

# 45:9-37.34h & 45:9-37.34i

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2017                    **CHAPTER:** 304

**NJSA:** 45:9-37.34h & 45:9-37.34i (Enters New Jersey in Physical Therapy Licensure Compact.)

**BILL NO:** S2511                    (Substituted for A4368)

**SPONSOR(S)** Codey and others

**DATE INTRODUCED:** 9/12/2016

**COMMITTEE:**                    **ASSEMBLY:** Health & Senior Services

**SENATE:** Commerce  
Budget & Appropriations

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**                    **ASSEMBLY:** 1/8/2018

**SENATE:** 1/8/2018

**DATE OF APPROVAL:** 1/16/2018

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (Introduced version of bill enacted) Yes

**S2511**

**SPONSOR'S STATEMENT:** (Begins on page 17 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

**SENATE:** Yes Commerce  
Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

**A4368**

**SPONSOR'S STATEMENT:** (Begins on page 17 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** Yes

**SENATE:** No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

(continued)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

RH/CL

P.L. 2017, CHAPTER 304, *approved January 16, 2018*  
Senate, No. 2511

1 **AN ACT** concerning the Physical Therapy Licensure Compact and  
2 supplementing Title 45 of the Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6

7 1. The State of New Jersey enacts and enters into the Physical  
8 Therapy Licensure Compact with all other jurisdictions that legally  
9 join in the compact in the form substantially as follows:

10

11

Section 1. Purpose.

12

13 1. The purpose of this compact is to facilitate the practice of  
14 physical therapy with the goal of improving public access to  
15 physical therapy services. The practice of physical therapy occurs  
16 in the state where the patient is located at the time of the patient  
17 encounter. The compact preserves the regulatory authority of states  
18 to protect public health and safety through the current system of  
19 state licensure.

20

This compact is designed to achieve the following objectives:

21

a. increase public access to physical therapy services by  
22 providing for the mutual recognition of other member state licenses;

23

b. enhance the states' ability to protect the public's health and  
24 safety;

25

c. encourage the cooperation of member states in regulating  
26 multi-state physical therapy practice;

27

d. support spouses of relocating military members;

28

e. enhance the exchange of licensure, investigative, and  
29 disciplinary information between member states; and

30

f. allow a remote state to hold a provider of services with a  
31 compact privilege in that state accountable to that state's practice  
32 standards.

33

34

Section 2. Definitions.

35

36 2. As used in this compact, except as otherwise provided, the  
37 following definitions shall apply:

38

“Active duty military” means full-time duty status in the active  
39 uniformed service of the United States, including members of the  
40 National Guard and Reserve on active duty orders pursuant to 10  
41 U.S.C. s.1209 and 1211.

1       “Adverse action” means disciplinary action taken by a physical  
2 therapy licensing board based upon misconduct, unacceptable  
3 performance, or a combination of both.

4       “Alternative program” means a non-disciplinary monitoring or  
5 practice remediation process approved by a physical therapy  
6 licensing board. This includes, but is not limited to, substance abuse  
7 issues.

8       “Compact” means the Physical Therapy Licensure Compact.

9       “Compact privilege” means the authorization granted by a  
10 remote state to allow a licensee from another member state to  
11 practice as a physical therapist or work as a physical therapist  
12 assistant in the remote state under its laws and rules. The practice  
13 of physical therapy occurs in the member state where the patient is  
14 located at the time of the patient encounter.

15       “Continuing competence” means a requirement, as a condition of  
16 license renewal, to provide evidence of participation in, and  
17 completion of, educational and professional activities relevant to  
18 practice or area of work.

19       “Data system” means a repository of information about  
20 licensees, including examination, licensure, investigative, compact  
21 privilege, and adverse action.

22       “Encumbered license” means a license that a physical therapy  
23 licensing board has limited in any way.

24       “Executive Board” means a group of directors elected or  
25 appointed to act on behalf of, and within the powers granted to them  
26 by, the commission.

27       “Home state” means the member state that is the licensee’s  
28 primary state of residence.

29       “Investigative information” means information, records, and  
30 documents received or generated by a physical therapy licensing  
31 board pursuant to an investigation.

32       “Jurisprudence requirement” means the assessment of an  
33 individual’s knowledge of the laws and rules governing the practice  
34 of physical therapy in a state.

35       “Licensee” means an individual licensed by the State Board of  
36 Physical Therapy Examiners or an individual who currently holds  
37 an authorization from a member state to practice as a physical  
38 therapist or to work as a physical therapist assistant.

39       “Member state” means a state that has enacted and entered into  
40 the compact.

41       “Party state” means any member state in which a licensee holds a  
42 current license or compact privilege or is applying for a license or  
43 compact privilege.

44       “Physical therapist” means an individual who is licensed by a  
45 state to practice physical therapy.

46       “Physical therapist assistant” means an individual who is  
47 licensed or certified by a state and who assists the physical therapist  
48 in selected components of physical therapy.

1 “Physical therapy,” “physical therapy practice,” and “the practice  
2 of physical therapy” mean the care and services provided by or  
3 under the direction and supervision of a licensed physical therapist.

4 “Physical Therapy Compact Commission” or “commission”  
5 means the national administrative body whose membership consists  
6 of all member states.

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

10 “Remote state” means a member state other than the home state,  
11 where a licensee is exercising or seeking to exercise the compact  
12 privilege.

13 “Rule” means a regulation, principle, or directive promulgated  
14 by the commission that has the force of law.

15 “State” means any state, commonwealth, district, or territory of  
16 the United States of America that regulates the practice of physical  
17 therapy.

18  
19 Section 3. State Participation in the Compact.  
20

21 3. a. To participate in the compact, a state must:

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

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

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

29 (4) fully implement a criminal background check requirement,  
30 within a time frame established by rule, by receiving the results of  
31 the Federal Bureau of Investigation record search on criminal  
32 background checks and use the results in making licensure  
33 decisions in accordance with subsection b. of this section;

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

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

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

39 b. Upon enactment of this compact, a member state shall have  
40 the authority to obtain biometric-based information from each  
41 physical therapy licensure applicant and submit this information to  
42 the Federal Bureau of Investigation for a criminal background  
43 check in accordance with 28 U.S.C. s.534 and 42 U.S.C. s.14616.

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

47 d. Member states may charge a fee for granting a compact  
48 privilege.

## 1 Section 4. Compact Privilege.

2  
3 4. a. To exercise the compact privilege under the terms and  
4 provisions of the compact, the licensee shall:

5 (1) hold a license in the home state;

6 (2) have no encumbrance on any state license;

7 (3) be eligible for a compact privilege in any member state in  
8 accordance with subsections d., g., and h. of this section;

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

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

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

15 (7) meet any jurisprudence requirements established by a remote  
16 state in which the licensee is seeking a compact privilege; and

17 (8) report to the commission adverse action taken by any non-  
18 member state within 30 days from the date the adverse action is  
19 taken.

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

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

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

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

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

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

39 f. Once an encumbered license in the home state is restored to  
40 good standing, the licensee must meet the requirements of  
41 subsection a. of this section to obtain a compact privilege in any  
42 remote state.

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

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

48 (2) all fines have been paid; and

- 1 (3) two years have elapsed from the date of the adverse action.  
2 h. Once the requirements of subsection g. of this section have  
3 been met, the licensee must meet the requirements in subsection a.  
4 of this section to obtain a compact privilege in a remote state.

5  
6 Section 5. Active Duty Military Personnel or their Spouses.

7  
8 5. A licensee who is active duty military or is the spouse of an  
9 individual who is active duty military may designate one of the  
10 following as the home state:

- 11 a. home of record;  
12 b. permanent Change of Station; or  
13 c. state of current residence if it is different than the permanent  
14 Change of Station state or home of record.

15  
16 Section 6. Adverse Actions.

17  
18 6. a. A home state shall have exclusive power to impose  
19 adverse action against a license issued by the home state.

20 b. A home state may take adverse action based on the  
21 investigative information of a remote state.

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

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

35 e. A remote state shall have the authority to:

36 (1) take adverse actions as set forth in subsection d. of section 4  
37 of this compact against a licensee's compact privilege in the state;

38 (2) issue subpoenas for both hearings and investigations that  
39 require the attendance and testimony of witnesses and the  
40 production of evidence, and subpoenas issued by a physical therapy  
41 licensing board in a party state for the attendance and testimony of  
42 witnesses, or the production of evidence from another party state,  
43 shall be enforced in the latter state by any court of competent  
44 jurisdiction, according to the practice and procedure of that court  
45 applicable to subpoenas issued in proceedings pending before it,  
46 and the issuing authority shall pay any witness fees, travel  
47 expenses, mileage, and other fees required by the service laws of  
48 the state where the witnesses or evidence are located; and

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

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

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

11

12 Section 7. Establishment of the Commission.

13

14 7. a. The compact member states hereby create and  
15 establish a joint public agency known as the Physical Therapy  
16 Compact Commission:

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

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

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

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

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

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

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

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

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

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

47 c. The commission shall have the following powers and duties:

48 (1) establish the fiscal year of the commission;



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

- 1 (a) seven voting members who are elected by the commission
- 2 from the current membership of the commission;
- 3 (b) one ex-officio, nonvoting member from the recognized
- 4 national physical therapy professional association; and
- 5 (c) one ex-officio, nonvoting member from the recognized
- 6 membership organization of the physical therapy licensing boards.
- 7 (2) The ex-officio members will be selected by their respective
- 8 organizations.
- 9 (3) The commission may remove any member of the executive
- 10 board as provided in bylaws.
- 11 (4) The executive board shall meet at least annually.
- 12 (5) The executive board shall have the following duties and
- 13 responsibilities:
  - 14 (a) recommend to the entire commission changes to the rules or
  - 15 bylaws, changes to this compact, fees paid by compact member
  - 16 states such as annual dues, and any commission compact fee
  - 17 charged to licensees for the compact privilege;
  - 18 (b) ensure compact administration services are appropriately
  - 19 provided, contractual or otherwise;
  - 20 (c) prepare and recommend the budget;
  - 21 (d) maintain financial records on behalf of the commission;
  - 22 (e) monitor compact compliance of member states and provide
  - 23 compliance reports to the commission;
  - 24 (f) establish additional committees as necessary; and
  - 25 (g) other duties as provided in rules or bylaws.
- 26 e. (1) All meetings shall be open to the public, and a public
- 27 notice of meetings shall be given in the same manner as required
- 28 under the rulemaking provisions in section 9 of this compact.
- 29 (2) The commission or the executive board or other committees
- 30 of the commission may convene in a closed, non-public meeting if
- 31 the commission or executive board or other committees of the
- 32 commission must discuss:
  - 33 (a) non-compliance of a member state with its obligations under
  - 34 the compact;
  - 35 (b) the employment, compensation, discipline or other matters,
  - 36 practices or procedures related to specific employees or other
  - 37 matters related to the commission's internal personnel practices and
  - 38 procedures;
  - 39 (c) current, threatened, or reasonably anticipated litigation;
  - 40 (d) negotiation of contracts for the purchase, lease, or sale of
  - 41 goods, services, or real estate;
  - 42 (e) accusing any person of a crime or formally censuring any
  - 43 person;
  - 44 (f) disclosure of trade secrets or commercial or financial
  - 45 information that is privileged or confidential;
  - 46 (g) disclosure of information of a personal nature where
  - 47 disclosure would constitute a clearly unwarranted invasion of
  - 48 personal privacy;

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

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

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

9 (3) If a meeting, or portion of a meeting, is closed pursuant to  
10 any subparagraph of paragraph (2) of this subsection, the  
11 commission's legal counsel or designee shall certify that the  
12 meeting may be closed and shall reference each relevant exempting  
13 provision.

14 (4) The commission shall keep minutes that fully and clearly  
15 describe all matters discussed in a meeting and shall provide a full  
16 and accurate summary of actions taken, and the reasons therefore,  
17 including a description of the views expressed. All documents  
18 considered in connection with an action shall be identified in the  
19 minutes. All minutes and documents of a closed meeting shall  
20 remain under seal, subject to release by a majority vote of the  
21 commission or order of a court of competent jurisdiction.

22 f. (1) The commission shall pay, or provide for the payment  
23 of, the reasonable expenses of its establishment, organization, and  
24 ongoing activities.

25 (2) The commission may accept any and all appropriate revenue  
26 sources, donations, and grants of money, equipment, supplies,  
27 materials, and services.

28 (3) The commission may levy on and collect an annual  
29 assessment from each member state or impose fees on other parties  
30 to cover the cost of the operations and activities of the commission  
31 and its staff, which must be in a total amount sufficient to cover its  
32 annual budget as approved each year for which revenue is not  
33 provided by other sources. The aggregate annual assessment  
34 amount shall be allocated based upon a formula to be determined by  
35 the commission, which shall promulgate a rule binding upon all  
36 member states.

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

41 (5) The commission shall keep accurate accounts of all receipts  
42 and disbursements. The receipts and disbursements of the  
43 commission shall be subject to the audit and accounting procedures  
44 established under its bylaws. However, all receipts and  
45 disbursements of funds handled by the commission shall be audited  
46 yearly by a certified or licensed public accountant, and the report of  
47 the audit shall be included in and become part of the annual report  
48 of the commission.

