

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 57
Committee Substitute Favorable 2/15/17
PROPOSED COMMITTEE SUBSTITUTE H57-PCS30087-SVf-2

Short Title: Enact Physical Therapy Licensure Compact.

(Public)

Sponsors:

Referred to:

February 8, 2017

A BILL TO BE ENTITLED

AN ACT ESTABLISHING A PHYSICAL THERAPY LICENSURE COMPACT TO FACILITATE THE INTERSTATE PRACTICE OF PHYSICAL THERAPY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 18B of Chapter 90 of the General Statutes, G.S. 90-270.24 through G.S. 90-270.44, is recodified as Article 18E of Chapter 90 of the General Statutes, G.S. 90-270.90 through G.S. 90-270.110.

SECTION 2. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 18F.

"Physical Therapy Licensure Compact.

"§ 90-270.120. Purpose.

The purpose of this Compact is to facilitate the interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This Compact is designed to achieve the following objectives:

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

"§ 90-270.121. Definitions.

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

- (1) Active duty military. – Full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.



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- 1 (2) Adverse action. – Disciplinary action taken by a physical therapy licensing
2 board based upon misconduct, unacceptable performance, or a combination of
3 both.
- 4 (3) Alternative program. – A non-disciplinary monitoring or practice remediation
5 process approved by a physical therapy licensing board. This includes, but is
6 not limited to, substance abuse issues.
- 7 (4) Compact privilege. – The authorization granted by a remote state to allow a
8 licensee from another member state to practice as a physical therapist or work
9 as a physical therapist assistant in the remote state under its laws and rules. The
10 practice of physical therapy occurs in the member state where the patient/client
11 is located at the time of the patient/client encounter.
- 12 (5) Continuing competence. – A requirement, as a condition of license renewal, to
13 provide evidence of participation in, and/or completion of, educational and
14 professional activities relevant to practice or area of work.
- 15 (6) Data system. – A repository of information about licensees, including
16 examination, licensure, investigative, compact privilege, and adverse action.
- 17 (7) Encumbered license. – A license that a physical therapy licensing board has
18 limited in any way.
- 19 (8) Executive board. – A group of directors elected or appointed to act on behalf of,
20 and within the powers granted to them by, the Commission.
- 21 (9) Home state. – The member state that is the licensee's primary state of residence.
- 22 (10) Investigative information. – Information, records, and documents received or
23 generated by a physical therapy licensing board pursuant to an investigation.
- 24 (11) Jurisprudence requirement. – The assessment of an individual's knowledge of
25 the laws and rules governing the practice of physical therapy in a state.
- 26 (12) Licensee. – An individual who currently holds an authorization from the state to
27 practice as a physical therapist or to work as a physical therapist assistant.
- 28 (13) Member state. – A state that has enacted the Compact. For purposes of this
29 Article, the State of North Carolina may designate the North Carolina Board of
30 Physical Therapy Examiners as the entity responsible for carrying out any
31 action required by or of a member state under this Article, including the
32 imposition of fees or the payment of assessments.
- 33 (14) Party state. – Any member state in which a licensee holds a current license or
34 compact privilege or is applying for a license or compact privilege.
- 35 (15) Physical therapist. – An individual who is licensed by a state to practice
36 physical therapy.
- 37 (16) Physical therapist assistant. – An individual who is licensed/certified by a state
38 and who assists the physical therapist in selected components of physical
39 therapy.
- 40 (17) Physical therapy, physical therapy practice, or the practice of physical therapy.
41 – The care and services provided by or under the direction and supervision of a
42 licensed physical therapist.
- 43 (18) Physical Therapy Compact Commission or Commission. – The national
44 administrative body whose membership consists of all states that have enacted
45 the Compact.
- 46 (19) Physical Therapy Licensing Board or Licensing Board. – The agency that is
47 responsible for the licensing and regulation of physical therapists and physical
48 therapist assistants.
- 49 (20) Remote state. – A member state other than the home state, where a licensee is
50 exercising or seeking to exercise the compact privilege.

