

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 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

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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

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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:

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

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

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

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

16 (5) comply with the rules of the commission;

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

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

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

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1 criminal background check in accordance with 28 U.S.C. Section
2 534 and 42 U.S.C. Section 14616.

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

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

9 ARTICLE 3 - Compact Privilege

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

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

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

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

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

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

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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

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

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

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

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

12 (2) all fines have been paid; and

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

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

19 ARTICLE 4 - Active Duty Military Personnel or Their Spouses

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

23 A. home of record;

24 B. permanent change of station; or

25 C. state of current residence if it is different

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

2 ARTICLE 5 - Adverse Actions

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

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

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

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

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

25 (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

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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.

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

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

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

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

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

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

19 (1) establish the fiscal year of the
20 commission;

21 (2) establish bylaws;

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

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

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

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

9 (7) purchase and maintain insurance and bonds;

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

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

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

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

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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:

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

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

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

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

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

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

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

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

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

25 (c) prepare and recommend the budget;

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

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

5 (f) establish additional committees as
6 necessary; and

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

9 E. Meetings of the Commission

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

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

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

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

24 (c) current, threatened or reasonably
25 anticipated litigation;

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

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

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

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

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

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

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

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

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

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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

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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

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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

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

7 ARTICLE 7 - Data System

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

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

- 18 (1) identifying information;
19 (2) licensure data;
20 (3) adverse actions against a license or
21 compact privilege;
22 (4) non-confidential information related to
23 alternative program participation;
24 (5) any denial of application for licensure
25 and the reasons for such denial; and

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

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

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

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

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

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

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1 court order.

2 ARTICLE 8 - Rulemaking

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

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

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

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

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

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

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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

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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.

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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.

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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

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

6 B. Default, Technical Assistance and Termination

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

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

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

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

25 (3) Termination of membership in the compact

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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.

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

4 D. Enforcement

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

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

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

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

25 A. The Physical Therapy Licensure Compact shall

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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.

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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."

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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

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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

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."

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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."

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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."

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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.

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