1 g. (1) The members, officers, executive director, employees  
2 and representatives of the commission shall be immune from suit  
3 and liability, either personally or in their official capacity, for any  
4 claim for damage to or loss of property or personal injury or other  
5 civil liability caused by or arising out of any actual or alleged act,  
6 error or omission that occurred, or that the person against whom the  
7 claim is made had a reasonable basis for believing occurred within  
8 the scope of commission employment, duties or responsibilities;  
9 provided that nothing in this paragraph shall be construed to protect  
10 any such person from suit or liability for any damage, loss, injury,  
11 or liability caused by the intentional or willful or wanton  
12 misconduct of that person.

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

25 (3) The commission shall indemnify and hold harmless any  
26 member, officer, executive director, employee, or representative of  
27 the commission for the amount of any settlement or judgment  
28 obtained against that person arising out of any actual or alleged act,  
29 error or omission that occurred within the scope of commission  
30 employment, duties, or responsibilities, or that person had a  
31 reasonable basis for believing occurred within the scope of  
32 commission employment, duties, or responsibilities, provided that  
33 the actual or alleged act, error, or omission did not result from the  
34 intentional or willful or wanton misconduct of that person.

35

#### 36 Section 8. Data System.

37

38 8. a. The commission shall provide for the development,  
39 maintenance, and utilization of a coordinated database and reporting  
40 system containing licensure, adverse action, and investigative  
41 information on all licensed individuals in member states.

42 b. Notwithstanding any other provision of state law to the  
43 contrary, a member state shall submit a uniform data set to the data  
44 system on all individuals to whom this compact is applicable as  
45 required by the rules of the commission, including:

46 (1) identifying information;

47 (2) licensure data;

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

- 1 (4) non-confidential information related to alternative program  
2 participation;
- 3 (5) any denial of application for licensure, and the reason or  
4 reasons for the denial; and
- 5 (6) other information that may facilitate the administration of  
6 this compact, as determined by the rules of the commission.
- 7 c. Investigative information pertaining to a licensee in any  
8 member state will only be available to other party states.
- 9 d. The commission shall promptly notify all member states of  
10 any adverse action taken against a licensee or an individual  
11 applying for a license. Adverse action information pertaining to a  
12 licensee in any member state will be available to any other member  
13 state.
- 14 e. Member states contributing information to the data system  
15 may designate information that may not be shared with the public  
16 without the express permission of the contributing state.
- 17 f. Any information submitted to the data system that is  
18 subsequently required to be expunged by the laws of the member  
19 state contributing the information shall be removed from the data  
20 system.

21

22 Section 9. Rulemaking.

23

- 24 9. a. The commission shall exercise its rulemaking powers  
25 pursuant to the criteria set forth in this section and the rules adopted  
26 thereunder. Rules and amendments shall become binding as of the  
27 date specified in each rule or amendment.
- 28 b. If a majority of the legislatures of the member states rejects  
29 a rule, by enactment of a statute or resolution in the same manner  
30 used to adopt the compact within four years of the date of adoption  
31 of the rule, then the rule shall have no further force and effect in  
32 any member state.
- 33 c. Rules or amendments to the rules shall be adopted at a  
34 regular or special meeting of the commission.
- 35 d. Prior to promulgation and adoption of a final rule or rules by  
36 the commission, and at least 30 days in advance of the meeting at  
37 which the rule will be considered and voted upon, the commission  
38 shall file a Notice of Proposed Rulemaking:
- 39 (1) on the website of the commission or other publicly  
40 accessible platform; and
- 41 (2) on the website of each member state physical therapy  
42 licensing board or other publicly accessible platform or the  
43 publication in which each state would otherwise publish proposed  
44 rules.
- 45 e. The Notice of Proposed Rulemaking shall include:
- 46 (1) the proposed time, date, and location of the meeting in  
47 which the rule will be considered and voted upon;

- 1 (2) the text of the proposed rule or amendment and the reason  
2 for the proposed rule;
- 3 (3) a request for comments on the proposed rule from any  
4 interested person; and
- 5 (4) the manner in which interested persons may submit notice to  
6 the commission of their intention to attend the public hearing and  
7 any written comments.
- 8 f. Prior to adoption of a proposed rule, the commission shall  
9 allow persons to submit written data, facts, opinions, and  
10 arguments, which shall be made available to the public.
- 11 g. The commission shall grant an opportunity for a public  
12 hearing before it adopts a rule or amendment if a hearing is  
13 requested by:
- 14 (1) at least 25 persons;
- 15 (2) a state or federal governmental subdivision or agency; or
- 16 (3) an association having at least 25 members.
- 17 h. If a hearing is held on the proposed rule or amendment, the  
18 commission shall publish the place, time, and date of the scheduled  
19 public hearing. If the hearing is held via electronic means, the  
20 commission shall publish the mechanism for access to the electronic  
21 hearing.
- 22 (1) All persons wishing to be heard at the hearing shall notify  
23 the executive director of the commission or other designated  
24 member in writing of their desire to appear and testify at the hearing  
25 not less than five business days before the scheduled date of the  
26 hearing.
- 27 (2) Hearings shall be conducted in a manner providing each  
28 person who wishes to comment a fair and reasonable opportunity to  
29 comment orally or in writing.
- 30 (3) All hearings will be recorded. A copy of the recording will  
31 be made available on request.
- 32 (4) Nothing in this section shall be construed as requiring a  
33 separate hearing on each rule. Rules may be grouped for the  
34 convenience of the commission at hearings required by this section.
- 35 i. Following the scheduled hearing date, or by the close of  
36 business on the scheduled hearing date if the hearing was not held,  
37 the commission shall consider all written and oral comments  
38 received.
- 39 j. If no written notice of intent to attend the public hearing by  
40 interested parties is received, the commission may proceed with  
41 promulgation of the proposed rule without a public hearing.
- 42 k. The commission shall, by majority vote of all members, take  
43 final action on the proposed rule and shall determine the effective  
44 date of the rule, if any, based on the rulemaking record and the full  
45 text of the rule.
- 46 l. Upon determination that an emergency exists, the  
47 commission may consider and adopt an emergency rule without  
48 prior notice, opportunity for comment, or hearing, provided that the

1 usual rulemaking procedures provided in the compact and in this  
2 section shall be retroactively applied to the rule as soon as  
3 reasonably possible, in no event later than 90 days after the  
4 effective date of the rule. For the purposes of this provision, an  
5 emergency rule is one that must be adopted immediately in order to:

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

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

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

10 (4) protect public health and safety.

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

24  
25 Section 10. Oversight, Dispute Resolution, and Enforcement.

26  
27 10. a. The executive, legislative, and judicial branches of state  
28 government in each member state shall enforce this compact and  
29 take all actions necessary and appropriate to effectuate the  
30 compact's purposes and intent. The provisions of this compact and  
31 the rules promulgated hereunder shall have standing as statutory  
32 law. All courts shall take judicial notice of the compact and the  
33 rules in any judicial or administrative proceeding in a member state  
34 pertaining to the subject matter of this compact which may affect  
35 the powers, responsibilities or actions of the commission. The  
36 commission shall be entitled to receive service of process in any  
37 judicial or administrative proceeding, and shall have standing to  
38 intervene in such a proceeding for all purposes. Failure to provide  
39 service of process to the commission shall render a judgment or  
40 order void as to the commission, this compact, or promulgated  
41 rules.

42 b. If the commission determines that a member state has  
43 defaulted in the performance of its obligations or responsibilities  
44 under this compact or the promulgated rules, the commission shall:

45 (1) provide written notice to the defaulting state and other  
46 member states of the nature of the default, the proposed means of  
47 curing the default and any other action to be taken by the  
48 commission; and

1 (2) provide remedial training and specific technical assistance  
2 regarding the default.

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

10 Termination of membership in the compact shall be imposed  
11 only after all other means of securing compliance have been  
12 exhausted. Notice of intent to suspend or terminate shall be given  
13 by the commission to the governor, the majority and minority  
14 leaders of the defaulting state's legislature, and each of the member  
15 states. A state that has been terminated is responsible for all  
16 assessments, obligations, and liabilities incurred through the  
17 effective date of termination, including obligations that extend  
18 beyond the effective date of termination.

19 The commission shall not bear any costs related to a state that is  
20 found to be in default or that has been terminated from the compact,  
21 unless agreed upon in writing between the commission and the  
22 defaulting state. The defaulting state may appeal the action of the  
23 commission by petitioning the U.S. District Court for the District of  
24 Columbia or the federal district where the commission has its  
25 principal offices. The prevailing member shall be awarded all costs  
26 of litigation, including reasonable attorney's fees.

27 c. Upon request by a member state, the commission shall  
28 attempt to resolve disputes related to the compact that arise among  
29 member states and between member and non-member states. The  
30 commission shall promulgate a rule providing for both mediation  
31 and binding dispute resolution for disputes as appropriate.

32 d. The commission, in the reasonable exercise of its discretion,  
33 shall enforce the provisions and rules of this compact. By majority  
34 vote, the commission may initiate legal action in the United States  
35 District Court for the District of Columbia or the federal district  
36 where the commission has its principal offices against a member  
37 state in default to enforce compliance with the provisions of the  
38 compact and its promulgated rules and bylaws. The relief sought  
39 may include both injunctive relief and damages. In the event  
40 judicial enforcement is necessary, the prevailing member shall be  
41 awarded all costs of litigation, including reasonable attorney's fees.  
42 The remedies herein shall not be the exclusive remedies of the  
43 commission. The commission may pursue any other remedies  
44 available under federal or state law.

45

46 Section 11. Date of Implementation of the Commission and  
47 Associated Rules, Withdrawal, and Amendment.



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

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

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

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

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

22       d. Nothing contained in this compact shall be construed to  
23 invalidate or prevent any physical therapy licensure agreement or  
24 other cooperative arrangement between a member state and a non-  
25 member state that does not conflict with the provisions of this  
26 compact.

27       e. This compact may be amended by the member states. No  
28 amendment to this compact shall become effective and binding  
29 upon any member state until it is enacted into the laws of all  
30 member states.

## 31 32                   Section 12. Construction and Severability.

33  
34       12. This compact shall be liberally construed so as to effectuate  
35 the purposes thereof. The provisions of this compact shall be  
36 severable and if any phrase, clause, sentence or provision of this  
37 compact is declared to be contrary to the constitution of any party  
38 state or of the United States or the applicability thereof to any  
39 government, agency, person or circumstance is held invalid, the  
40 validity of the remainder of this compact and the applicability  
41 thereof to any government, agency, person or circumstance shall not  
42 be affected thereby. If this compact shall be held contrary to the  
43 constitution of any party state, the compact shall remain in full  
44 force and effect as to the remaining party states and in full force and  
45 effect as to the party state affected as to all severable matters.

46  
47       2. The Physical Therapy Licensure Compact is intended to  
48 facilitate the regulation of the practice of physical therapy and no

1 provision of the compact shall be construed as to relieve employers  
2 from complying with contractual and statutorily imposed  
3 obligations.

4  
5 3. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill will enter New Jersey in the Physical Therapy Licensure  
11 Compact (PTLC). The PTLC provides for a mutual recognition  
12 model of physical therapy licensure (for physical therapists and  
13 physical therapist assistants), in which a physical therapist or  
14 physical therapist assistant only needs to obtain one license from  
15 the state of residence in order to be permitted to practice in any  
16 other state that is a party to the compact, as long as the physical  
17 therapist or physical therapist assistant complies with the state  
18 practice laws of the state in which the patient is located at the time  
19 that care and services are rendered. Currently, a physical therapist  
20 or physical therapist assistant is required to be licensed in, and by,  
21 each state in which a physical therapist or physical therapist  
22 assistant chooses to practice.

23 Under the PTLC, a person who applies for licensure is required  
24 to meet the qualifications for licensure and license renewal of the  
25 person's home state. The PTLC authorizes a remote state that is  
26 party to the compact to impose fines and suspend the multistate  
27 licensure privilege of any physical therapist or physical therapist  
28 assistant to practice in that state and may take any other actions  
29 under the applicable state laws necessary to protect the health and  
30 safety of the citizens of the remote state. If a home state license is  
31 encumbered in any way, the licensee loses licensure privileges in  
32 any remote state until the home state license is no longer  
33 encumbered and two years have elapsed from the date of the  
34 adverse action.

35 The PTLC creates and establishes a joint public agency known as  
36 the Physical Therapy Compact Commission. The commission is an  
37 instrumentality of the member states and each member state will be  
38 allowed one delegate to sit on the commission. The delegate is  
39 selected by the member state's licensing board and must be a  
40 current member of the state's licensing board. The commission is  
41 authorized to establish bylaws, maintain financial records,  
42 promulgate rules to facilitate and coordinate implementation and  
43 administration of the compact, and bring and prosecute legal  
44 proceedings or actions in the name of the commission.

45 The PTLC also establishes a coordinated database and reporting  
46 system containing licensure, adverse action, and investigative  
47 information on all licensed individuals in the member states. The  
48 member states will be required to report to the database all licensure

1 data and identifying information, adverse actions against a license  
2 or multistate licensure privilege, non-confidential information  
3 related to alternative program participation, any denial of  
4 application for licensure and the reasons for the denial, and other  
5 information that may facilitate the administration of the compact.  
6 This information will be shared with all member states unless the  
7 state submitting the information designates information that may  
8 not be shared or disclosed without the permission of the  
9 contributing state.