1 (21) Rule. – A regulation, principle, or directive promulgated by the Commission
2 that has the force of law.

3 (22) State. – Any state, commonwealth, district, or territory of the United States of
4 America that regulates the practice of physical therapy.

5 **"§ 90-270.122. State participation in the compact.**

6 (a) To participate in the Compact, a state must do all of the following:

7 (1) Participate fully in the Commission's data system, including using the
8 Commission's unique identifier as defined in rules.

9 (2) Have a mechanism in place for receiving and investigating complaints about
10 licensees.

11 (3) Notify the Commission, in compliance with the terms of the Compact and rules,
12 of any adverse action or the availability of investigative information regarding a
13 licensee.

14 (4) Fully implement a criminal background check requirement, within a time frame
15 established by rule, by receiving the results of the Federal Bureau of
16 Investigation record search on criminal background checks and use the results
17 in making licensure decisions in accordance with subsection (b) of this section.

18 (5) Comply with the rules of the Commission.

19 (6) Utilize a recognized national examination as a requirement for licensure
20 pursuant to the rules of the Commission.

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

22 (b) Upon adoption of this statute, the member state shall have the authority to obtain
23 biometric-based information from each physical therapy licensure applicant and submit this
24 information to the Federal Bureau of Investigation for a criminal background check in accordance
25 with 28 U.S.C. § 534 and 42 U.S.C. § 14616.

26 (c) A member state shall grant the compact privilege to a licensee holding a valid
27 unencumbered license in another member state in accordance with the terms of the Compact and
28 rules.

29 (d) Member states may charge a fee for granting a compact privilege.

30 **"§ 90-270.123. Compact privilege.**

31 (a) In order to exercise the compact privilege under the terms and provisions of the
32 Compact, the licensee shall meet all of the following qualifications:

33 (1) Hold a license in the home state.

34 (2) Have no encumbrance on any state license.

35 (3) Be eligible for a compact privilege in any member state in accordance with
36 subsections (d), (g) and (h) of this section.

37 (4) Have not had any adverse action against any license or compact privilege
38 within the previous two years.

39 (5) Notify the Commission that the licensee is seeking the compact privilege within
40 a remote state(s).

41 (6) Pay any applicable fees, including any state fee, for the compact privilege.

42 (7) Meet any jurisprudence requirements established by the remote state(s) in
43 which the licensee is seeking a compact privilege.

44 (8) Report to the Commission adverse action taken by any non-member state
45 within 30 days from the date the adverse action is taken.

46 (b) The compact privilege is valid until the expiration date of the home license. The
47 licensee must comply with the requirements of subsection (a) of this section to maintain the
48 compact privilege in the remote state.

49 (c) A licensee providing physical therapy in a remote state under the compact privilege
50 shall function within the laws and regulations of the remote state.

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

7 (e) If a home state license is encumbered, the licensee shall lose the compact privilege in
8 any remote state until both of the following occur:

9 (1) The home state license is no longer encumbered.

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

11 (f) Once an encumbered license in the home state is restored to good standing, the licensee
12 must meet the requirements of subsection (a) of this section to obtain a compact privilege in any
13 remote state.

14 (g) If a licensee's compact privilege in any remote state is removed, the individual shall
15 lose the compact privilege in any remote state until all of the following occur:

16 (1) The specific period of time for which the compact privilege was removed has
17 ended.

18 (2) All fines have been paid.

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

20 (h) Once the requirements of subsection (g) of this section have been met, the license must
21 meet the requirements in subsection (a) of this section to obtain a compact privilege in a remote
22 state.

23 **"§ 90-270.124. Active duty military personnel or their spouses.**

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

26 (1) Home of record.

27 (2) State listed on Permanent Change of Station (PCS) order.

28 (3) State of current residence or duty station if it is different than the PCS state or
29 home of record.

