

HOUSE BILL No. 2471

By Committee on Health and Human Services

1-16

1 AN ACT concerning physical therapy; enacting the physical therapy
2 licensure compact; authorizing criminal history record checks.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. This act shall be know and may be cited as the physical
6 therapy licensure compact.

7 **PHYSICAL THERAPY LICENSURE COMPACT**

8 **SECTION 1.**

9 **PURPOSE**

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

16 (b) This compact is designed to achieve the following objectives:

17 (1) Increase public access to physical therapy services by providing
18 for the mutual recognition of other member state licenses;

19 (2) enhance the states' ability to protect the public's health and safety;

20 (3) encourage the cooperation of member states in regulating multi-
21 state physical therapy practice;

22 (4) support spouses of relocating military members;

23 (5) enhance the exchange of licensure, investigative and disciplinary
24 information

25 between member states; and

26 (6) allow a remote state to hold a provider of services with a compact
27 privilege in that state accountable to that state's practice standards.

28 **SECTION 2.**

29 **DEFINITIONS**

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

32 (a) "Active duty military" means full-time duty status in the active
33 uniformed service of the United States, including members of the national
34 guard and reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and
35 1211.

36 (b) "Adverse action" means disciplinary action taken by a physical

1 therapy licensing board based upon misconduct, unacceptable
2 performance, or a combination of both.

3 (c) "Alternative program" means a non-disciplinary monitoring or
4 practice remediation process approved by a physical therapy licensing
5 board. This includes, but is not limited to, substance abuse issues.

6 (d) "Compact privilege" means the authorization granted by a remote
7 state to allow a licensee from another member state to practice as a
8 physical therapist or work as a physical therapist assistant in the remote
9 state under its laws and rules. The practice of physical therapy occurs in
10 the member state where the patient or client is located at the time of the
11 patient or client encounter.

12 (e) "Continuing competence" means a requirement, as a condition of
13 license renewal, to provide evidence of participation in, or completion of,
14 or both, educational and professional activities relevant to practice or the
15 area of work.

16 (f) "Data system" means a repository of information about licensees,
17 including examination, licensure, investigative, compact privilege and
18 adverse action.

19 (g) "Encumbered license" means a license that a physical therapy
20 licensing board has limited in any way.

21 (h) "Executive board" means a group of directors elected or appointed
22 to act on behalf of and, within the powers granted to them, by the
23 commission.

24 (i) "Home state" means the member state that is the licensee's primary
25 state of residence.

26 (j) "Investigative information" means information, records and
27 documents received or generated by a physical therapy licensing board
28 pursuant to an investigation.

29 (k) "Jurisprudence requirement" means the assessment of an
30 individual's knowledge of the laws and rules governing the practice of
31 physical therapy in a state.

32 (l) "Licensee" means an individual who currently holds an
33 authorization from the state to practice as a physical therapist or to work as
34 a physical therapist assistant.

35 (m) "Member state" means a state that has enacted the compact.

36 (n) "Party state" means any member state in which a licensee holds a
37 current license or compact privilege or is applying for a license or compact
38 privilege.

39 (o) "Physical therapist" means an individual who is licensed by a
40 state to practice physical therapy.

41 (p) "Physical therapist assistant" means an individual who is licensed
42 or certified by a state and who assists the physical therapist in selected
43 components of physical therapy.

1 (q) "Physical therapy," "physical therapy practice," and "the practice
2 of physical therapy" means the care and services provided by or under the
3 direction and supervision of a licensed physical therapist.

4 (r) "Physical therapy compact commission" or "commission" means
5 the national administrative body whose membership consists of all states
6 that have enacted the compact.

7 (s) "Physical therapy licensing board" or "licensing board" means the
8 agency of a state that is responsible for the licensing and regulation of
9 physical therapists and physical therapist assistants.

10 (t) "Remote state" means a member state other than the home state,
11 where a licensee is exercising or seeking to exercise the compact privilege.

12 (u) "Rule" means a rule, regulation, principle or directive
13 promulgated by the commission that has the force of law.

14 (v) "State" means any state, commonwealth, district or territory of the
15 United States that regulates the practice of physical therapy.