10 The PTLC is intended to facilitate the practice of physical  
11 therapy with the goal of improving public access to physical  
12 therapy services. The compact preserves the regulatory authority of  
13 states to protect public health and safety through their current  
14 system of state licensure. The PTLC will enhance the exchange of  
15 licensure, investigative, and disciplinary information between  
16 member states, and it will allow a remote state to hold a provider of  
17 services with a multistate licensure privilege accountable to that  
18 state's practice standards.

19 Finally, the PTLC will come into effect on the date on which the  
20 compact statute is enacted into law in the tenth member state. As of  
21 April, 2016, PTLC legislation has been introduced in four states:  
22 Arizona, Missouri, Oregon, and Tennessee. Also, Oregon and  
23 Tennessee have enacted the PTLC legislation, making those states  
24 the first members of the compact.

25

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29 \_\_\_\_\_  
Enters New Jersey in Physical Therapy Licensure Compact.

**SENATE, No. 2511**

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**STATE OF NEW JERSEY**

**217th LEGISLATURE**

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INTRODUCED SEPTEMBER 12, 2016

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**Senator DAWN MARIE ADDIEGO**

**District 8 (Atlantic, Burlington and Camden)**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Co-Sponsored by:**

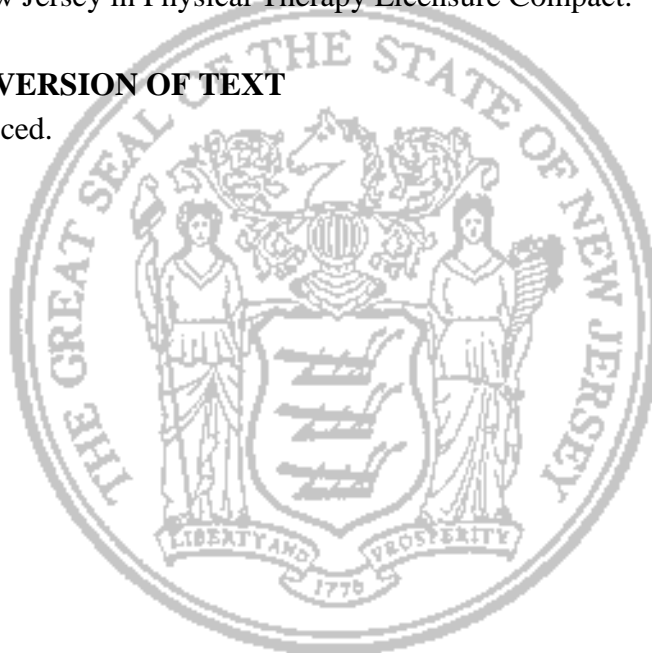
**Assemblyman O'Scanlon**

**SYNOPSIS**

Enters New Jersey in Physical Therapy Licensure Compact.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/9/2018)**

1 AN ACT concerning the Physical Therapy Licensure Compact and  
2 supplementing Title 45 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. The State of New Jersey enacts and enters into the Physical  
8 Therapy Licensure Compact with all other jurisdictions that legally  
9 join in the compact in the form substantially as follows:

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Section 1. Purpose.

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Section 2. Definitions.

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2. As used in this compact, except as otherwise provided, the following definitions shall apply:

“Active duty military” means 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. s.1209 and 1211.

“Adverse action” means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.

“Alternative program” means a non-disciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes, but is not limited to, substance abuse issues.

1       “Compact” means the Physical Therapy Licensure Compact.

2       “Compact privilege” means the authorization granted by a  
3 remote state to allow a licensee from another member state to  
4 practice as a physical therapist or work as a physical therapist  
5 assistant in the remote state under its laws and rules. The practice  
6 of physical therapy occurs in the member state where the patient is  
7 located at the time of the patient encounter.

8       “Continuing competence” means a requirement, as a condition of  
9 license renewal, to provide evidence of participation in, and  
10 completion of, educational and professional activities relevant to  
11 practice or area of work.

12       “Data system” means a repository of information about  
13 licensees, including examination, licensure, investigative, compact  
14 privilege, and adverse action.

15       “Encumbered license” means a license that a physical therapy  
16 licensing board has limited in any way.

17       “Executive Board” means a group of directors elected or  
18 appointed to act on behalf of, and within the powers granted to them  
19 by, the commission.

20       “Home state” means the member state that is the licensee’s  
21 primary state of residence.

22       “Investigative information” means information, records, and  
23 documents received or generated by a physical therapy licensing  
24 board pursuant to an investigation.

25       “Jurisprudence requirement” means the assessment of an  
26 individual’s knowledge of the laws and rules governing the practice  
27 of physical therapy in a state.

28       “Licensee” means an individual licensed by the State Board of  
29 Physical Therapy Examiners or an individual who currently holds  
30 an authorization from a member state to practice as a physical  
31 therapist or to work as a physical therapist assistant.

32       “Member state” means a state that has enacted and entered into  
33 the compact.

34       “Party state” means any member state in which a licensee holds a  
35 current license or compact privilege or is applying for a license or  
36 compact privilege.

37       “Physical therapist” means an individual who is licensed by a  
38 state to practice physical therapy.

39       “Physical therapist assistant” means an individual who is  
40 licensed or certified by a state and who assists the physical therapist  
41 in selected components of physical therapy.

42       “Physical therapy,” “physical therapy practice,” and “the practice  
43 of physical therapy” mean the care and services provided by or  
44 under the direction and supervision of a licensed physical therapist.

45       “Physical Therapy Compact Commission” or “commission”  
46 means the national administrative body whose membership consists  
47 of all member states.

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

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

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

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

12  
13 Section 3. State Participation in the Compact.

14  
15 3. a. To participate in the compact, a state must:

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

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

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

23 (4) fully implement a criminal background check requirement,  
24 within a time frame established by rule, by receiving the results of  
25 the Federal Bureau of Investigation record search on criminal  
26 background checks and use the results in making licensure  
27 decisions in accordance with subsection b. of this section;

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

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

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

33 b. Upon enactment of this compact, a member state shall have  
34 the authority to obtain biometric-based information from each  
35 physical therapy licensure applicant and submit this information to  
36 the Federal Bureau of Investigation for a criminal background  
37 check in accordance with 28 U.S.C. s.534 and 42 U.S.C. s.14616.

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

41 d. Member states may charge a fee for granting a compact  
42 privilege.

43  
44 Section 4. Compact Privilege.

45  
46 4. a. To exercise the compact privilege under the terms and  
47 provisions of the compact, the licensee shall:

48 (1) hold a license in the home state;

**S2511 CODEY, ADDIEGO**

5

1 (2) have no encumbrance on any state license;

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

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

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

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

10 (7) meet any jurisprudence requirements established by a remote  
11 state in which the licensee is seeking a compact privilege; and

12 (8) report to the commission adverse action taken by any non-  
13 member state within 30 days from the date the adverse action is  
14 taken.

15 b. The compact privilege is valid until the expiration date of  
16 the home license. The licensee must comply with the requirements  
17 of subsection a. of this section to maintain the compact privilege in  
18 the remote state.

19 c. A licensee providing physical therapy in a remote state  
20 under the compact privilege shall function within the laws and  
21 regulations of the remote state.

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

30 e. If a home state license is encumbered, the licensee shall lose  
31 the compact privilege in any remote state until the following occur:

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

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

34 f. Once an encumbered license in the home state is restored to  
35 good standing, the licensee must meet the requirements of  
36 subsection a. of this section to obtain a compact privilege in any  
37 remote state.

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

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

43 (2) all fines have been paid; and

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

45 h. Once the requirements of subsection g. of this section have  
46 been met, the licensee must meet the requirements in subsection a.  
47 of this section to obtain a compact privilege in a remote state.



1 Section 5. Active Duty Military Personnel or their Spouses.

2

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

6 a. home of record;

7 b. permanent Change of Station; or

8 c. state of current residence if it is different than the permanent  
9 Change of Station state or home of record.

10

11 Section 6. Adverse Actions.

12

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

15 b. A home state may take adverse action based on the  
16 investigative information of a remote state.

17 c. Nothing in this compact shall override a member state's  
18 decision that participation in an alternative program may be used in  
19 lieu of adverse action and that the participation shall remain non-  
20 public if required by the member state's laws, rules or regulations.  
21 Member states must require licensees who enter any alternative  
22 programs in lieu of discipline to agree not to practice in any other  
23 member state during the term of the alternative program without  
24 prior authorization from that other member state.

25 d. Any member state may investigate actual or alleged  
26 violations of the laws, rules or regulations authorizing the practice  
27 of physical therapy in any other member state in which a physical  
28 therapist or physical therapist assistant holds a license or compact  
29 privilege.

30 e. A remote state shall have the authority to:

31 (1) take adverse actions as set forth in subsection d. of section 4  
32 of this compact against a licensee's compact privilege in the state;

33 (2) issue subpoenas for both hearings and investigations that  
34 require the attendance and testimony of witnesses and the  
35 production of evidence, and subpoenas issued by a physical therapy  
36 licensing board in a party state for the attendance and testimony of  
37 witnesses, or the production of evidence from another party state,  
38 shall be enforced in the latter state by any court of competent  
39 jurisdiction, according to the practice and procedure of that court  
40 applicable to subpoenas issued in proceedings pending before it,  
41 and the issuing authority shall pay any witness fees, travel  
42 expenses, mileage, and other fees required by the service laws of  
43 the state where the witnesses or evidence are located; and

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

47 f. (1) In addition to the authority granted to a member state by  
48 its respective physical therapy practice act or other applicable state

1 law, a member state may participate with other member states in  
2 joint investigations of licensees.

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

6

7

Section 7. Establishment of the Commission.

8

9 7. a. The compact member states hereby create and  
10 establish a joint public agency known as the Physical Therapy  
11 Compact Commission:

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

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

19 (3) Nothing in this compact shall be construed as a waiver of  
20 sovereign immunity.

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

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

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

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

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

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

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

42 c. The commission shall have the following powers and duties:

43 (1) establish the fiscal year of the commission;

44 (2) establish bylaws;

45 (3) maintain its financial records in accordance with the bylaws;

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

- 1 (5) promulgate uniform rules to facilitate and coordinate  
2 implementation and administration of the compact. The rules shall  
3 have the force and effect of law and shall be binding in all member  
4 states;
- 5 (6) bring and prosecute legal proceedings or actions in the name  
6 of the commission, provided that the standing of any state physical  
7 therapy licensing board to sue or be sued under applicable law shall  
8 not be affected;
- 9 (7) purchase and maintain insurance and bonds;
- 10 (8) borrow, accept, or contract for services of personnel,  
11 including, but not limited to, employees of a member state;
- 12 (9) hire employees, elect or appoint officers, fix compensation,  
13 define duties, grant such individuals appropriate authority to carry  
14 out the purposes of the compact, and to establish the commission's  
15 personnel policies and programs relating to conflicts of interest,  
16 qualifications of personnel, and other related personnel matters;
- 17 (10) accept any and all appropriate donations and grants of  
18 money, equipment, supplies, materials and services, and to receive,  
19 utilize and dispose of the same; provided that at all times the  
20 commission shall avoid any appearance of impropriety or conflict  
21 of interest;
- 22 (11) lease, purchase, accept appropriate gifts or donations of, or  
23 otherwise to own, hold, improve or use, any property, real, personal  
24 or mixed; provided that at all times the commission shall avoid any  
25 appearance of impropriety;
- 26 (12) sell, convey, mortgage, pledge, lease, exchange, abandon, or  
27 otherwise dispose of any property real, personal, or mixed;
- 28 (13) establish a budget and make expenditures;
- 29 (14) borrow money;
- 30 (15) appoint committees, including standing committees  
31 comprising of members, state regulators, state legislators or their  
32 representatives, and consumer representatives, and such other  
33 interested persons as may be designated in this compact and the  
34 bylaws;
- 35 (16) provide and receive information from, and cooperate with,  
36 law enforcement agencies;
- 37 (17) establish and elect an executive board; and
- 38 (18) perform such other functions as may be necessary or  
39 appropriate to achieve the purposes of the compact consistent with  
40 the state regulation of physical therapy licensure and practice.
- 41 d. The executive board shall have the power to act on behalf of  
42 the commission according to the terms of this compact.
  - 43 (1) The executive board shall be comprised of nine members:
    - 44 (a) seven voting members who are elected by the commission  
45 from the current membership of the commission;
    - 46 (b) one ex-officio, nonvoting member from the recognized  
47 national physical therapy professional association; and

**S2511 CODEY, ADDIEGO**

9

- 1 (c) one ex-officio, nonvoting member from the recognized  
2 membership organization of the physical therapy licensing boards.
- 3 (2) The ex-officio members will be selected by their respective  
4 organizations.
- 5 (3) The commission may remove any member of the executive  
6 board as provided in bylaws.
- 7 (4) The executive board shall meet at least annually.
- 8 (5) The executive board shall have the following duties and  
9 responsibilities:
- 10 (a) recommend to the entire commission changes to the rules or  
11 bylaws, changes to this compact, fees paid by compact member  
12 states such as annual dues, and any commission compact fee  
13 charged to licensees for the compact privilege;
- 14 (b) ensure compact administration services are appropriately  
15 provided, contractual or otherwise;
- 16 (c) prepare and recommend the budget;
- 17 (d) maintain financial records on behalf of the commission;
- 18 (e) monitor compact compliance of member states and provide  
19 compliance reports to the commission;
- 20 (f) establish additional committees as necessary; and
- 21 (g) other duties as provided in rules or bylaws.
- 22 e. (1) All meetings shall be open to the public, and a public  
23 notice of meetings shall be given in the same manner as required  
24 under the rulemaking provisions in section 9 of this compact.
- 25 (2) The commission or the executive board or other committees  
26 of the commission may convene in a closed, non-public meeting if  
27 the commission or executive board or other committees of the  
28 commission must discuss:
- 29 (a) non-compliance of a member state with its obligations under  
30 the compact;
- 31 (b) the employment, compensation, discipline or other matters,  
32 practices or procedures related to specific employees or other  
33 matters related to the commission's internal personnel practices and  
34 procedures;
- 35 (c) current, threatened, or reasonably anticipated litigation;
- 36 (d) negotiation of contracts for the purchase, lease, or sale of  
37 goods, services, or real estate;
- 38 (e) accusing any person of a crime or formally censuring any  
39 person;
- 40 (f) disclosure of trade secrets or commercial or financial  
41 information that is privileged or confidential;
- 42 (g) disclosure of information of a personal nature where  
43 disclosure would constitute a clearly unwarranted invasion of  
44 personal privacy;
- 45 (h) disclosure of investigative records compiled for law  
46 enforcement purposes;
- 47 (i) disclosure of information related to any investigative reports  
48 prepared by or on behalf of or for use of the commission or other

1 committee charged with responsibility of investigation or  
2 determination of compliance issues pursuant to the compact; or

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

5 (3) If a meeting, or portion of a meeting, is closed pursuant to  
6 any subparagraph of paragraph (2) of this subsection, the  
7 commission's legal counsel or designee shall certify that the  
8 meeting may be closed and shall reference each relevant exempting  
9 provision.