30 **"§ 90-270.125. Adverse actions.**

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

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

35 (c) Nothing in this Compact shall override a member state's decision that participation in
36 an alternative program may be used in lieu of adverse action and that such participation shall
37 remain nonpublic if required by the member state's laws. Member states must require licensees
38 who enter any alternative programs in lieu of discipline to agree not to practice in any other
39 member state during the term of the alternative program without prior authorization from such
40 other member state.

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

44 (e) A remote state shall have the authority to do all of the following:

45 (1) Take adverse actions as set forth in subsection (d) of G.S. 90-270.123 against a
46 licensee's compact privilege in the state.

47 (2) Issue subpoenas for both hearings and investigations that require the attendance
48 and testimony of witnesses, and the production of evidence. Subpoenas issued
49 by a physical therapy licensing board in a party state for the attendance and
50 testimony of witnesses, and/or the production of evidence from another party
51 state, shall be enforced in the latter state by any court of competent jurisdiction,

1 according to the practice and procedure of that court applicable to subpoenas
2 issued in proceedings pending before it. The issuing authority shall pay any
3 witness fees, travel expenses, mileage, and other fees required by the service
4 statutes of the state where the witnesses and/or evidence are located.

5 (3) If otherwise permitted by state law, recover from the licensee the costs of
6 investigations and disposition of cases resulting from any adverse action taken
7 against that licensee.

8 (f) Joint Investigations. –

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

12 (2) Member states shall share any investigative, litigation, or compliance materials
13 in furtherance of any joint or individual investigation initiated under the
14 Compact.

15 **"§ 90-270.126. Establishment of the Physical Therapy Compact Commission.**

16 (a) The Compact member states hereby create and establish a joint public agency known
17 as the Physical Therapy Compact Commission:

18 (1) The Commission is an instrumentality of the Compact states.

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

24 (3) Nothing in this Compact shall be construed to be a waiver of sovereign
25 immunity.

26 (b) Membership, Voting, and Meetings. –

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

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

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

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

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

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

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

43 (c) The Commission shall have all of the following powers and duties:

44 (1) Establish the fiscal year of the Commission.

45 (2) Establish bylaws.

46 (3) Maintain its financial records in accordance with the bylaws.

47 (4) Meet and take such actions as are consistent with the provisions of this
48 Compact and the bylaws.

49 (5) Promulgate uniform rules to facilitate and coordinate implementation and
50 administration of this Compact. The rules shall have the force and effect of law
51 and shall be binding in all member states.

- 1 (6) Bring and prosecute legal proceedings or actions in the name of the
2 Commission, provided that the standing of any state physical therapy licensing
3 board to sue or be sued under applicable law shall not be affected.
4 (7) Purchase and maintain insurance and bonds.
5 (8) Borrow, accept, or contract for services of personnel, including employees of a
6 member state.
7 (9) Hire employees, elect or appoint officers, fix compensation, define duties, grant
8 such individuals appropriate authority to (i) carry out the purposes of the
9 Compact and (ii) establish the Commission's personnel policies and programs
10 relating to conflicts of interest, qualifications of personnel, and other related
11 personnel matters.
12 (10) Accept any and all appropriate donations and grants of money, equipment,
13 supplies, materials and services, and to receive, utilize and dispose of the same;
14 provided that at all times the Commission shall avoid any appearance of
15 impropriety and/or conflict of interest.
16 (11) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own,
17 hold, improve or use, any property, real, personal or mixed; provided that at all
18 times the Commission shall avoid any appearance of impropriety.
19 (12) Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose
20 of any property real, personal, or mixed.
21 (13) Establish a budget and make expenditures.
22 (14) Borrow money.
23 (15) Appoint committees, including standing committees composed of members,
24 state regulators, state legislators or their representatives, and consumer
25 representatives, and such other interested persons as may be designated in this
26 Compact and the bylaws.
27 (16) Provide and receive information from, and cooperate with, law enforcement
28 agencies.
29 (17) Establish and elect an Executive Board.
30 (18) Perform such other functions as may be necessary or appropriate to achieve the
31 purposes of this Compact consistent with the state regulation of physical
32 therapy licensure and practice.
33 (d) The Executive Board. –
34 The Executive Board shall have the power to act on behalf of the Commission according to the
35 terms of this Compact:
36 (1) The Executive Board shall be composed of the following nine members:
37 (a) Seven voting members who are elected by the Commission from the
38 current membership of the Commission.
39 (b) One ex-officio, nonvoting member from the recognized national
40 physical therapy professional association.
41 (c) One ex-officio, nonvoting member from the recognized membership
42 organization of the physical therapy licensing boards.
43 (2) The ex-officio members will be selected by their respective organizations.
44 (3) The Commission may remove any member of the Executive Board as provided
45 in bylaws.
46 (4) The Executive Board shall meet at least annually.
47 (5) The Executive Board shall have all of the following Duties and responsibilities:
48 a. Recommend to the entire Commission changes to the rules or bylaws,
49 changes to this Compact legislation, fees paid by Compact member
50 states such as annual dues, and any commission Compact fee charged to
51 licensees for the compact privilege.