16 SECTION 3.

17 STATE PARTICIPATION IN THE COMPACT

18 (a) To participate in the compact, a state must:

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

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

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

26 (4) fully implement a criminal background check requirement, within
27 a time frame established by rule, by receiving the results of the federal
28 bureau of investigation record search on criminal background checks and
29 use the results in making licensure decisions in accordance with this
30 compact;

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

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

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

36 (b) Upon adoption of this compact, the member state shall have the
37 authority to obtain biometric-based information from each physical
38 therapy licensure applicant and submit this information to the federal
39 bureau of investigation for a criminal background check in accordance
40 with 28 U.S.C. § 534 and 42 U.S.C. §14616.

41 (c) A member state shall grant the compact privilege to a licensee
42 holding a valid unencumbered license in another member state in
43 accordance with the terms of the compact and rules.

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

2 SECTION 4.

3 COMPACT PRIVILEGE

4 (a) To exercise the compact privilege under the terms and provisions of
5 the compact, the licensee shall:

- 6 (1) Hold a license in the home state;
- 7 (2) have no encumbrance on any state license;
- 8 (3) be eligible for a compact privilege in any member state in
9 accordance with section 4(d), (g) and (h);
- 10 (4) have not had any adverse action against any license or compact
11 privilege within the previous two years;
- 12 (5) notify the commission that the licensee is seeking the compact
13 privilege within a remote state;
- 14 (6) pay any applicable fees, including any state fee, for the compact
15 privilege;
- 16 (7) meet any jurisprudence requirements established by the remote
17 state in which the licensee is seeking a compact privilege; and
- 18 (8) report to the commission adverse action taken by any non-
19 member state within 30 days from the date the adverse action is taken.

20 (b) The compact privilege is valid until the expiration date of the
21 home license. The licensee must comply with the requirements of section
22 4(a) to maintain the compact privilege in the remote state.

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

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

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

- 35 (1) The home state license is no longer encumbered; and
- 36 (2) two years have elapsed from the date of the adverse action.

37 (f) Once an encumbered license in the home state is restored to good
38 standing, the licensee must meet the requirements of section 4(a) to obtain
39 a compact privilege in any remote state.

40 (g) If a licensee's compact privilege in any remote state is removed,
41 the individual shall lose the compact privilege in any remote state until the
42 following occur:

- 43 (1) The specific period of time for which the compact privilege was

1 removed has ended;

2 (2) all fines have been paid; and

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

4 (h) Once the requirements of section 4(g) have been met, the licensee
5 must meet the requirements in section 4(a) to obtain a compact privilege in
6 a remote state.

7 SECTION 5.

8 ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

12 (a) Home of record;

13 (b) permanent change of station (PCS); or

14 (c) state of current residence, if it is different than the PCS state or
15 home of record.

16 SECTION 6.

17 ADVERSE ACTIONS

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

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

23 (c) Nothing in this compact shall override a member state's decision
24 that participation in an alternative program may be used in lieu of adverse
25 action and that such participation shall remain non-public if required by
26 the member state's laws. Member states must require licensees who enter
27 any alternative programs in lieu of discipline to agree not to practice in any
28 other member state during the term of the alternative program without
29 prior authorization from such other member state.

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

34 (e) A remote state shall have the authority to:

35 (1) Take adverse actions as set forth in section 4(d) against a
36 licensee's compact privilege in the state;

37 (2) issue subpoenas for both hearings and investigations that require
38 the attendance and testimony of witnesses and the production of evidence.
39 Subpoenas issued by a physical therapy licensing board in a party state for
40 the attendance and testimony of witnesses, or the production of evidence,
41 or both, from another party state shall be enforced in the latter state by any
42 court of competent jurisdiction according to the practice and procedure of
43 that court applicable to subpoenas issued in proceedings pending before

1 that court. The issuing authority shall pay any witness fees, travel
2 expenses, mileage and other fees required by the service statutes of the
3 state where the witnesses or evidence, or both, are located; and

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

7 (f) Joint investigations:

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

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

15 SECTION 7.

16 ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT 17 COMMISSION

18 (a) The compact member states hereby create and establish a joint
19 public agency known as the physical therapy compact commission:

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

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

27 (3) Nothing in this compact shall be construed to be a waiver of
28 sovereign immunity.