10 (4) The commission shall keep minutes that fully and clearly  
11 describe all matters discussed in a meeting and shall provide a full  
12 and accurate summary of actions taken, and the reasons therefore,  
13 including a description of the views expressed. All documents  
14 considered in connection with an action shall be identified in the  
15 minutes. All minutes and documents of a closed meeting shall  
16 remain under seal, subject to release by a majority vote of the  
17 commission or order of a court of competent jurisdiction.

18 f. (1) The commission shall pay, or provide for the payment  
19 of, the reasonable expenses of its establishment, organization, and  
20 ongoing activities.

21 (2) The commission may accept any and all appropriate revenue  
22 sources, donations, and grants of money, equipment, supplies,  
23 materials, and services.

24 (3) The commission may levy on and collect an annual  
25 assessment from each member state or impose fees on other parties  
26 to cover the cost of the operations and activities of the commission  
27 and its staff, which must be in a total amount sufficient to cover its  
28 annual budget as approved each year for which revenue is not  
29 provided by other sources. The aggregate annual assessment  
30 amount shall be allocated based upon a formula to be determined by  
31 the commission, which shall promulgate a rule binding upon all  
32 member states.

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

37 (5) The commission shall keep accurate accounts of all receipts  
38 and disbursements. The receipts and disbursements of the  
39 commission shall be subject to the audit and accounting procedures  
40 established under its bylaws. However, all receipts and  
41 disbursements of funds handled by the commission shall be audited  
42 yearly by a certified or licensed public accountant, and the report of  
43 the audit shall be included in and become part of the annual report  
44 of the commission.

45 g. (1) The members, officers, executive director, employees  
46 and representatives of the commission shall be immune from suit  
47 and liability, either personally or in their official capacity, for any  
48 claim for damage to or loss of property or personal injury or other

1 civil liability caused by or arising out of any actual or alleged act,  
2 error or omission that occurred, or that the person against whom the  
3 claim is made had a reasonable basis for believing occurred within  
4 the scope of commission employment, duties or responsibilities;  
5 provided that nothing in this paragraph shall be construed to protect  
6 any such person from suit or liability for any damage, loss, injury,  
7 or liability caused by the intentional or willful or wanton  
8 misconduct of that person.

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

21 (3) The commission shall indemnify and hold harmless any  
22 member, officer, executive director, employee, or representative of  
23 the commission for the amount of any settlement or judgment  
24 obtained against that person arising out of any actual or alleged act,  
25 error or omission that occurred within the scope of commission  
26 employment, duties, or responsibilities, or that person had a  
27 reasonable basis for believing occurred within the scope of  
28 commission employment, duties, or responsibilities, provided that  
29 the actual or alleged act, error, or omission did not result from the  
30 intentional or willful or wanton misconduct of that person.

31

32

Section 8. Data System.

33

34 8. a. The commission shall provide for the development,  
35 maintenance, and utilization of a coordinated database and reporting  
36 system containing licensure, adverse action, and investigative  
37 information on all licensed individuals in member states.

38 b. Notwithstanding any other provision of state law to the  
39 contrary, a member state shall submit a uniform data set to the data  
40 system on all individuals to whom this compact is applicable as  
41 required by the rules of the commission, including:

42 (1) identifying information;

43 (2) licensure data;

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

45 (4) non-confidential information related to alternative program  
46 participation;

47 (5) any denial of application for licensure, and the reason or  
48 reasons for the denial; and

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

3 c. Investigative information pertaining to a licensee in any  
4 member state will only be available to other party states.

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

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

13 f. Any information submitted to the data system that is  
14 subsequently required to be expunged by the laws of the member  
15 state contributing the information shall be removed from the data  
16 system.

17

18

#### Section 9. Rulemaking.

19

20 9. a. The commission shall exercise its rulemaking powers  
21 pursuant to the criteria set forth in this section and the rules adopted  
22 thereunder. Rules and amendments shall become binding as of the  
23 date specified in each rule or amendment.

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

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

31 d. Prior to promulgation and adoption of a final rule or rules by  
32 the commission, and at least 30 days in advance of the meeting at  
33 which the rule will be considered and voted upon, the commission  
34 shall file a Notice of Proposed Rulemaking:

35 (1) on the website of the commission or other publicly  
36 accessible platform; and

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

41 e. The Notice of Proposed Rulemaking shall include:

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

44 (2) the text of the proposed rule or amendment and the reason  
45 for the proposed rule;

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

- 1 (4) the manner in which interested persons may submit notice to  
2 the commission of their intention to attend the public hearing and  
3 any written comments.
- 4 f. Prior to adoption of a proposed rule, the commission shall  
5 allow persons to submit written data, facts, opinions, and  
6 arguments, which shall be made available to the public.
- 7 g. The commission shall grant an opportunity for a public  
8 hearing before it adopts a rule or amendment if a hearing is  
9 requested by:
- 10 (1) at least 25 persons;  
11 (2) a state or federal governmental subdivision or agency; or  
12 (3) an association having at least 25 members.
- 13 h. If a hearing is held on the proposed rule or amendment, the  
14 commission shall publish the place, time, and date of the scheduled  
15 public hearing. If the hearing is held via electronic means, the  
16 commission shall publish the mechanism for access to the electronic  
17 hearing.
- 18 (1) All persons wishing to be heard at the hearing shall notify  
19 the executive director of the commission or other designated  
20 member in writing of their desire to appear and testify at the hearing  
21 not less than five business days before the scheduled date of the  
22 hearing.
- 23 (2) Hearings shall be conducted in a manner providing each  
24 person who wishes to comment a fair and reasonable opportunity to  
25 comment orally or in writing.
- 26 (3) All hearings will be recorded. A copy of the recording will  
27 be made available on request.
- 28 (4) Nothing in this section shall be construed as requiring a  
29 separate hearing on each rule. Rules may be grouped for the  
30 convenience of the commission at hearings required by this section.
- 31 i. Following the scheduled hearing date, or by the close of  
32 business on the scheduled hearing date if the hearing was not held,  
33 the commission shall consider all written and oral comments  
34 received.
- 35 j. If no written notice of intent to attend the public hearing by  
36 interested parties is received, the commission may proceed with  
37 promulgation of the proposed rule without a public hearing.
- 38 k. The commission shall, by majority vote of all members, take  
39 final action on the proposed rule and shall determine the effective  
40 date of the rule, if any, based on the rulemaking record and the full  
41 text of the rule.
- 42 l. Upon determination that an emergency exists, the  
43 commission may consider and adopt an emergency rule without  
44 prior notice, opportunity for comment, or hearing, provided that the  
45 usual rulemaking procedures provided in the compact and in this  
46 section shall be retroactively applied to the rule as soon as  
47 reasonably possible, in no event later than 90 days after the



1 effective date of the rule. For the purposes of this provision, an  
2 emergency rule is one that must be adopted immediately in order to:

- 3 (1) meet an imminent threat to public health, safety, or welfare;  
4 (2) prevent a loss of commission or member state funds;  
5 (3) meet a deadline for the promulgation of an administrative  
6 rule that is established by federal law or rule; or  
7 (4) protect public health and safety.

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

21

22 Section 10. Oversight, Dispute Resolution, and Enforcement.

23

24 10. a. The executive, legislative, and judicial branches of state  
25 government in each member state shall enforce this compact and  
26 take all actions necessary and appropriate to effectuate the  
27 compact's purposes and intent. The provisions of this compact and  
28 the rules promulgated hereunder shall have standing as statutory  
29 law. All courts shall take judicial notice of the compact and the  
30 rules in any judicial or administrative proceeding in a member state  
31 pertaining to the subject matter of this compact which may affect  
32 the powers, responsibilities or actions of the commission. The  
33 commission shall be entitled to receive service of process in any  
34 judicial or administrative proceeding, and shall have standing to  
35 intervene in such a proceeding for all purposes. Failure to provide  
36 service of process to the commission shall render a judgment or  
37 order void as to the commission, this compact, or promulgated  
38 rules.

39 b. If the commission determines that a member state has  
40 defaulted in the performance of its obligations or responsibilities  
41 under this compact or the promulgated rules, the commission shall:

- 42 (1) provide written notice to the defaulting state and other  
43 member states of the nature of the default, the proposed means of  
44 curing the default and any other action to be taken by the  
45 commission; and

46 (2) provide remedial training and specific technical assistance  
47 regarding the default.

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

8       Termination of membership in the compact shall be imposed  
9 only after all other means of securing compliance have been  
10 exhausted. Notice of intent to suspend or terminate shall be given  
11 by the commission to the governor, the majority and minority  
12 leaders of the defaulting state's legislature, and each of the member  
13 states. A state that has been terminated is responsible for all  
14 assessments, obligations, and liabilities incurred through the  
15 effective date of termination, including obligations that extend  
16 beyond the effective date of termination.

17       The commission shall not bear any costs related to a state that is  
18 found to be in default or that has been terminated from the compact,  
19 unless agreed upon in writing between the commission and the  
20 defaulting state. The defaulting state may appeal the action of the  
21 commission by petitioning the U.S. District Court for the District of  
22 Columbia or the federal district where the commission has its  
23 principal offices. The prevailing member shall be awarded all costs  
24 of litigation, including reasonable attorney's fees.

25       c. Upon request by a member state, the commission shall  
26 attempt to resolve disputes related to the compact that arise among  
27 member states and between member and non-member states. The  
28 commission shall promulgate a rule providing for both mediation  
29 and binding dispute resolution for disputes as appropriate.

30       d. The commission, in the reasonable exercise of its discretion,  
31 shall enforce the provisions and rules of this compact. By majority  
32 vote, the commission may initiate legal action in the United States  
33 District Court for the District of Columbia or the federal district  
34 where the commission has its principal offices against a member  
35 state in default to enforce compliance with the provisions of the  
36 compact and its promulgated rules and bylaws. The relief sought  
37 may include both injunctive relief and damages. In the event  
38 judicial enforcement is necessary, the prevailing member shall be  
39 awarded all costs of litigation, including reasonable attorney's fees.  
40 The remedies herein shall not be the exclusive remedies of the  
41 commission. The commission may pursue any other remedies  
42 available under federal or state law.

43

44       Section 11. Date of Implementation of the Commission and  
45               Associated Rules, Withdrawal, and Amendment.

46

47       11. a. The compact shall come into effect on the date on which  
48 the compact statute is enacted into law in the tenth member state.

1 The provisions, which become effective at that time, shall be  
2 limited to the powers granted to the commission relating to  
3 assembly and the promulgation of rules. Thereafter, the  
4 commission shall meet and exercise rulemaking powers necessary  
5 to the implementation and administration of the compact.

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

12 c. Any member state may withdraw from this compact by  
13 enacting a statute repealing the same.

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

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

20 d. Nothing contained in this compact shall be construed to  
21 invalidate or prevent any physical therapy licensure agreement or  
22 other cooperative arrangement between a member state and a non-  
23 member state that does not conflict with the provisions of this  
24 compact.

25 e. This compact may be amended by the member states. No  
26 amendment to this compact shall become effective and binding  
27 upon any member state until it is enacted into the laws of all  
28 member states.

29

30 Section 12. Construction and Severability.

31

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

44

45 2. The Physical Therapy Licensure Compact is intended to  
46 facilitate the regulation of the practice of physical therapy and no  
47 provision of the compact shall be construed as to relieve employers

1 from complying with contractual and statutorily imposed  
2 obligations.