- 1 b. Ensure Compact administration services are appropriately provided,
2 contractual or otherwise.
3 c. Prepare and recommend the budget.
4 d. Maintain financial records on behalf of the Commission.
5 e. Monitor Compact compliance of member states and provide compliance
6 reports to the Commission.
7 f. Establish additional committees as necessary.
8 g. Other duties as provided in rules or bylaws.
9 (e) Meetings of the Commission. –
10 (1) All meetings shall be open to the public, and public notice of meetings shall be
11 given in the same manner as required under the rule-making provisions in
12 G.S. 90-270.128.
13 (2) The Commission or the Executive Board or other committees of the
14 Commission may convene in a closed, nonpublic meeting if the Commission or
15 Executive Board or other committees of the Commission must discuss any of
16 the following:
17 a. Noncompliance of a member state with its obligations under the
18 Compact.
19 b. The employment, compensation, discipline or other matters, practices or
20 procedures related to specific employees or other matters related to the
21 Commission's internal personnel practices and procedures.
22 c. Current, threatened, or reasonably anticipated litigation.
23 d. Negotiation of contracts for the purchase, lease, or sale of goods,
24 services, or real estate.
25 e. Accusing any person of a crime or formally censuring any person.
26 f. Disclosure of trade secrets or commercial or financial information that
27 is privileged or confidential.
28 g. Disclosure of information of a personal nature where disclosure would
29 constitute a clearly unwarranted invasion of personal privacy.
30 h. Disclosure of investigative records compiled for law enforcement
31 purposes.
32 i. Disclosure of information related to any investigative reports prepared
33 by or on behalf of or for use of the Commission or other committee
34 charged with responsibility of investigation or determination of
35 compliance issues pursuant to the Compact.
36 j. Matters specifically exempted from disclosure by federal or member
37 state statute.
38 (3) If a meeting, or portion of a meeting, is closed pursuant to this provision, the
39 Commission's legal counsel or designee shall certify that the meeting may be
40 closed and shall reference each relevant exempting provision.
41 (4) The Commission shall keep minutes that fully and clearly describe all matters
42 discussed in a meeting and shall provide a full and accurate summary of actions
43 taken, and the reasons therefore, including a description of the views expressed.
44 All documents considered in connection with an action shall be identified in
45 such minutes. All minutes and documents of a closed meeting shall remain
46 under seal, subject to release by a majority vote of the Commission or order of
47 a court of competent jurisdiction.
48 (f) Financing of the Commission. –
49 (1) The Commission shall pay, or provide for the payment of, the reasonable
50 expenses of its establishment, organization, and ongoing activities.