29 (b) Membership, voting, and meetings:

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

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

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

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

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

42 (6) A delegate shall vote in person or by such other means as
43 provided in the bylaws. The bylaws may provide for delegates'

- 1 participation in meetings by telephone or other means of communication.
- 2 (7) The commission shall meet at least once during each calendar
3 year. Additional meetings shall be held as set forth in the bylaws.
- 4 (c) The commission shall have the following powers and duties:
- 5 (1) Establish the fiscal year of the commission;
- 6 (2) establish bylaws;
- 7 (3) maintain its financial records in accordance with the bylaws;
- 8 (4) meet and take such actions as are consistent with the provisions of
9 this compact and the bylaws;
- 10 (5) promulgate uniform rules to facilitate and coordinate
11 implementation and administration of this compact. The rules shall have
12 the force and effect of law and shall be binding in all member states;
- 13 (6) bring and prosecute legal proceedings or actions in the name of
14 the commission, provided that the standing of any state physical therapy
15 licensing board to sue or be sued under applicable law shall not be
16 affected;
- 17 (7) purchase and maintain insurance and bonds;
- 18 (8) borrow, accept or contract for services of personnel including, but
19 not limited to, employees of a member state;
- 20 (9) hire employees, elect or appoint officers, fix compensation, define
21 duties, grant such individuals appropriate authority to carry out the
22 purposes of the compact, and establish the commission's personnel policies
23 and programs relating to conflicts of interest, qualifications of personnel
24 and other related personnel matters;
- 25 (10) accept any and all appropriate donations and grants of money,
26 equipment, supplies, materials and services and receive, utilize and
27 dispose of the same, except that at all times the commission shall avoid
28 any appearance of impropriety or conflict of interest, or both;
- 29 (11) lease, purchase, accept appropriate gifts or donations of, or
30 otherwise own, hold, improve or use, any property, real, personal or
31 mixed, except that at all times the commission shall avoid any appearance
32 of impropriety;
- 33 (12) sell, convey, mortgage, pledge, lease, exchange, abandon or
34 otherwise dispose of any property, real, personal or mixed;
- 35 (13) establish a budget and make expenditures;
- 36 (14) borrow money;
- 37 (15) appoint committees, including standing committees comprised of
38 members, state regulators, state legislators or their representatives, and
39 consumer representatives and such other interested persons as may be
40 designated in this compact and the bylaws;
- 41 (16) provide and receive information from, and cooperate with, law
42 enforcement agencies;
- 43 (17) establish and elect an executive board; and

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

4 (d) The executive board shall have the power to act on behalf of the
5 commission according to the terms of this compact.

6 (1) The executive board shall be comprised of nine members:

7 (A) Seven voting members, who are elected by the commission from
8 the current membership of the commission;

9 (B) one ex-officio, non-voting member from the recognized national
10 physical therapy professional association; and

11 (C) one ex-officio, non-voting member from the recognized
12 membership organization of the physical therapy licensing boards.

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

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

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

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

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

24 (B) ensure compact administration services are appropriately
25 provided, contractual or otherwise;

26 (C) prepare and recommend the budget;

27 (D) maintain financial records on behalf of the commission;

28 (E) monitor compact compliance of member states and provide
29 compliance reports to the commission;

30 (F) establish additional committees as necessary; and

31 (G) other duties as provided in rules or bylaws.

32 (e) Meetings of the commission:

33 (1) All meetings shall be open to the public, and public notice of
34 meetings shall be given in the same manner as required under the
35 rulemaking provisions in section 9.

36 (2) The commission or the executive board or other committees of the
37 commission may convene in a closed, non-public meeting, if the
38 commission or executive board or other committees of the commission
39 must discuss:

40 (A) Non-compliance of a member state with its obligations under the
41 compact;

42 (B) the employment, compensation, discipline or other matters,
43 practices or procedures related to specific employees or other matters