3

4 3. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill will enter New Jersey in the Physical Therapy Licensure  
10 Compact (PTLC). The PTLC provides for a mutual recognition  
11 model of physical therapy licensure (for physical therapists and  
12 physical therapist assistants), in which a physical therapist or  
13 physical therapist assistant only needs to obtain one license from  
14 the state of residence in order to be permitted to practice in any  
15 other state that is a party to the compact, as long as the physical  
16 therapist or physical therapist assistant complies with the state  
17 practice laws of the state in which the patient is located at the time  
18 that care and services are rendered. Currently, a physical therapist  
19 or physical therapist assistant is required to be licensed in, and by,  
20 each state in which a physical therapist or physical therapist  
21 assistant chooses to practice.

22 Under the PTLC, a person who applies for licensure is required  
23 to meet the qualifications for licensure and license renewal of the  
24 person's home state. The PTLC authorizes a remote state that is  
25 party to the compact to impose fines and suspend the multistate  
26 licensure privilege of any physical therapist or physical therapist  
27 assistant to practice in that state and may take any other actions  
28 under the applicable state laws necessary to protect the health and  
29 safety of the citizens of the remote state. If a home state license is  
30 encumbered in any way, the licensee loses licensure privileges in  
31 any remote state until the home state license is no longer  
32 encumbered and two years have elapsed from the date of the  
33 adverse action.

34 The PTLC creates and establishes a joint public agency known as  
35 the Physical Therapy Compact Commission. The commission is an  
36 instrumentality of the member states and each member state will be  
37 allowed one delegate to sit on the commission. The delegate is  
38 selected by the member state's licensing board and must be a  
39 current member of the state's licensing board. The commission is  
40 authorized to establish bylaws, maintain financial records,  
41 promulgate rules to facilitate and coordinate implementation and  
42 administration of the compact, and bring and prosecute legal  
43 proceedings or actions in the name of the commission.

44 The PTLC also establishes a coordinated database and reporting  
45 system containing licensure, adverse action, and investigative  
46 information on all licensed individuals in the member states. The  
47 member states will be required to report to the database all licensure  
48 data and identifying information, adverse actions against a license

1 or multistate licensure privilege, non-confidential information  
2 related to alternative program participation, any denial of  
3 application for licensure and the reasons for the denial, and other  
4 information that may facilitate the administration of the compact.  
5 This information will be shared with all member states unless the  
6 state submitting the information designates information that may  
7 not be shared or disclosed without the permission of the  
8 contributing state.

9 The PTLC is intended to facilitate the practice of physical  
10 therapy with the goal of improving public access to physical  
11 therapy services. The compact preserves the regulatory authority of  
12 states to protect public health and safety through their current  
13 system of state licensure. The PTLC will enhance the exchange of  
14 licensure, investigative, and disciplinary information between  
15 member states, and it will allow a remote state to hold a provider of  
16 services with a multistate licensure privilege accountable to that  
17 state's practice standards.

18 Finally, the PTLC will come into effect on the date on which the  
19 compact statute is enacted into law in the tenth member state. As of  
20 April, 2016, PTLC legislation has been introduced in four states:  
21 Arizona, Missouri, Oregon, and Tennessee. Also, Oregon and  
22 Tennessee have enacted the PTLC legislation, making those states  
23 the first members of the compact.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### SENATE, No. 2511

# STATE OF NEW JERSEY

DATED: MAY 15, 2017

The Senate Commerce Committee reports favorably Senate Bill No. 2511.

This bill will enter New Jersey in the Physical Therapy Licensure Compact (PTLC). The PTLC provides for a mutual recognition model of physical therapy licensure (for physical therapists and physical therapist assistants), in which a physical therapist or physical therapist assistant only needs to obtain one license from the state of residence in order to be permitted to practice in any other state that is a party to the compact, as long as the physical therapist or physical therapist assistant complies with the state practice laws of the state in which the patient is located at the time that care and services are rendered. Currently, a physical therapist or physical therapist assistant is required to be licensed in, and by, each state in which a physical therapist or physical therapist assistant chooses to practice.

Under the PTLC, a person who applies for licensure is required to meet the qualifications for licensure and license renewal of the person's home state. The PTLC authorizes a remote state that is party to the compact to impose fines and suspend the multistate licensure privilege of any physical therapist or physical therapist assistant to practice in that state and may take any other actions under the applicable state laws necessary to protect the health and safety of the citizens of the remote state. If a home state license is encumbered in any way, the licensee loses licensure privileges in any remote state until the home state license is no longer encumbered and two years have elapsed from the date of the adverse action.

The PTLC creates and establishes a joint public agency known as the Physical Therapy Compact Commission. The commission is an instrumentality of the member states and each member state will be allowed one delegate to sit on the commission. The delegate is selected by the member state's licensing board and must be a current member of the state's licensing board. The commission is authorized to establish bylaws, maintain financial records, promulgate rules to facilitate and coordinate implementation and administration of the compact, and bring and prosecute legal proceedings or actions in the name of the commission.

The PTLC also establishes a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in the member states. The member states will be required to report to the database all licensure data and identifying information, adverse actions against a license or multistate licensure privilege, non-confidential information related to alternative program participation, any denial of application for licensure and the reasons for the denial, and other information that may facilitate the administration of the compact. This information will be shared with all member states unless the state submitting the information designates information that may not be shared or disclosed without the permission of the contributing state.

The PTLC is intended to facilitate the practice of physical therapy with the goal of improving public access to physical therapy services. The compact preserves the regulatory authority of states to protect public health and safety through their current system of state licensure. The PTLC will enhance the exchange of licensure, investigative, and disciplinary information between member states, and it will allow a remote state to hold a provider of services with a multistate licensure privilege accountable to that state's practice standards.

Finally, the PTLC will come into effect on the date on which the compact statute is enacted into law in the tenth member state. As of April, 2017, 10 states have enacted legislation including Washington, Oregon, Montana, North Dakota, Utah, Arizona, Missouri, Kentucky, Tennessee and Mississippi. Additionally, legislative action is occurring in several other states.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 2511

# STATE OF NEW JERSEY

DATED: DECEMBER 14, 2017

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2511.

This bill will enter New Jersey in the Physical Therapy Licensure Compact (PTLC). The PTLC provides for a mutual recognition model of physical therapy licensure (for physical therapists and physical therapist assistants), in which a physical therapist or physical therapist assistant only needs to obtain one license from the state of residence in order to be permitted to practice in any other state that is a party to the compact, as long as the physical therapist or physical therapist assistant complies with the state practice laws of the state in which the patient is located at the time that care and services are rendered. Currently, a physical therapist or physical therapist assistant is required to be licensed in, and by, each state in which a physical therapist or physical therapist assistant chooses to practice.

Under the PTLC, a person who applies for licensure is required to meet the qualifications for licensure and license renewal of the person's home state. The PTLC authorizes a remote state that is party to the compact to impose fines and suspend the multistate licensure privilege of any physical therapist or physical therapist assistant to practice in that state and may take any other actions under the applicable state laws necessary to protect the health and safety of the citizens of the remote state. If a home state license is encumbered in any way, the licensee loses licensure privileges in any remote state until the home state license is no longer encumbered and two years have elapsed from the date of the adverse action.

The PTLC creates and establishes a joint public agency known as the Physical Therapy Compact Commission. The commission is an instrumentality of the member states and each member state will be allowed one delegate to sit on the commission. The delegate is selected by the member state's licensing board and must be a current member of the state's licensing board. The commission is authorized to establish bylaws, maintain financial records, promulgate rules to facilitate and coordinate implementation and administration of the compact, and bring and prosecute legal proceedings or actions in the name of the commission.



The PTLC also establishes a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in the member states. The member states will be required to report to the database all licensure data and identifying information, adverse actions against a license or multistate licensure privilege, non-confidential information related to alternative program participation, any denial of application for licensure and the reasons for the denial, and other information that may facilitate the administration of the compact. This information will be shared with all member states unless the state submitting the information designates information that may not be shared or disclosed without the permission of the contributing state.

The PTLC is intended to facilitate the practice of physical therapy with the goal of improving public access to physical therapy services. The compact preserves the regulatory authority of states to protect public health and safety through their current system of state licensure. The PTLC will enhance the exchange of licensure, investigative, and disciplinary information between member states, and it will allow a remote state to hold a provider of services with a multistate licensure privilege accountable to that state's practice standards.

According to the Physical Therapy Compact Commission, the compact was enacted on April 25, 2017, when the 10th state joined the compact. Currently, there are 14 member states (Washington, Oregon, Colorado, Montana, Utah, Arizona, North Dakota, Texas, Mississippi, Missouri, Kentucky, Tennessee, North Carolina and New Hampshire), of which Colorado's membership is suspended. In November 2017, the Physical Therapy Compact Commission adopted its rules and bylaws. The commission expects the issuance of compact privileges to physical therapists and physical therapy assistants to begin in June or July of 2018.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that joining the Physical Therapy Licensure Compact (PTLC) will cause indeterminate increases in annual State expenditures and an indeterminate annual impact on State revenues. However, because of insufficient information the OLS cannot assess two possible countervailing effects on annual board license fee collections the net impact of which is uncertain: (1) a decrease in license fee payments from professionals practicing in this State who reside in other PTLC states who will no longer apply for a license in New Jersey; and (2) any increase in license fee revenues if the board were to exercise its discretion to charge a fee for granting New Jersey-based physical therapists and physical therapist assistants compact privileges.

Annual State Board of Physical Therapy Examiners operating expenditures will increase from any modification to physical therapist and physical therapist assistant licenses, the regulation of any additional out-of-state PTLC physical therapists and physical therapist assistants who practice in New Jersey, the continuous submission of data to a centralized PTLC database, the payment of an annual assessment to the Physical Therapy Compact Commission, and sending a representative to the commission's annual meetings.

As the board is statutorily required to pay for its operating expenses out of its fee collections, the OLS notes that the board may adjust its license fee amounts, if necessary, to account for any significant changes in its finances as a result of joining the PTLC.

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 2511**  
**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

DATED: DECEMBER 18, 2017

**SUMMARY**

**Synopsis:** Enters New Jersey in Physical Therapy Licensure Compact.

**Type of Impact:** Annual State Expenditure Increase and Indeterminate Impact on Annual State Revenue.

**Agencies Affected:** Department of Law and Public Safety  
(State Board of Physical Therapy Examiners).

**Office of Legislative Services Estimate**

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
<b>Annual State Expenditures</b>		Indeterminate Increase	
<b>Annual State Revenue</b>		Indeterminate Impact	

- The Office of Legislative Services (OLS) finds that joining the Physical Therapy Licensure Compact (PTLC) will cause indeterminate increases in annual State expenditures and an indeterminate annual impact on State revenues. However, because of insufficient information the OLS cannot assess the direction of the net effect of the two impacts on the State Board of Physical Therapy Examiners.
- Annual State Board of Physical Therapy Examiners operating expenditures will increase from any modification to physical therapist and physical therapist assistant licenses, the regulation of any additional out-of-state PTLC physical therapists and physical therapist assistants who practice in New Jersey, the continuous submission of data to a centralized PTLC database, the payment of an annual assessment to the Physical Therapy Compact Commission, and sending a representative to the commission’s annual meetings.
- Annual board license fee collections may be affected by two countervailing effects whose net impact is uncertain: 1) a decrease in license fee payments from professionals practicing in this State who reside in other PTLC states who will no longer apply for a license in New Jersey; and 2) any increase in license fee revenues if the board were to exercise its discretion to charge a fee for granting New Jersey-based physical therapists and physical therapist assistants compact privileges.



- As the board is statutorily required to pay for its operating expenses out of its fee collections, the OLS notes that the board may adjust its license fee amounts, if necessary, to account for any significant changes in its finances as a result of joining the NLC.

## **BILL DESCRIPTION**

Senate Bill No. 2511 of 2016 enters New Jersey in the multistate PTLC under which member states mutually recognize the licensure privileges they grant to physical therapists and physical therapist assistants. Accordingly, these professionals would only have to be licensed in their primary state of residence to be able to practice in any PTLC member state. Absent the compact, concerned professionals must be licensed separately in each state in which they practice.

A physical therapist or physical therapist assistant who practices in a member state under a multistate licensure privilege is subject to the jurisdiction of the licensing board, the courts and the laws of the member state in which the client is located at the time service is provided.

The PTLC establishes the Physical Therapy Compact Commission as a joint instrumentality of the member states. The commission is required to meet at least once a year and each member state is required to appoint a delegate to the commission. Member state licensing boards pay an annual assessment to cover the commission's operating expenses.

Furthermore, the PTLC establishes a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in the member states. The member states will be required to report to the database all licensure data and identifying information, adverse actions against a license or multistate licensure privilege, non-confidential information related to alternative program participation, any denial of application for licensure and the reasons for the denial, and other information that may facilitate the administration of the compact.

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

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS finds that joining the PTLC will cause indeterminate increases in annual State expenditures and an indeterminate annual impact on State revenues. However, because of insufficient information the OLS cannot assess the direction of the net effect of the two impacts on the State Board of Physical Therapy Examiners.

As the board is statutorily required to pay for its operating expenses out of its fee collections, the OLS notes that the board may adjust its license fee amounts, if necessary, to account for any significant changes in its finances as a result of joining the PTLC.