- 1 (2) The Commission may accept any and all appropriate revenue sources,
2 donations, and grants of money, equipment, supplies, materials, and services.
- 3 (3) The Commission may levy on and collect an annual assessment from each
4 member state or impose fees on other parties to cover the cost of the operations
5 and activities of the Commission and its staff, which must be in a total amount
6 sufficient to cover its annual budget as approved each year for which revenue is
7 not provided by other sources. The aggregate annual assessment amount shall
8 be allocated based upon a formula to be determined by the Commission, which
9 shall promulgate a rule binding upon all member states.
- 10 (4) The Commission shall not incur obligations of any kind prior to securing the
11 funds adequate to meet the same; nor shall the Commission pledge the credit of
12 any of the member states, except by and with the authority of the member state.
- 13 (5) The Commission shall keep accurate accounts of all receipts and disbursements.
14 The receipts and disbursements of the Commission shall be subject to the audit
15 and accounting procedures established under its bylaws. However, all receipts
16 and disbursements of funds handled by the Commission shall be audited yearly
17 by a certified or licensed public accountant, and the report of the audit shall be
18 included in and become part of the annual report of the Commission.
- 19 (g) Qualified Immunity, Defense, and Indemnification. –
- 20 (1) The members, officers, executive director, employees and representatives of the
21 Commission shall be immune from suit and liability, either personally or in
22 their official capacity, for any claim for damage to or loss of property or
23 personal injury or other civil liability caused by or arising out of any actual or
24 alleged act, error or omission that occurred, or that the person against whom the
25 claim is made had a reasonable basis for believing occurred within the scope of
26 Commission employment, duties or responsibilities; provided that nothing in
27 this paragraph shall be construed to protect any such person from suit and/or
28 liability for any damage, loss, injury, or liability caused by the intentional or
29 willful or wanton misconduct of that person.
- 30 (2) The Commission shall defend any member, officer, executive director,
31 employee or representative of the Commission in any civil action seeking to
32 impose liability arising out of any actual or alleged act, error, or omission that
33 occurred within the scope of Commission employment, duties, or
34 responsibilities, or that the person against whom the claim is made had a
35 reasonable basis for believing occurred within the scope of Commission
36 employment, duties, or responsibilities; provided that nothing herein shall be
37 construed to prohibit that person from retaining his or her own counsel; and
38 provided further, that the actual or alleged act, error, or omission did not result
39 from that person's intentional or willful or wanton misconduct.
- 40 (3) The Commission shall indemnify and hold harmless any member, officer,
41 executive director, employee, or representative of the Commission for the
42 amount of any settlement or judgment obtained against that person arising out
43 of any actual or alleged act, error or omission that occurred within the scope of
44 Commission employment, duties, or responsibilities, or that such person had a
45 reasonable basis for believing occurred within the scope of Commission
46 employment, duties, or responsibilities, provided that the actual or alleged act,
47 error, or omission did not result from the intentional or willful or wanton
48 misconduct of that person.

49 "§ 90-270.127. Data system.

1 (a) The Commission shall provide for the development, maintenance, and utilization of a
2 coordinated database and reporting system containing licensure, adverse action, and investigative
3 information on all licensed individuals in member states.

4 (b) Notwithstanding any other provision of state law to the contrary, a member state shall
5 submit a uniform data set to the data system on all individuals to whom this Compact is applicable
6 as required by the rules of the Commission, including all of the following:

7 (1) Identifying information.

8 (2) Licensure data.

9 (3) Adverse actions against a license or compact privilege.

10 (4) Non-confidential information related to alternative program participation.

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

12 (6) Other information that may facilitate the administration of this Compact, as
13 determined by the rules of the Commission.

14 (c) Investigative information pertaining to a licensee in any member state will only be
15 available to other party states.

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

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

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

24 **"§ 90-270.128. Rule Making.**

25 (a) The Commission shall exercise its rule-making powers pursuant to the criteria set forth
26 in this section and the rules adopted thereunder. Rules and amendments shall become binding as
27 of the date specified in each rule or amendment.

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

31 (c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the
32 Commission.

33 (d) Prior to promulgation and adoption of a final rule or rules by the Commission, and at
34 least 30 days in advance of the meeting at which the rule will be considered and voted upon, the
35 Commission shall file a Notice of Proposed Rule Making on both of the following:

36 (1) On the Web site of the Commission or other publicly accessible platform.

37 (2) On the Web site of each member state physical therapy licensing board or other
38 publicly accessible platform or the publication in which each state would
39 otherwise publish proposed rules.

