

ASSEMBLY, No. 1598

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

SYNOPSIS

Enters New Jersey in Physical Therapy Licensure Compact.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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.

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 model
11 of physical therapy licensure (for physical therapists and physical
12 therapist assistants), in which a physical therapist or physical therapist
13 assistant only needs to obtain one license from the state of residence in
14 order to be permitted to practice in any other state that is a party to the
15 compact, as long as the physical therapist or physical therapist
16 assistant complies with the state practice laws of the state in which the
17 patient is located at the time that care and services are rendered.
18 Currently, a physical therapist or physical therapist assistant is
19 required to be licensed in, and by, each state in which a physical
20 therapist or physical therapist assistant chooses to practice.

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

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

42 The PTLC also establishes a coordinated database and reporting
43 system containing licensure, adverse action, and investigative
44 information on all licensed individuals in the member states. The
45 member states will be required to report to the database all licensure
46 data and identifying information, adverse actions against a license or
47 multistate licensure privilege, non-confidential information related to
48 alternative program participation, any denial of application for

1 licensure and the reasons for the denial, and other information that
2 may facilitate the administration of the compact. This information will
3 be shared with all member states unless the state submitting the
4 information designates information that may not be shared or disclosed
5 without the permission of the contributing state.

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

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

WITHDRAWN