*Background on PTLC:* According to the Physical Therapy Compact Commission, the compact was enacted on April 25, 2017, when the 10<sup>th</sup> state joined the compact. Currently, there are 14 member states (Washington, Oregon, Colorado, Montana, Utah, Arizona, North Dakota,

Texas, Mississippi, Missouri, Kentucky, Tennessee, North Carolina and New Hampshire), of which Colorado's membership is suspended. In November 2017, the Physical Therapy Compact Commission adopted its rules and bylaws. The commission expects the issuance of compact privileges to physical therapists and physical therapy assistants to begin in June or July of 2018.

*Expenditure Increase:* The OLS projects that several factors will cause the State Board of Physical Therapy Examiners to incur an indeterminate increase in annual operating expenditures as a result of joining the PTLC.

First, the board may need to update information and modify its physical therapist and assistant physical therapist licenses to comply with the PTLC. The OLS, however, has no information to assess the extent of any modifications and the associated expenditures.

Second, the OLS does not know if additional regulatory expenses may be incurred due to the supervision of any additional licensees who reside out-of-State.

Third, member states are required to submit certain data to the PTLC's coordinated database and reporting system on all licensed individuals in the member states. It is unknown to the OLS if the board may incur an indeterminate expenditure increase to adhere to the data reporting requirements.

Fourth, under the compact, an annual assessment is required to be paid to finance the Physical Therapy Compact Commission. According to the commission, member states will not be charged an assessment in 2018. The OLS notes that under a similar compact, the Nurse Licensure Compact, each member state currently pays an assessment of \$6,000 to the Interstate Commission of Nurse Licensure Compact Administrators.

Finally, the board will be required to have a delegate on the Physical Therapy Compact Commission and to send a representative to attend the annual meetings of the commission, resulting in additional indeterminate travel expenses.

*Revenue Impact:* The OLS estimates that the bill may have an indeterminate annual impact on State Board of Physical Therapy Examiner license fee revenues. There are potentially two countervailing effects.

The board may experience an indeterminate annual revenue loss from physical therapist and assistant physical therapist licensees practicing in this State who reside in other PTLC states who will no longer apply for a license in New Jersey but will practice in this State under compact privileges granted by their primary states of residence. Given that New Jersey's neighboring states (Delaware, Pennsylvania, and New York) are not currently participating in the compact, however, the OLS does not expect any annual license fee revenue loss to be significant.

Any revenue loss and increase in operating expenditures, however, may be offset by additional license fee revenue the board may collect for granting compact privileges. The compact allows, but does not require, member states to charge such fees and the OLS cannot anticipate the actions the board will take in this regard.

*Section:* Law and Public Safety

*Analyst:* Kristin Brunner Santos  
Senior Fiscal Analyst

*Approved:* Frank W. Haines III  
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# ASSEMBLY, No. 4368

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED DECEMBER 5, 2016

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Co-Sponsored by:**

**Assemblyman O'Scanlon**

**SYNOPSIS**

Enters New Jersey in Physical Therapy Licensure Compact.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/9/2018)**

1 AN ACT concerning the Physical Therapy Licensure Compact and  
2 supplementing Title 45 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. The State of New Jersey enacts and enters into the Physical  
8 Therapy Licensure Compact with all other jurisdictions that legally  
9 join in the compact in the form substantially as follows:

10

11

Section 1. Purpose.

12

13 1. The purpose of this compact is to facilitate the practice of  
14 physical therapy with the goal of improving public access to  
15 physical therapy services. The practice of physical therapy occurs  
16 in the state where the patient is located at the time of the patient  
17 encounter. The compact preserves the regulatory authority of states  
18 to protect public health and safety through the current system of  
19 state licensure.

20 This compact is designed to achieve the following objectives:

21 a. increase public access to physical therapy services by  
22 providing for the mutual recognition of other member state licenses;

23 b. enhance the states' ability to protect the public's health and  
24 safety;

25 c. encourage the cooperation of member states in regulating  
26 multi-state physical therapy practice;

27 d. support spouses of relocating military members;

28 e. enhance the exchange of licensure, investigative, and  
29 disciplinary information between member states; and

30 f. allow a remote state to hold a provider of services with a  
31 compact privilege in that state accountable to that state's practice  
32 standards.

33

34

Section 2. Definitions.

35

36 2. As used in this compact, except as otherwise provided, the  
37 following definitions shall apply:

38 "Active duty military" means full-time duty status in the active  
39 uniformed service of the United States, including members of the  
40 National Guard and Reserve on active duty orders pursuant to 10  
41 U.S.C. s.1209 and 1211.

42 "Adverse action" means disciplinary action taken by a physical  
43 therapy licensing board based upon misconduct, unacceptable  
44 performance, or a combination of both.

45 "Alternative program" means a non-disciplinary monitoring or  
46 practice remediation process approved by a physical therapy  
47 licensing board. This includes, but is not limited to, substance abuse  
48 issues.

1       “Compact” means the Physical Therapy Licensure Compact.

2       “Compact privilege” means the authorization granted by a  
3 remote state to allow a licensee from another member state to  
4 practice as a physical therapist or work as a physical therapist  
5 assistant in the remote state under its laws and rules. The practice  
6 of physical therapy occurs in the member state where the patient is  
7 located at the time of the patient encounter.

8       “Continuing competence” means a requirement, as a condition of  
9 license renewal, to provide evidence of participation in, and  
10 completion of, educational and professional activities relevant to  
11 practice or area of work.

12       “Data system” means a repository of information about  
13 licensees, including examination, licensure, investigative, compact  
14 privilege, and adverse action.

15       “Encumbered license” means a license that a physical therapy  
16 licensing board has limited in any way.

17       “Executive Board” means a group of directors elected or  
18 appointed to act on behalf of, and within the powers granted to them  
19 by, the commission.

20       “Home state” means the member state that is the licensee’s  
21 primary state of residence.

22       “Investigative information” means information, records, and  
23 documents received or generated by a physical therapy licensing  
24 board pursuant to an investigation.

25       “Jurisprudence requirement” means the assessment of an  
26 individual’s knowledge of the laws and rules governing the practice  
27 of physical therapy in a state.

28       “Licensee” means an individual licensed by the State Board of  
29 Physical Therapy Examiners or an individual who currently holds  
30 an authorization from a member state to practice as a physical  
31 therapist or to work as a physical therapist assistant.

32       “Member state” means a state that has enacted and entered into  
33 the compact.

34       “Party state” means any member state in which a licensee holds a  
35 current license or compact privilege or is applying for a license or  
36 compact privilege.

37       “Physical therapist” means an individual who is licensed by a  
38 state to practice physical therapy.

39       “Physical therapist assistant” means an individual who is  
40 licensed or certified by a state and who assists the physical therapist  
41 in selected components of physical therapy.

42       “Physical therapy,” “physical therapy practice,” and “the practice  
43 of physical therapy” mean the care and services provided by or  
44 under the direction and supervision of a licensed physical therapist.

45       “Physical Therapy Compact Commission” or “commission”  
46 means the national administrative body whose membership consists  
47 of all member states.



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

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

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

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

12  
13 Section 3. State Participation in the Compact.

14  
15 3. a. To participate in the compact, a state must:

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

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

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

23 (4) fully implement a criminal background check requirement,  
24 within a time frame established by rule, by receiving the results of  
25 the Federal Bureau of Investigation record search on criminal  
26 background checks and use the results in making licensure  
27 decisions in accordance with subsection b. of this section;

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

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

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

33 b. Upon enactment of this compact, a member state shall have  
34 the authority to obtain biometric-based information from each  
35 physical therapy licensure applicant and submit this information to  
36 the Federal Bureau of Investigation for a criminal background  
37 check in accordance with 28 U.S.C. s.534 and 42 U.S.C. s.14616.

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

41 d. Member states may charge a fee for granting a compact  
42 privilege.

43  
44 Section 4. Compact Privilege.

45  
46 4. a. To exercise the compact privilege under the terms and  
47 provisions of the compact, the licensee shall:

48 (1) hold a license in the home state;

- 1 (2) have no encumbrance on any state license;
- 2 (3) be eligible for a compact privilege in any member state in  
3 accordance with subsections d., g., and h. of this section;
- 4 (4) have not had any adverse action against any license or  
5 compact privilege within the previous two years;
- 6 (5) notify the commission that the licensee is seeking the  
7 compact privilege within a remote state;
- 8 (6) pay any applicable fees, including any state fee, for the  
9 compact privilege;
- 10 (7) meet any jurisprudence requirements established by a remote  
11 state in which the licensee is seeking a compact privilege; and
- 12 (8) report to the commission adverse action taken by any non-  
13 member state within 30 days from the date the adverse action is  
14 taken.
- 15 b. The compact privilege is valid until the expiration date of  
16 the home license. The licensee must comply with the requirements  
17 of subsection a. of this section to maintain the compact privilege in  
18 the remote state.
- 19 c. A licensee providing physical therapy in a remote state  
20 under the compact privilege shall function within the laws and  
21 regulations of the remote state.
- 22 d. A licensee providing physical therapy in a remote state is  
23 subject to that state's regulatory authority. A remote state may, in  
24 accordance with due process and that state's laws, remove a  
25 licensee's compact privilege in the remote state for a specific period  
26 of time, impose fines, and/or take any other necessary actions to  
27 protect the health and safety of its citizens. The licensee is not  
28 eligible for a compact privilege in any state until the specific time  
29 for removal has passed and all fines are paid.
- 30 e. If a home state license is encumbered, the licensee shall lose  
31 the compact privilege in any remote state until the following occur:  
32 (1) the home state license is no longer encumbered; and  
33 (2) two years have elapsed from the date of the adverse action.
- 34 f. Once an encumbered license in the home state is restored to  
35 good standing, the licensee must meet the requirements of  
36 subsection a. of this section to obtain a compact privilege in any  
37 remote state.
- 38 g. If a licensee's compact privilege in any remote state is  
39 removed, the individual shall lose the compact privilege in any  
40 remote state until the following occur:  
41 (1) the specific period of time for which the compact privilege  
42 was removed has ended;  
43 (2) all fines have been paid; and  
44 (3) two years have elapsed from the date of the adverse action.
- 45 h. Once the requirements of subsection g. of this section have  
46 been met, the licensee must meet the requirements in subsection a.  
47 of this section to obtain a compact privilege in a remote state.

1 Section 5. Active Duty Military Personnel or their Spouses.

2

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

6 a. home of record;

7 b. permanent Change of Station; or

8 c. state of current residence if it is different than the permanent  
9 Change of Station state or home of record.

10

11 Section 6. Adverse Actions.

12

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

15 b. A home state may take adverse action based on the  
16 investigative information of a remote state.

17 c. Nothing in this compact shall override a member state's  
18 decision that participation in an alternative program may be used in  
19 lieu of adverse action and that the participation shall remain non-  
20 public if required by the member state's laws, rules or regulations.  
21 Member states must require licensees who enter any alternative  
22 programs in lieu of discipline to agree not to practice in any other  
23 member state during the term of the alternative program without  
24 prior authorization from that other member state.

25 d. Any member state may investigate actual or alleged  
26 violations of the laws, rules or regulations authorizing the practice  
27 of physical therapy in any other member state in which a physical  
28 therapist or physical therapist assistant holds a license or compact  
29 privilege.

30 e. A remote state shall have the authority to:

31 (1) take adverse actions as set forth in subsection d. of section 4  
32 of this compact against a licensee's compact privilege in the state;

33 (2) issue subpoenas for both hearings and investigations that  
34 require the attendance and testimony of witnesses and the  
35 production of evidence, and subpoenas issued by a physical therapy  
36 licensing board in a party state for the attendance and testimony of  
37 witnesses, or the production of evidence from another party state,  
38 shall be enforced in the latter state by any court of competent  
39 jurisdiction, according to the practice and procedure of that court  
40 applicable to subpoenas issued in proceedings pending before it,  
41 and the issuing authority shall pay any witness fees, travel  
42 expenses, mileage, and other fees required by the service laws of  
43 the state where the witnesses or evidence are located; and

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

47 f. (1) In addition to the authority granted to a member state  
48 by its respective physical therapy practice act or other applicable

1 state law, a member state may participate with other member states  
2 in joint investigations of licensees.

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

6

7 Section 7. Establishment of the Commission.

8

9 7. a. The compact member states hereby create and establish a  
10 joint public agency known as the Physical Therapy Compact  
11 Commission:

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

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

19 (3) Nothing in this compact shall be construed as a waiver of  
20 sovereign immunity.

