure Compact  
20                   pursuant to this section constitutes this state's immediate  
21                   withdrawal from the Physical Therapy Licensure Compact. The  
22                   physical therapy board shall send written notification of  
23                   withdrawal to the governor of each other state that has enacted  
24                   the compact.

25                   D. The physical therapy board, or a member of the

1 legislature, may request in writing that the attorney general  
2 review the actions of the physical therapy compact commission  
3 or a court ruling relating to the enforcement of the Physical  
4 Therapy Licensure Compact.

5                   E. In the event of a repeal pursuant to this  
6 section, the provisions of Article 10 of the Physical Therapy  
7 Licensure Compact shall remain in effect and govern the  
8 withdrawal.

9                   - 41 -

underscored material = new  
[bracketed material] = delete