- 1 related to the commission's internal personnel practices and procedures;
2 (C) current, threatened or reasonably anticipated litigation;
3 (D) negotiation of contracts for the purchase, lease or sale of goods,
4 services or real estate;
5 (E) accusing any person of a crime or formally censuring any person;
6 (F) disclosure of trade secrets or commercial or financial information
7 that is privileged or confidential;
8 (G) disclosure of information of a personal nature where disclosure
9 would constitute a clearly unwarranted invasion of personal privacy;
10 (H) disclosure of investigative records compiled for law enforcement
11 purposes;
12 (I) disclosure of information related to any investigative reports
13 prepared by or on behalf of or for use of the commission or other
14 committee charged with responsibility of investigation or determination of
15 compliance issues pursuant to the compact; or
16 (J) matters specifically exempted from disclosure by federal or
17 member state statute.
- 18 (3) If a meeting, or portion of a meeting, is closed pursuant to this
19 provision, the commission's legal counsel or designee shall certify that the
20 meeting may be closed and shall reference each relevant exempting
21 provision.
- 22 (4) The commission shall keep minutes that fully and clearly describe
23 all matters discussed in a meeting and shall provide a full and accurate
24 summary of actions taken, and the reasons therefore, including a
25 description of the views expressed. All documents considered in
26 connection with an action shall be identified in such minutes. All minutes
27 and documents of a closed meeting shall remain under seal, subject to
28 release by a majority vote of the commission or order of a court of
29 competent jurisdiction.
- 30 (f) Financing of the commission:
- 31 (1) The commission shall pay, or provide for the payment of, the
32 reasonable expenses of its establishment, organization and ongoing
33 activities.
- 34 (2) The commission may accept any and all appropriate revenue
35 sources, donations, and grants of money, equipment, supplies, materials
36 and services.
- 37 (3) The commission may levy on and collect an annual assessment
38 from each member state or impose fees on other parties to cover the cost
39 of the operations and activities of the commission and its staff, which must
40 be in a total amount sufficient to cover its annual budget as approved each
41 year for which revenue is not provided by other sources. The aggregate
42 annual assessment amount shall be allocated based upon a formula to be
43 determined by the commission, which shall promulgate a rule binding

1 upon all member states.

2 (4) The commission shall not incur obligations of any kind prior to
3 securing the funds adequate to meet the same nor shall the commission
4 pledge the credit of any of the member states, except by and with the
5 authority of the member state.

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

13 (g) Qualified immunity, defense, and indemnification:

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

25 (2) The commission shall defend any member, officer, executive
26 director, employee or representative of the commission in any civil action
27 seeking to impose liability arising out of any actual or alleged act, error or
28 omission that occurred within the scope of commission employment,
29 duties or responsibilities, or that the person against whom the claim is
30 made had a reasonable basis for believing occurred within the scope of
31 commission employment, duties or responsibilities, except that nothing
32 herein shall be construed to prohibit that person from retaining such
33 person's own counsel and except that the actual or alleged act, error or
34 omission did not result from that person's intentional or willful or wanton
35 misconduct.

36 (3) The commission shall indemnify and hold harmless any member,
37 officer, executive director, employee or representative of the commission
38 for the amount of any settlement or judgment obtained against that person
39 arising out of any actual or alleged act, error or omission that occurred
40 within the scope of commission employment, duties or responsibilities, or
41 that such person had a reasonable basis for believing occurred within the
42 scope of commission employment, duties or responsibilities, so long as the
43 actual or alleged act, error or omission did not result from the intentional

1 or willful or wanton misconduct of that person.

2 SECTION 8.

3 DATA SYSTEM

4 (a) The commission shall provide for the development, maintenance
5 and utilization of a coordinated database and reporting system containing
6 licensure, adverse action and investigative information on all licensed
7 individuals in member states.

8 (b) Notwithstanding any other provision of state law to the contrary, a
9 member state shall submit a uniform data set to the data system on all
10 individuals to whom this compact is applicable as required by the rules of
11 the commission, including:

12 (1) Identifying information;

13 (2) licensure data;

14 (3) adverse actions against a license or compact privilege;

15 (4) non-confidential information related to alternative program
16 participation;

17 (5) any denial of application for licensure, and the reason for such
18 denial; and

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

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

23 (d) The commission shall promptly notify all member states of any
24 adverse action taken against a licensee or an individual applying for a
25 license. Adverse action information pertaining to a licensee in any member
26 state will be available to any other member state.

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

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

33 SECTION 9.

34 RULEMAKING

35 (a) The commission shall exercise its rulemaking powers pursuant to
36 the criteria set forth in this section and the rules adopted thereunder. Rules
37 and amendments shall become binding as of the date specified in each rule
38 or amendment.