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

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

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

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

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

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

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

42 c. The commission shall have the following powers and duties:

43 (1) establish the fiscal year of the commission;

44 (2) establish bylaws;

45 (3) maintain its financial records in accordance with the bylaws;

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

- 1 (5) promulgate uniform rules to facilitate and coordinate  
2 implementation and administration of the compact. The rules shall  
3 have the force and effect of law and shall be binding in all member  
4 states;
  - 5 (6) bring and prosecute legal proceedings or actions in the name  
6 of the commission, provided that the standing of any state physical  
7 therapy licensing board to sue or be sued under applicable law shall  
8 not be affected;
  - 9 (7) purchase and maintain insurance and bonds;
  - 10 (8) borrow, accept, or contract for services of personnel,  
11 including, but not limited to, employees of a member state;
  - 12 (9) hire employees, elect or appoint officers, fix compensation,  
13 define duties, grant such individuals appropriate authority to carry  
14 out the purposes of the compact, and to establish the commission's  
15 personnel policies and programs relating to conflicts of interest,  
16 qualifications of personnel, and other related personnel matters;
  - 17 (10) accept any and all appropriate donations and grants of  
18 money, equipment, supplies, materials and services, and to receive,  
19 utilize and dispose of the same; provided that at all times the  
20 commission shall avoid any appearance of impropriety or conflict  
21 of interest;
  - 22 (11) lease, purchase, accept appropriate gifts or donations of, or  
23 otherwise to own, hold, improve or use, any property, real, personal  
24 or mixed; provided that at all times the commission shall avoid any  
25 appearance of impropriety;
  - 26 (12) sell, convey, mortgage, pledge, lease, exchange, abandon, or  
27 otherwise dispose of any property real, personal, or mixed;
  - 28 (13) establish a budget and make expenditures;
  - 29 (14) borrow money;
  - 30 (15) appoint committees, including standing committees  
31 comprising of members, state regulators, state legislators or their  
32 representatives, and consumer representatives, and such other  
33 interested persons as may be designated in this compact and the  
34 bylaws;
  - 35 (16) provide and receive information from, and cooperate with,  
36 law enforcement agencies;
  - 37 (17) establish and elect an executive board; and
  - 38 (18) perform such other functions as may be necessary or  
39 appropriate to achieve the purposes of the compact consistent with  
40 the state regulation of physical therapy licensure and practice.
- 41 d. The executive board shall have the power to act on behalf of  
42 the commission according to the terms of this compact.
- 43 (1) The executive board shall be comprised of nine members:
    - 44 (a) seven voting members who are elected by the commission  
45 from the current membership of the commission;
    - 46 (b) one ex-officio, nonvoting member from the recognized  
47 national physical therapy professional association; and

- 1 (c) one ex-officio, nonvoting member from the recognized  
2 membership organization of the physical therapy licensing boards.
- 3 (2) The ex-officio members will be selected by their respective  
4 organizations.
- 5 (3) The commission may remove any member of the executive  
6 board as provided in bylaws.
- 7 (4) The executive board shall meet at least annually.
- 8 (5) The executive board shall have the following duties and  
9 responsibilities:
- 10 (a) recommend to the entire commission changes to the rules or  
11 bylaws, changes to this compact, fees paid by compact member  
12 states such as annual dues, and any commission compact fee  
13 charged to licensees for the compact privilege;
- 14 (b) ensure compact administration services are appropriately  
15 provided, contractual or otherwise;
- 16 (c) prepare and recommend the budget;
- 17 (d) maintain financial records on behalf of the commission;
- 18 (e) monitor compact compliance of member states and provide  
19 compliance reports to the commission;
- 20 (f) establish additional committees as necessary; and
- 21 (g) other duties as provided in rules or bylaws.
- 22 e. (1) All meetings shall be open to the public, and a public  
23 notice of meetings shall be given in the same manner as required  
24 under the rulemaking provisions in section 9 of this compact.
- 25 (2) The commission or the executive board or other committees  
26 of the commission may convene in a closed, non-public meeting if  
27 the commission or executive board or other committees of the  
28 commission must discuss:
- 29 (a) non-compliance of a member state with its obligations under  
30 the compact;
- 31 (b) the employment, compensation, discipline or other matters,  
32 practices or procedures related to specific employees or other  
33 matters related to the commission's internal personnel practices and  
34 procedures;
- 35 (c) current, threatened, or reasonably anticipated litigation;
- 36 (d) negotiation of contracts for the purchase, lease, or sale of  
37 goods, services, or real estate;
- 38 (e) accusing any person of a crime or formally censuring any  
39 person;
- 40 (f) disclosure of trade secrets or commercial or financial  
41 information that is privileged or confidential;
- 42 (g) disclosure of information of a personal nature where  
43 disclosure would constitute a clearly unwarranted invasion of  
44 personal privacy;
- 45 (h) disclosure of investigative records compiled for law  
46 enforcement purposes;
- 47 (i) disclosure of information related to any investigative reports  
48 prepared by or on behalf of or for use of the commission or other

1 committee charged with responsibility of investigation or  
2 determination of compliance issues pursuant to the compact; or

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

5 (3) If a meeting, or portion of a meeting, is closed pursuant to  
6 any subparagraph of paragraph (2) of this subsection, the  
7 commission's legal counsel or designee shall certify that the  
8 meeting may be closed and shall reference each relevant exempting  
9 provision.

10 (4) The commission shall keep minutes that fully and clearly  
11 describe all matters discussed in a meeting and shall provide a full  
12 and accurate summary of actions taken, and the reasons therefore,  
13 including a description of the views expressed. All documents  
14 considered in connection with an action shall be identified in the  
15 minutes. All minutes and documents of a closed meeting shall  
16 remain under seal, subject to release by a majority vote of the  
17 commission or order of a court of competent jurisdiction.

18 f. (1) The commission shall pay, or provide for the payment  
19 of, the reasonable expenses of its establishment, organization, and  
20 ongoing activities.

21 (2) The commission may accept any and all appropriate revenue  
22 sources, donations, and grants of money, equipment, supplies,  
23 materials, and services.

24 (3) The commission may levy on and collect an annual  
25 assessment from each member state or impose fees on other parties  
26 to cover the cost of the operations and activities of the commission  
27 and its staff, which must be in a total amount sufficient to cover its  
28 annual budget as approved each year for which revenue is not  
29 provided by other sources. The aggregate annual assessment  
30 amount shall be allocated based upon a formula to be determined by  
31 the commission, which shall promulgate a rule binding upon all  
32 member states.

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

37 (5) The commission shall keep accurate accounts of all receipts  
38 and disbursements. The receipts and disbursements of the  
39 commission shall be subject to the audit and accounting procedures  
40 established under its bylaws. However, all receipts and  
41 disbursements of funds handled by the commission shall be audited  
42 yearly by a certified or licensed public accountant, and the report of  
43 the audit shall be included in and become part of the annual report  
44 of the commission.

45 g. (1) The members, officers, executive director, employees  
46 and representatives of the commission shall be immune from suit  
47 and liability, either personally or in their official capacity, for any  
48 claim for damage to or loss of property or personal injury or other

1 civil liability caused by or arising out of any actual or alleged act,  
2 error or omission that occurred, or that the person against whom the  
3 claim is made had a reasonable basis for believing occurred within  
4 the scope of commission employment, duties or responsibilities;  
5 provided that nothing in this paragraph shall be construed to protect  
6 any such person from suit or liability for any damage, loss, injury,  
7 or liability caused by the intentional or willful or wanton  
8 misconduct of that person.

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

21 (3) The commission shall indemnify and hold harmless any  
22 member, officer, executive director, employee, or representative of  
23 the commission for the amount of any settlement or judgment  
24 obtained against that person arising out of any actual or alleged act,  
25 error or omission that occurred within the scope of commission  
26 employment, duties, or responsibilities, or that person had a  
27 reasonable basis for believing occurred within the scope of  
28 commission employment, duties, or responsibilities, provided that  
29 the actual or alleged act, error, or omission did not result from the  
30 intentional or willful or wanton misconduct of that person.

31  
32 Section 8. Data System.

33  
34 8. a. The commission shall provide for the development,  
35 maintenance, and utilization of a coordinated database and reporting  
36 system containing licensure, adverse action, and investigative  
37 information on all licensed individuals in member states.

38 b. Notwithstanding any other provision of state law to the  
39 contrary, a member state shall submit a uniform data set to the data  
40 system on all individuals to whom this compact is applicable as  
41 required by the rules of the commission, including:

42 (1) identifying information;

43 (2) licensure data;

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

45 (4) non-confidential information related to alternative program  
46 participation;

47 (5) any denial of application for licensure, and the reason or  
48 reasons for the denial; and



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

3 c. Investigative information pertaining to a licensee in any  
4 member state will only be available to other party states.

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

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

13 f. Any information submitted to the data system that is  
14 subsequently required to be expunged by the laws of the member  
15 state contributing the information shall be removed from the data  
16 system.

17  
18 Section 9. Rulemaking.

19  
20 9. a. The commission shall exercise its rulemaking powers  
21 pursuant to the criteria set forth in this section and the rules adopted  
22 thereunder. Rules and amendments shall become binding as of the  
23 date specified in each rule or amendment.

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

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

31 d. Prior to promulgation and adoption of a final rule or rules by  
32 the commission, and at least 30 days in advance of the meeting at  
33 which the rule will be considered and voted upon, the commission  
34 shall file a Notice of Proposed Rulemaking:

35 (1) on the website of the commission or other publicly  
36 accessible platform; and

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

41 e. The Notice of Proposed Rulemaking shall include:

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

44 (2) the text of the proposed rule or amendment and the reason  
45 for the proposed rule;

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

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

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

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

10 (1) at least 25 persons;

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

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

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

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

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

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

28 (4) Nothing in this section shall be construed as requiring a  
29 separate hearing on each rule. Rules may be grouped for the  
30 convenience of the commission at hearings required by this section.

31 i. Following the scheduled hearing date, or by the close of  
32 business on the scheduled hearing date if the hearing was not held,  
33 the commission shall consider all written and oral comments  
34 received.

35 j. If no written notice of intent to attend the public hearing by  
36 interested parties is received, the commission may proceed with  
37 promulgation of the proposed rule without a public hearing.

38 k. The commission shall, by majority vote of all members, take  
39 final action on the proposed rule and shall determine the effective  
40 date of the rule, if any, based on the rulemaking record and the full  
41 text of the rule.

42 l. Upon determination that an emergency exists, the  
43 commission may consider and adopt an emergency rule without  
44 prior notice, opportunity for comment, or hearing, provided that the  
45 usual rulemaking procedures provided in the compact and in this  
46 section shall be retroactively applied to the rule as soon as  
47 reasonably possible, in no event later than 90 days after the

1 effective date of the rule. For the purposes of this provision, an  
2 emergency rule is one that must be adopted immediately in order to:

- 3 (1) meet an imminent threat to public health, safety, or welfare;  
4 (2) prevent a loss of commission or member state funds;  
5 (3) meet a deadline for the promulgation of an administrative  
6 rule that is established by federal law or rule; or  
7 (4) protect public health and safety.

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

21

22 Section 10. Oversight, Dispute Resolution, and Enforcement.

23

24 10. a. The executive, legislative, and judicial branches of state  
25 government in each member state shall enforce this compact and  
26 take all actions necessary and appropriate to effectuate the  
27 compact's purposes and intent. The provisions of this compact and  
28 the rules promulgated hereunder shall have standing as statutory  
29 law. All courts shall take judicial notice of the compact and the  
30 rules in any judicial or administrative proceeding in a member state  
31 pertaining to the subject matter of this compact which may affect  
32 the powers, responsibilities or actions of the commission. The  
33 commission shall be entitled to receive service of process in any  
34 judicial or administrative proceeding, and shall have standing to  
35 intervene in such a proceeding for all purposes. Failure to provide  
36 service of process to the commission shall render a judgment or  
37 order void as to the commission, this compact, or promulgated  
38 rules.

39 b. If the commission determines that a member state has  
40 defaulted in the performance of its obligations or responsibilities  
41 under this compact or the promulgated rules, the commission shall:

- 42 (1) provide written notice to the defaulting state and other  
43 member states of the nature of the default, the proposed means of  
44 curing the default and any other action to be taken by the  
45 commission; and

46 (2) provide remedial training and specific technical assistance  
47 regarding the default.

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

8       Termination of membership in the compact shall be imposed  
9 only after all other means of securing compliance have been  
10 exhausted. Notice of intent to suspend or terminate shall be given  
11 by the commission to the governor, the majority and minority  
12 leaders of the defaulting state's legislature, and each of the member  
13 states. A state that has been terminated is responsible for all  
14 assessments, obligations, and liabilities incurred through the  
15 effective date of termination, including obligations that extend  
16 beyond the effective date of termination.

17       The commission shall not bear any costs related to a state that is  
18 found to be in default or that has been terminated from the compact,  
19 unless agreed upon in writing between the commission and the  
20 defaulting state. The defaulting state may appeal the action of the  
21 commission by petitioning the U.S. District Court for the District of  
22 Columbia or the federal district where the commission has its  
23 principal offices. The prevailing member shall be awarded all costs  
24 of litigation, including reasonable attorney's fees.

25       c. Upon request by a member state, the commission shall  
26 attempt to resolve disputes related to the compact that arise among  
27 member states and between member and non-member states. The  
28 commission shall promulgate a rule providing for both mediation  
29 and binding dispute resolution for disputes as appropriate.

30       d. The commission, in the reasonable exercise of its discretion,  
31 shall enforce the provisions and rules of this compact. By majority  
32 vote, the commission may initiate legal action in the United States  
33 District Court for the District of Columbia or the federal district  
34 where the commission has its principal offices against a member  
35 state in default to enforce compliance with the provisions of the  
36 compact and its promulgated rules and bylaws. The relief sought  
37 may include both injunctive relief and damages. In the event  
38 judicial enforcement is necessary, the prevailing member shall be  
39 awarded all costs of litigation, including reasonable attorney's fees.  
40 The remedies herein shall not be the exclusive remedies of the  
41 commission. The commission may pursue any other remedies  
42 available under federal or state law.

