

As Reported by the Senate Health Committee

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S. B. No. 5

Senators Roegner, Blessing

Cosponsor: Senator Huffman, S.



A BILL

To amend section 4755.48 and to enact sections 1
4755.57 and 4755.571 of the Revised Code to 2
enter into the Physical Therapy Licensure 3
Compact. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4755.48 be amended and sections 5
4755.57 and 4755.571 of the Revised Code be enacted to read as 6
follows: 7

Sec. 4755.48. (A) No person shall employ fraud or 8
deception in applying for or securing a license to practice 9
physical therapy or to be a physical therapist assistant. 10

(B) No person shall practice or in any way imply or claim 11
to the public by words, actions, or the use of letters as 12
described in division (C) of this section to be able to practice 13
physical therapy or to provide physical therapy services, 14
including practice as a physical therapist assistant, unless the 15
person holds a valid license under sections 4755.40 to 4755.56 16
of the Revised Code or except for submission of claims as 17
provided in section 4755.56 of the Revised Code. 18

(C) No person shall use the words or letters, physical 19
therapist, physical therapy, physical therapy services, 20
physiotherapist, physiotherapy, physiotherapy services, licensed 21
physical therapist, P.T., Ph.T., P.T.T., R.P.T., L.P.T., M.P.T., 22
D.P.T., M.S.P.T., P.T.A., physical therapy assistant, physical 23
therapist assistant, physical therapy technician, licensed 24
physical therapist assistant, L.P.T.A., R.P.T.A., or any other 25
letters, words, abbreviations, or insignia, indicating or 26
implying that the person is a physical therapist or physical 27
therapist assistant without a valid license under sections 28
4755.40 to 4755.56 of the Revised Code. 29

(D) No person who practices physical therapy or assists in 30
the provision of physical therapy treatments under the 31
supervision of a physical therapist shall fail to display the 32
person's current license granted under sections 4755.40 to 33
4755.56 of the Revised Code in a conspicuous location in the 34
place where the person spends the major part of the person's 35
time so engaged. 36

(E) Nothing in sections 4755.40 to 4755.56 of the Revised 37
Code shall affect or interfere with the performance of the 38
duties of any physical therapist or physical therapist assistant 39
in active service in the army, navy, coast guard, marine corps, 40
air force, public health service, or marine hospital service of 41
the United States, while so serving. 42

(F) Nothing in sections 4755.40 to 4755.56 of the Revised 43
Code shall prevent or restrict the activities or services of a 44
person pursuing a course of study leading to a degree in 45
physical therapy in an accredited or approved educational 46
program if the activities or services constitute a part of a 47
supervised course of study and the person is designated by a 48

title that clearly indicates the person's status as a student. 49

(G) (1) Subject to division (G) (2) of this section, nothing 50
in sections 4755.40 to 4755.56 of the Revised Code shall prevent 51
or restrict the activities or services of any person who holds a 52
current, unrestricted license to practice physical therapy in 53
another state when that person, pursuant to contract or 54
employment with an athletic team located in the state in which 55
the person holds the license, provides physical therapy to any 56
of the following while the team is traveling to or from or 57
participating in a sporting event in this state: 58

(a) A member of the athletic team; 59

(b) A member of the athletic team's coaching, 60
communications, equipment, or sports medicine staff; 61

(c) A member of a band or cheerleading squad accompanying 62
the athletic team; 63

(d) The athletic team's mascot. 64

(2) In providing physical therapy pursuant to division (G) 65
(1) of this section, the person shall not do either of the 66
following: 67

(a) Provide physical therapy at a health care facility; 68

(b) Provide physical therapy for more than sixty days in a 69
calendar year. 70

(3) The limitations described in divisions (G) (1) and (2) 71
of this section do not apply to a person who is practicing in 72
accordance with the compact privilege granted by this state 73
through the "Physical Therapy Licensure Compact" entered into 74
under section 4755.57 of the Revised Code. 75

(H) (1) Except as provided in division (H) (2) of this section and subject to division (I) of this section, no person shall practice physical therapy other than on the prescription of, or the referral of a patient by, a person who is licensed in this or another state to do at least one of the following:

(a) Practice medicine and surgery, chiropractic, dentistry, osteopathic medicine and surgery, podiatric medicine and surgery;

(b) Practice as a physician assistant;

(c) Practice nursing as an advanced practice registered nurse.

(2) The prohibition in division (H) (1) of this section on practicing physical therapy other than on the prescription of, or the referral of a patient by, any of the persons described in that division does not apply if either of the following applies to the person:

(a) The person holds a master's or doctorate degree from a professional physical therapy program that is accredited by a national physical therapy accreditation agency recognized by the United States department of education.

(b) On or before December 31, 2004, the person has completed at least two years of practical experience as a licensed physical therapist.