40 (e) The Notice of Proposed Rule Making shall include all of the following:

41 (1) The proposed time, date, and location of the meeting in which the rule will be
42 considered and voted upon.

43 (2) The text of the proposed rule or amendment and the reason for the proposed
44 rule.

45 (3) A request for comments on the proposed rule from any interested person.

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

48 (f) Prior to adoption of a proposed rule, the Commission shall allow persons to submit
49 written data, facts, opinions, and arguments, which shall be made available to the public.

50 (g) The Commission shall grant an opportunity for a public hearing before it adopts a rule
51 or amendment if a hearing is requested by any of the following:

1 (1) At least 25 persons.
2 (2) A state or federal governmental subdivision or agency.
3 (3) An association having at least 25 members.
4 (h) If a hearing is held on the proposed rule or amendment, the Commission shall publish
5 the place, time, and date of the scheduled public hearing. If the hearing is held via electronic
6 means, the Commission shall publish the mechanism for access to the electronic hearing.

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

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

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

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

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

21 (j) If no written notice of intent to attend the public hearing by interested parties is
22 received, the Commission may proceed with promulgation of the proposed rule without a public
23 hearing.

24 (k) The Commission shall, by majority vote of all members, take final action on the
25 proposed rule and shall determine the effective date of the rule, if any, based on the rule-making
26 record and the full text of the rule.

27 (l) Upon determination that an emergency exists, the Commission may consider and adopt
28 an emergency rule without prior notice, opportunity for comment, or hearing, provided that the
29 usual rule-making procedures provided in the Compact and in this section shall be retroactively
30 applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective
31 date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted
32 immediately in order to do any of the following:

33 (1) Meet an imminent threat to public health, safety, or welfare.

34 (2) Prevent a loss of Commission or member state funds.

35 (3) Meet a deadline for the promulgation of an administrative rule that is
36 established by federal law or rule.

37 (4) Protect public health and safety.

38 (m) The Commission or an authorized committee of the Commission may direct revisions
39 to a previously adopted rule or amendment for purposes of correcting typographical errors, errors
40 in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be
41 posted on the Web site of the Commission. The revision shall be subject to challenge by any
42 person for a period of 30 days after posting. The revision may be challenged only on grounds that
43 the revision results in a material change to a rule. A challenge shall be made in writing, and
44 delivered to the chair of the Commission prior to the end of the notice period. If no challenge is
45 made, the revision will take effect without further action. If the revision is challenged, the revision
46 may not take effect without the approval of the Commission.

47 **"§ 90-270.129. Oversight, dispute resolution, and enforcement.**

48 (a) Oversight. –

49 (1) The executive, legislative, and judicial branches of state government in each
50 member state shall enforce this Compact and take all actions necessary and
51 appropriate to effectuate the Compact's purposes and intent. The provisions of