43

44       Section 11. Date of Implementation of the Commission and  
45               Associated Rules, Withdrawal, and Amendment.

46

47       11. a. The compact shall come into effect on the date on which  
48 the compact statute is enacted into law in the tenth member state.

1 The provisions, which become effective at that time, shall be  
2 limited to the powers granted to the commission relating to  
3 assembly and the promulgation of rules. Thereafter, the  
4 commission shall meet and exercise rulemaking powers necessary  
5 to the implementation and administration of the compact.

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

12 c. Any member state may withdraw from this compact by  
13 enacting a statute repealing the same.

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

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

20 d. Nothing contained in this compact shall be construed to  
21 invalidate or prevent any physical therapy licensure agreement or  
22 other cooperative arrangement between a member state and a non-  
23 member state that does not conflict with the provisions of this  
24 compact.

25 e. This compact may be amended by the member states. No  
26 amendment to this compact shall become effective and binding  
27 upon any member state until it is enacted into the laws of all  
28 member states.

29

30 Section 12. Construction and Severability.

31

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

44

45 2. The Physical Therapy Licensure Compact is intended to  
46 facilitate the regulation of the practice of physical therapy and no  
47 provision of the compact shall be construed as to relieve employers

1 from complying with contractual and statutorily imposed  
2 obligations.

3

4 3. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill will enter New Jersey in the Physical Therapy Licensure  
10 Compact (PTLC). The PTLC provides for a mutual recognition  
11 model of physical therapy licensure (for physical therapists and  
12 physical therapist assistants), in which a physical therapist or  
13 physical therapist assistant only needs to obtain one license from  
14 the state of residence in order to be permitted to practice in any  
15 other state that is a party to the compact, as long as the physical  
16 therapist or physical therapist assistant complies with the state  
17 practice laws of the state in which the patient is located at the time  
18 that care and services are rendered. Currently, a physical therapist  
19 or physical therapist assistant is required to be licensed in, and by,  
20 each state in which a physical therapist or physical therapist  
21 assistant chooses to practice.

22 Under the PTLC, a person who applies for licensure is required  
23 to meet the qualifications for licensure and license renewal of the  
24 person's home state. The PTLC authorizes a remote state that is  
25 party to the compact to impose fines and suspend the multistate  
26 licensure privilege of any physical therapist or physical therapist  
27 assistant to practice in that state and may take any other actions  
28 under the applicable state laws necessary to protect the health and  
29 safety of the citizens of the remote state. If a home state license is  
30 encumbered in any way, the licensee loses licensure privileges in  
31 any remote state until the home state license is no longer  
32 encumbered and two years have elapsed from the date of the  
33 adverse action.

34 The PTLC creates and establishes a joint public agency known as  
35 the Physical Therapy Compact Commission. The commission is an  
36 instrumentality of the member states and each member state will be  
37 allowed one delegate to sit on the commission. The delegate is  
38 selected by the member state's licensing board and must be a  
39 current member of the state's licensing board. The commission is  
40 authorized to establish bylaws, maintain financial records,  
41 promulgate rules to facilitate and coordinate implementation and  
42 administration of the compact, and bring and prosecute legal  
43 proceedings or actions in the name of the commission.

44 The PTLC also establishes a coordinated database and reporting  
45 system containing licensure, adverse action, and investigative  
46 information on all licensed individuals in the member states. The  
47 member states will be required to report to the database all licensure  
48 data and identifying information, adverse actions against a license

1 or multistate licensure privilege, non-confidential information  
2 related to alternative program participation, any denial of  
3 application for licensure and the reasons for the denial, and other  
4 information that may facilitate the administration of the compact.  
5 This information will be shared with all member states unless the  
6 state submitting the information designates information that may  
7 not be shared or disclosed without the permission of the  
8 contributing state.

9 The PTLC is intended to facilitate the practice of physical  
10 therapy with the goal of improving public access to physical  
11 therapy services. The compact preserves the regulatory authority of  
12 states to protect public health and safety through their current  
13 system of state licensure. The PTLC will enhance the exchange of  
14 licensure, investigative, and disciplinary information between  
15 member states, and it will allow a remote state to hold a provider of  
16 services with a multistate licensure privilege accountable to that  
17 state's practice standards.

18 Finally, the PTLC will come into effect on the date on which the  
19 compact statute is enacted into law in the tenth member state. As of  
20 April, 2016, PTLC legislation has been introduced in four states:  
21 Arizona, Missouri, Oregon, and Tennessee. Also, Oregon and  
22 Tennessee have enacted the PTLC legislation, making those states  
23 the first members of the compact.

# ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4368

# STATE OF NEW JERSEY

DATED: DECEMBER 18, 2017

The Assembly Health and Senior Services Committee reports favorably Assembly Bill No. 4368.

This bill will enter New Jersey in the Physical Therapy Licensure Compact (PTLC). The PTLC provides for a mutual recognition model of physical therapy licensure (for physical therapists and physical therapist assistants), in which a physical therapist or physical therapist assistant only needs to obtain one license from the state of residence in order to be permitted to practice in any other state that is a party to the compact, as long as the physical therapist or physical therapist assistant complies with the state practice laws of the state in which the patient is located at the time that care and services are rendered. Currently, a physical therapist or physical therapist assistant is required to be licensed in, and by, each state in which a physical therapist or physical therapist assistant chooses to practice.

Under the PTLC, a person who applies for licensure is required to meet the qualifications for licensure and license renewal of the person's home state. The PTLC authorizes a remote state that is party to the compact to impose fines and suspend the multistate licensure privilege of any physical therapist or physical therapist assistant to practice in that state and may take any other actions under the applicable state laws necessary to protect the health and safety of the citizens of the remote state. If a home state license is encumbered in any way, the licensee loses licensure privileges in any remote state until the home state license is no longer encumbered and two years have elapsed from the date of the adverse action.

The PTLC creates and establishes a joint public agency known as the Physical Therapy Compact Commission. The commission is an instrumentality of the member states and each member state will be allowed one delegate to sit on the commission. The delegate is selected by the member state's licensing board and must be a current member of the state's licensing board. The commission is authorized to establish bylaws, maintain financial records, promulgate rules to facilitate and coordinate implementation and administration of the compact, and bring and prosecute legal proceedings or actions in the name of the commission.

The PTLC also establishes a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in the member states. The



member states will be required to report to the database all licensure data and identifying information, adverse actions against a license or multistate licensure privilege, non-confidential information related to alternative program participation, any denial of application for licensure and the reasons for the denial, and other information that may facilitate the administration of the compact. This information will be shared with all member states unless the state submitting the information designates information that may not be shared or disclosed without the permission of the contributing state.

The PTLC is intended to facilitate the practice of physical therapy with the goal of improving public access to physical therapy services. The compact preserves the regulatory authority of states to protect public health and safety through their current system of state licensure. The PTLC will enhance the exchange of licensure, investigative, and disciplinary information between member states, and it will allow a remote state to hold a provider of services with a multistate licensure privilege accountable to that state's practice standards.

The PTLC took effect on April 25, 2017, when the tenth member state enacted PLTC legislation. As of December 2017, 13 states have enacted PTLC legislation and are current PLTC members: Arizona, Kentucky, Mississippi, Missouri, Montana, New Hampshire, North Carolina, North Dakota, Oregon, Tennessee, Texas, Utah, and Washington.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 4368**  
**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

DATED: DECEMBER 18, 2017

**SUMMARY**

**Synopsis:** Enters New Jersey in Physical Therapy Licensure Compact.

**Type of Impact:** Annual State Expenditure Increase and Indeterminate Impact on Annual State Revenue.

**Agencies Affected:** Department of Law and Public Safety  
(State Board of Physical Therapy Examiners).

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>Annual State Expenditures</b>		Indeterminate Increase	
<b>Annual State Revenue</b>		Indeterminate Impact	

- The Office of Legislative Services (OLS) finds that joining the Physical Therapy Licensure Compact (PTLC) will cause indeterminate increases in annual State expenditures and an indeterminate annual impact on State revenues. However, because of insufficient information the OLS cannot assess the direction of the net effect of the two impacts on the State Board of Physical Therapy Examiners.
- Annual State Board of Physical Therapy Examiners operating expenditures will increase from any modification to physical therapist and physical therapist assistant licenses, the regulation of any additional out-of-state PTLC physical therapists and physical therapist assistants who practice in New Jersey, the continuous submission of data to a centralized PTLC database, the payment of an annual assessment to the Physical Therapy Compact Commission, and sending a representative to the commission’s annual meetings.
- Annual board license fee collections may be affected by two countervailing effects whose net impact is uncertain: 1) a decrease in license fee payments from professionals practicing in this State who reside in other PTLC states who will no longer apply for a license in New Jersey; and 2) any increase in license fee revenues if the board were to exercise its discretion to charge a fee for granting New Jersey-based physical therapists and physical therapist assistants compact privileges.

- As the board is statutorily required to pay for its operating expenses out of its fee collections, the OLS notes that the board may adjust its license fee amounts, if necessary, to account for any significant changes in its finances as a result of joining the NLC.

## **BILL DESCRIPTION**

Assembly Bill No. 4368 of 2016 enters New Jersey in the multistate PTLC under which member states mutually recognize the licensure privileges they grant to physical therapists and physical therapist assistants. Accordingly, these professionals would only have to be licensed in their primary state of residence to be able to practice in any PTLC member state. Absent the compact, concerned professionals must be licensed separately in each state in which they practice.

A physical therapist or physical therapist assistant who practices in a member state under a multistate licensure privilege is subject to the jurisdiction of the licensing board, the courts and the laws of the member state in which the client is located at the time service is provided.

The PTLC establishes the Physical Therapy Compact Commission as a joint instrumentality of the member states. The commission is required to meet at least once a year and each member state is required to appoint a delegate to the commission. Member state licensing boards pay an annual assessment to cover the commission's operating expenses.

Furthermore, the PTLC establishes a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in the member states. The member states will be required to report to the database all licensure data and identifying information, adverse actions against a license or multistate licensure privilege, non-confidential information related to alternative program participation, any denial of application for licensure and the reasons for the denial, and other information that may facilitate the administration of the compact.

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

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS finds that joining the PTLC will cause indeterminate increases in annual State expenditures and an indeterminate annual impact on State revenues. However, because of insufficient information the OLS cannot assess the direction of the net effect of the two impacts on the State Board of Physical Therapy Examiners.

As the board is statutorily required to pay for its operating expenses out of its fee collections, the OLS notes that the board may adjust its license fee amounts, if necessary, to account for any significant changes in its finances as a result of joining the PTLC.

*Background on PTLC:* According to the Physical Therapy Compact Commission, the compact was enacted on April 25, 2017, when the 10<sup>th</sup> state joined the compact. Currently, there are 14 member states (Washington, Oregon, Colorado, Montana, Utah, Arizona, North Dakota,

Texas, Mississippi, Missouri, Kentucky, Tennessee, North Carolina and New Hampshire), of which Colorado's membership is suspended. In November 2017, the Physical Therapy Compact Commission adopted its rules and bylaws. The commission expects the issuance of compact privileges to physical therapists and physical therapy assistants to begin in June or July of 2018.

*Expenditure Increase:* The OLS projects that several factors will cause the State Board of Physical Therapy Examiners to incur an indeterminate increase in annual operating expenditures as a result of joining the PTLC.

First, the board may need to update information and modify its physical therapist and assistant physical therapist licenses to comply with the PTLC. The OLS, however, has no information to assess the extent of any modifications and the associated expenditures.

Second, the OLS does not know if additional regulatory expenses may be incurred due to the supervision of any additional licensees who reside out-of-State.

Third, member states are required to submit certain data to the PTLC's coordinated database and reporting system on all licensed individuals in the member states. It is unknown to the OLS if the board may incur an indeterminate expenditure increase to adhere to the data reporting requirements.

Fourth, under the compact, an annual assessment is required to be paid to finance the Physical Therapy Compact Commission. According to the commission, member states will not be charged an assessment in 2018. The OLS notes that under a similar compact, the Nurse Licensure Compact, each member state currently pays an assessment of \$6,000 to the Interstate Commission of Nurse Licensure Compact Administrators.

Finally, the board will be required to have a delegate on the Physical Therapy Compact Commission and to send a representative to attend the annual meetings of the commission, resulting in additional indeterminate travel expenses.

*Revenue Impact:* The OLS estimates that the bill may have an indeterminate annual impact on State Board of Physical Therapy Examiner license fee revenues. There are potentially two countervailing effects.

The board may experience an indeterminate annual revenue loss from physical therapist and assistant physical therapist licensees practicing in this State who reside in other PTLC states who will no longer apply for a license in New Jersey but will practice in this State under compact privileges granted by their primary states of residence. Given that New Jersey's neighboring states (Delaware, Pennsylvania, and New York) are not currently participating in the compact, however, the OLS does not expect any annual license fee revenue loss to be significant.

Any revenue loss and increase in operating expenditures, however, may be offset by additional license fee revenue the board may collect for granting compact privileges. The compact allows, but does not require, member states to charge such fees and the OLS cannot anticipate the actions the board will take in this regard.

*Section:* Law and Public Safety  
*Analyst:* Kristin Brunner Santos  
 Senior Fiscal Analyst  
*Approved:* Frank W. Haines III  
 Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).