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

43 (c) Rules or amendments to the rules shall be adopted at a regular or

1 special meeting

2 of the commission.

3 (d) Prior to promulgation and adoption of a final rule or rules by the
4 commission, and at least 30 days in advance of the meeting at which the
5 rule will be considered and voted upon, the commission shall file a notice
6 of proposed rulemaking:

7 (1) On the website of the commission or other publicly accessible
8 platform; and

9 (2) on the website of each member state's physical therapy licensing
10 board or other publicly accessible platform or the publication in which
11 each state would otherwise publish proposed rules.

12 (e) The notice of proposed rulemaking shall include:

13 (1) The proposed time, date and location of the meeting in which the
14 rule will be considered and voted upon;

15 (2) the text of the proposed rule or amendment and the reason for the
16 proposed rule;

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

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

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

25 (g) The commission shall grant an opportunity for a public hearing
26 before it adopts a rule or amendment if a hearing is requested by:

27 (1) At least 25 persons;

28 (2) a state or federal governmental subdivision or agency; or

29 (3) an association having at least 25 members.

30 (h) If a hearing is held on the proposed rule or amendment, the
31 commission shall publish the place, time and date of the scheduled public
32 hearing. If the hearing is held via electronic means, the commission shall
33 publish the mechanism for access to the electronic hearing.

34 (1) All persons wishing to be heard at the hearing shall notify the
35 executive director of the commission, or other designated member, in
36 writing of their desire to appear and testify at the hearing not less than five
37 business days before the scheduled date of the hearing.

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

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

43 (4) Nothing in this section shall be construed as requiring a separate

1 hearing on each rule. Rules may be grouped for the convenience of the
2 commission at hearings required by this section.

3 (i) Following the scheduled hearing date, or by the close of business
4 on the scheduled hearing date if the hearing was not held, the commission
5 shall consider all written and oral comments received.

6 (j) If no written notice of intent to attend the public hearing by
7 interested parties is received, the commission may proceed with
8 promulgation of the proposed rule without a public hearing.

9 (k) The commission shall, by majority vote of all members, take final
10 action on the proposed rule and shall determine the effective date of the
11 rule, if any, based on the rulemaking record and the full text of the rule.

12 (l) Upon determination that an emergency exists, the commission
13 may consider and adopt an emergency rule without prior notice,
14 opportunity for comment, or hearing, so long as the usual rulemaking
15 procedures provided in the compact and in this section shall be
16 retroactively applied to the rule as soon as reasonably possible, in no event
17 later than 90 days after the effective date of the rule. For the purposes of
18 this provision, an emergency rule is one that must be adopted immediately
19 in order to:

20 (1) Meet an imminent threat to public health, safety or welfare;

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

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

24 (4) protect public health and safety.

25 (m) The commission or an authorized committee of the commission
26 may direct revisions to a previously adopted rule or amendment for
27 purposes of correcting typographical errors, errors in format, errors in
28 consistency or grammatical errors. Public notice of any revisions shall be
29 posted on the website of the commission. The revision shall be subject to
30 challenge by any person for a period of 30 days after posting. The revision
31 may be challenged only on grounds that the revision results in a material
32 change to a rule. A challenge shall be made in writing, and delivered to the
33 chair of the commission prior to the end of the notice period. If no
34 challenge is made, the revision will take effect without further action. If
35 the revision is challenged, the revision may not take effect without the
36 approval of the commission.

37 SECTION 10.

38 OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

39 (a) Oversight:

40 (1) The executive, legislative and judicial branches of state
41 government in each member state shall enforce this compact and take all
42 actions necessary and appropriate to effectuate the compact's purposes and
43 intent. The provisions of this compact and the rules promulgated hereunder

1 shall have standing as statutory law.

2 (2) All courts shall take judicial notice of the compact and the rules in
3 any judicial or administrative proceeding in a member state pertaining to
4 the subject matter of this compact that may affect the powers,
5 responsibilities or actions of the commission.

6 (3) The commission shall be entitled to receive service of process in
7 any such proceeding and shall have standing to intervene in such a
8 proceeding for all purposes. Failure to provide service of process to the
9 commission shall render a judgment or order void as to the commission,
10 this compact or promulgated rules.