(I) To be authorized to prescribe physical therapy or refer a patient to a physical therapist for physical therapy, a person described in division (H) (1) of this section must be in good standing with the relevant licensing board in this state or the state in which the person is licensed and must act only within the person's scope of practice.

(J) In the prosecution of any person for violation of 105
division (B) or (C) of this section, it is not necessary to 106
allege or prove want of a valid license to practice physical 107
therapy or to practice as a physical therapist assistant, but 108
such matters shall be a matter of defense to be established by 109
the accused. 110

Sec. 4755.57. The "Physical Therapy Licensure Compact" is 111
hereby ratified, enacted into law, and entered into by the state 112
of Ohio as a party to the compact with any other state that has 113
legally joined in the compact as follows: 114

PHYSICAL THERAPY LICENSURE COMPACT 115

SECTION 1. PURPOSE 116

The purpose of this Compact is to facilitate interstate 117
practice of physical therapy with the goal of improving public 118
access to physical therapy services. The practice of physical 119
therapy occurs in the state where the patient/client is located 120
at the time of the patient/client encounter. The Compact 121
preserves the regulatory authority of states to protect public 122
health and safety through the current system of state licensure. 123

This Compact is designed to achieve the following 124
objectives: 125

1. Increase public access to physical therapy services by 126
providing for the mutual recognition of other member state 127
licenses; 128

2. Enhance the states' ability to protect the public's 129
health and safety; 130

3. Encourage the cooperation of member states in 131
regulating multi-state physical therapy practice; 132

<u>4. Support spouses of relocating military members;</u>	133
<u>5. Enhance the exchange of licensure, investigative, and disciplinary information between member states; and</u>	134
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<u>6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.</u>	136
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<u>SECTION 2. DEFINITIONS</u>	139
<u>As used in this Compact, and except as otherwise provided, the following definitions shall apply:</u>	140
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<u>1. "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. Section 1209 and 1211.</u>	142
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<u>2. "Adverse Action" means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.</u>	146
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<u>3. "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.</u>	149
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<u>4. "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.</u>	153
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<u>5. "Continuing competence" means a requirement, as a</u>	160

<u>condition of license renewal, to provide evidence of</u>	161
<u>participation in, and/or completion of, educational and</u>	162
<u>professional activities relevant to practice or area of work.</u>	163
<u>6. "Data system" means a repository of information about</u>	164
<u>licensees, including examination, licensure, investigative,</u>	165
<u>compact privilege, and adverse action.</u>	166
<u>7. "Encumbered license" means a license that a physical</u>	167
<u>therapy licensing board has limited in any way.</u>	168
<u>8. "Executive Board" means a group of directors elected or</u>	169
<u>appointed to act on behalf of, and within the powers granted to</u>	170
<u>them by, the Commission.</u>	171
<u>9. "Home state" means the member state that is the</u>	172
<u>licensee's primary state of residence.</u>	173
<u>10. "Investigative information" means information,</u>	174
<u>records, and documents received or generated by a physical</u>	175
<u>therapy licensing board pursuant to an investigation.</u>	176
<u>11. "Jurisprudence Requirement" means the assessment of an</u>	177
<u>individual's knowledge of the laws and rules governing the</u>	178
<u>practice of physical therapy in a state.</u>	179
<u>12. "Licensee" means an individual who currently holds an</u>	180
<u>authorization from the state to practice as a physical therapist</u>	181
<u>or to work as a physical therapist assistant.</u>	182
<u>13. "Member state" means a state that has enacted the</u>	183
<u>Compact.</u>	184
<u>14. "Party state" means any member state in which a</u>	185
<u>licensee holds a current license or compact privilege or is</u>	186
<u>applying for a license or compact privilege.</u>	187

<u>15. "Physical therapist" means an individual who is</u>	188
<u>licensed by a state to practice physical therapy.</u>	189
<u>16. "Physical therapist assistant" means an individual who</u>	190
<u>is licensed/certified by a state and who assists the physical</u>	191
<u>therapist in selected components of physical therapy.</u>	192
<u>17. "Physical therapy," "physical therapy practice," and</u>	193
<u>"the practice of physical therapy" mean the care and services</u>	194
<u>provided by or under the direction and supervision of a licensed</u>	195
<u>physical therapist.</u>	196
<u>18. "Physical Therapy Compact Commission" or "Commission"</u>	197
<u>means the national administrative body whose membership consists</u>	198
<u>of all states that have enacted the Compact.</u>	199
<u>19. "Physical therapy licensing board" or "licensing</u>	200
<u>board" means the agency of a state that is responsible for the</u>	201
<u>licensing and regulation of physical therapists and physical</u>	202
<u>therapist assistants.</u>	203
<u>20. "Remote State" means a member state other than the</u>	204
<u>home state, where a licensee is exercising or seeking to</u>	205
<u>exercise the compact privilege.</u>	206
<u>21. "Rule" means a regulation, principle, or directive</u>	207
<u>promulgated by the Commission that has the force of law.</u>	208
<u>22. "State" means any state, commonwealth, district, or</u>	209
<u>territory of the United States of America that regulates the</u>	210
<u>practice of physical therapy.</u>	211
<u>SECTION 3. STATE PARTICIPATION IN THE COMPACT</u>	212
<u>A. To participate in the Compact, a state must:</u>	213
<u>1. Participate fully in the Commission's data system,</u>	214