- 1 this Compact and the rules promulgated hereunder shall have standing as
2 statutory law.
- 3 (2) All courts shall take judicial notice of the Compact and the rules in any judicial
4 or administrative proceeding in a member state pertaining to the subject matter
5 of this Compact which may affect the powers, responsibilities or actions of the
6 Commission.
- 7 (3) The Commission shall be entitled to receive service of process in any such
8 proceeding, and shall have standing to intervene in such a proceeding for all
9 purposes. Failure to provide service of process to the Commission shall render a
10 judgment or order void as to the Commission, this Compact, or promulgated
11 rules.
- 12 (b) Default, Technical Assistance, and Termination. –
- 13 (1) If the Commission determines that a member state has defaulted in the
14 performance of its obligations or responsibilities under this Compact or the
15 promulgated rules, the Commission shall do all of the following:
- 16 a. Provide written notice to the defaulting state and other member states of
17 the nature of the default, the proposed means of curing the default
18 and/or any other action to be taken by the Commission.
- 19 b. Provide remedial training and specific technical assistance regarding the
20 default.
- 21 (2) If a state in default fails to cure the default, the defaulting state may be
22 terminated from the Compact upon an affirmative vote of a majority of the
23 member states, and all rights, privileges and benefits conferred by this Compact
24 may be terminated on the effective date of termination. A cure of the default
25 does not relieve the offending state of obligations or liabilities incurred during
26 the period of default.
- 27 (3) Termination of membership in the Compact shall be imposed only after all
28 other means of securing compliance have been exhausted. Notice of intent to
29 suspend or terminate shall be given by the Commission to the governor, the
30 majority and minority leaders of the defaulting state's legislature, and each of
31 the member states.
- 32 (4) A state that has been terminated is responsible for all assessments, obligations,
33 and liabilities incurred through the effective date of termination, including
34 obligations that extend beyond the effective date of termination.
- 35 (5) The Commission shall not bear any costs related to a state that is found to be in
36 default or that has been terminated from the Compact, unless agreed upon in
37 writing between the Commission and the defaulting state.
- 38 (6) The defaulting state may appeal the action of the Commission by petitioning
39 the U.S. District Court for the District of Columbia or the federal district where
40 the Commission has its principal offices. The prevailing member shall be
41 awarded all costs of such litigation, including reasonable attorneys' fees.
- 42 (c) Dispute Resolution. –
- 43 (1) Upon request by a member state, the Commission shall attempt to resolve
44 disputes related to the Compact that arise among member states and between
45 member and non-member states.
- 46 (2) The Commission shall promulgate a rule providing for both mediation and
47 binding dispute resolution for disputes as appropriate.
- 48 (d) Enforcement. –
- 49 (1) The Commission, in the reasonable exercise of its discretion, shall enforce the
50 provisions and rules of this Compact.

1 (2) By majority vote, the Commission may initiate legal action in the United States
2 District Court for the District of Columbia or the federal district where the
3 Commission has its principal offices against a member state in default to
4 enforce compliance with the provisions of the Compact and its promulgated
5 rules and bylaws. The relief sought may include both injunctive relief and
6 damages. In the event judicial enforcement is necessary, the prevailing member
7 shall be awarded all costs of such litigation, including reasonable attorneys'
8 fees.

9 (3) The remedies herein shall not be the exclusive remedies of the Commission.
10 The Commission may pursue any other remedies available under federal or
11 state law.

12 **"§ 90-270.130. Date of implementation of the interstate Commission for Physical Therapy**
13 **Practice and associated rules, withdrawal and amendment.**

14 (a) The Compact shall come into effect on the date on which the Compact statute is
15 enacted into law in the tenth member state. The provisions, which become effective at that time,
16 shall be limited to the powers granted to the Commission relating to assembly and the
17 promulgation of rules. Thereafter, the Commission shall meet and exercise rule-making powers
18 necessary to the implementation and administration of the Compact.

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

23 (c) Any member state may withdraw from this Compact by enacting a statute repealing the
24 same.

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

27 (2) Withdrawal shall not affect the continuing requirement of the withdrawing
28 state's physical therapy licensing board to comply with the investigative and
29 adverse action reporting requirements of this act prior to the effective date of
30 withdrawal.

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

34 (e) This Compact may be amended by the member states. No amendment to this Compact
35 shall become effective and binding upon any member state until it is enacted into the laws of all
36 member states.

37 **"§ 90-270.131. Construction and severability.**

38 This Compact shall be liberally construed so as to effectuate the purposes thereof. The
39 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of
40 this Compact is declared to be contrary to the constitution of any party state or of the United States
41 or the applicability thereof to any government, agency, person or circumstance is held invalid, the
42 validity of the remainder of this Compact and the applicability thereof to any government, agency,
43 person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the
44 constitution of any party state, the Compact shall remain in full force and effect as to the
45 remaining party states and in full force and effect as to the party state affected as to all severable
46 matters."

47 **SECTION 3.** This act becomes effective October 1, 2017. The North Carolina Board
48 of Physical Therapy Examiners shall report to the Revisor of Statutes when the Physical Therapy
49 Licensure Compact has been enacted by the tenth member state.