11 (b) Default, technical assistance and termination:

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

15 (A) Provide written notice to the defaulting state and other member
16 states of the nature of the default, the proposed means of curing the default
17 and any other action to be taken by the commission; and

18 (B) provide remedial training and specific technical assistance
19 regarding the default.

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

26 incurred during the period of default.

27 (3) Termination of membership in the compact shall be imposed only
28 after all other means of securing compliance have been exhausted. Notice
29 of intent to suspend or terminate shall be given by the commission to the
30 governor, the majority and minority leaders of the defaulting state's
31 legislature and each of the member states.

32 (4) A state that has been terminated is responsible for all assessments,
33 obligations and liabilities incurred through the effective date of
34 termination, including obligations that extend beyond the effective date of
35 termination.

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

39 (6) The defaulting state may appeal the action of the commission by
40 petitioning the United States district court for the District of Columbia or
41 the federal district where the commission has its principal offices. The
42 prevailing member state shall be awarded all costs of such litigation,
43 including reasonable attorney fees.

1 (c) Dispute resolution:

2 (1) Upon request by a member state, the commission shall attempt to
 3 resolve disputes related to the compact that arise among member states and
 4 between member and non-member states.

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

7 (d) Enforcement:

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

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

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

21 SECTION 11.

22 DATE OF IMPLEMENTATION OF THE INTERSTATE
 23 COMMISSION FOR PHYSICAL THERAPY PRACTICE AND
 24 ASSOCIATED RULES, WITHDRAWAL AND AMENDMENT

25 (a) The compact shall come into effect on the date on which the
 26 compact statute is enacted into law in the 10th member state. The
 27 provisions that become effective at that time shall be limited to the powers
 28 granted to the commission relating to assembly and the promulgation of
 29 rules. Thereafter, the commission shall meet and exercise rulemaking
 30 powers necessary to the implementation and administration of the
 31 compact.

32 (b) Any state that joins the compact subsequent to the commission's
 33 initial adoption of the rules shall be subject to the rules as they exist on the
 34 date on which the compact becomes law in that state. Any rule that has
 35 been previously adopted by the commission shall have the full force and
 36 effect of law on the day the compact becomes law in that state.

37 (c) Any member state may withdraw from this compact by enacting a
 38 statute repealing the same.

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

41 (2) Withdrawal shall not affect the continuing requirement of the
 42 withdrawing state's physical therapy licensing board to comply with the
 43 investigative and adverse action reporting requirements of this act prior to

1 the effective date of withdrawal.

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

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

9 SECTION 12.

10 CONSTRUCTION AND SEVERABILITY

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

22 Sec. 2. (a) As part of an original application for a license as a physical
23 therapist or a certificate as a physical therapy assistant, or as part of an
24 original application for reinstatement of a license or certificate or in
25 connection with any investigation of any holder of a license or certificate,
26 the state board of healing arts may require a person to be fingerprinted and
27 submit to a state and national criminal history record check. The
28 fingerprints shall be used to identify the person and to determine whether
29 the person has a record of criminal history in this state or other
30 jurisdiction. The state board of healing arts is authorized to submit the
31 fingerprints to the Kansas bureau of investigation and the federal bureau of
32 investigation for a state and national criminal history record check. The
33 state board of healing arts may use the information obtained from
34 fingerprinting and the criminal history for purposes of verifying the
35 identification of the person and in the official determination of the
36 qualifications and fitness of the person to be issued or to maintain a license
37 or certificate.

38 (b) Local and state law enforcement officers and agencies shall assist
39 the state board of healing arts in taking and processing of fingerprints of
40 applicants for and holders of any license or certificate and shall release all
41 records of adult convictions and nonconvictions and adult convictions or
42 adjudications of another state or country to the state board of healing arts.

43 (c) The state board of healing arts may fix and collect a fee as may be

1 required by the board in an amount necessary to reimburse the board for
2 the cost of fingerprinting and the criminal history record check. Any
3 moneys collected under this subsection shall be deposited in the state
4 treasury and credited to the healing arts fee fund.

5 (d) This section shall be part of and supplemental to the physical
6 therapy licensure act.

7 Sec. 3. This act shall take effect and be in force from and after its
8 publication in the statute book.