<u>including using the Commission's unique identifier as defined in</u>	215
<u>rules;</u>	216
<u>2. Have a mechanism in place for receiving and</u>	217
<u>investigating complaints about licensees;</u>	218
<u>3. Notify the Commission, in compliance with the terms of</u>	219
<u>the Compact and rules, of any adverse action or the availability</u>	220
<u>of investigative information regarding a licensee;</u>	221
<u>4. Fully implement a criminal background check</u>	222
<u>requirement, within a time frame established by rule, by</u>	223
<u>receiving the results of the Federal Bureau of Investigation</u>	224
<u>record search on criminal background checks and use the results</u>	225
<u>in making licensure decisions in accordance with Section 3.B.;</u>	226
<u>5. Comply with the rules of the Commission;</u>	227
<u>6. Utilize a recognized national examination as a</u>	228
<u>requirement for licensure pursuant to the rules of the</u>	229
<u>Commission; and</u>	230
<u>7. Have continuing competence requirements as a condition</u>	231
<u>for license renewal.</u>	232
<u>B. Upon adoption of this statute, the member state shall</u>	233
<u>have the authority to obtain biometric-based information from</u>	234
<u>each physical therapy licensure applicant and submit this</u>	235
<u>information to the Federal Bureau of Investigation for a</u>	236
<u>criminal background check in accordance with 28 U.S.C. § 534 and</u>	237
<u>42 U.S.C. § 14616.</u>	238
<u>C. A member state shall grant the compact privilege to a</u>	239
<u>licensee holding a valid unencumbered license in another member</u>	240
<u>state in accordance with the terms of the Compact and rules.</u>	241
<u>D. Member states may charge a fee for granting a compact</u>	242

<u>privilege.</u>	243
<u>SECTION 4. COMPACT PRIVILEGE</u>	244
<u>A. To exercise the compact privilege under the terms and provisions of the Compact, the licensee shall:</u>	245
<u>1. Hold a license in the home state;</u>	246
<u>2. Have no encumbrance on any state license;</u>	247
<u>3. Be eligible for a compact privilege in any member state in accordance with Sections 4D, G and H;</u>	248
<u>4. Have not had any adverse action against any license or compact privilege within the previous 2 years;</u>	249
<u>5. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);</u>	250
<u>6. Pay any applicable fees, including any state fee, for the compact privilege;</u>	251
<u>7. Meet any jurisprudence requirements established by the remote state(s) in which the licensee is seeking a compact privilege; and</u>	252
<u>8. Report to the Commission adverse action taken by any non-member state within 30 days from the date the adverse action is taken.</u>	253
<u>B. The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of Section 4.A. to maintain the compact privilege in the remote state.</u>	254
<u>C. A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.</u>	255
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D. A licensee providing physical therapy in a remote state 270
is subject to that state's regulatory authority. A remote state 271
may, in accordance with due process and that state's laws, 272
remove a licensee's compact privilege in the remote state for a 273
specific period of time, impose fines, and/or take any other 274
necessary actions to protect the health and safety of its 275
citizens. The licensee is not eligible for a compact privilege 276
in any state until the specific time for removal has passed and 277
all fines are paid. 278

E. If a home state license is encumbered, the licensee 279
shall lose the compact privilege in any remote state until the 280
following occur: 281

1. The home state license is no longer encumbered; and 282

2. Two years have elapsed from the date of the adverse 283
action. 284

F. Once an encumbered license in the home state is 285
restored to good standing, the licensee must meet the 286
requirements of Section 4A to obtain a compact privilege in any 287
remote state. 288

G. If a licensee's compact privilege in any remote state 289
is removed, the individual shall lose the compact privilege in 290
any remote state until the following occur: 291

1. The specific period of time for which the compact 292
privilege was removed has ended; 293

2. All fines have been paid; and 294

3. Two years have elapsed from the date of the adverse 295
action. 296

H. Once the requirements of Section 4G have been met, the 297

<u>license must meet the requirements in Section 4A to obtain a</u>	298
<u>compact privilege in a remote state.</u>	299
<u>SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES</u>	300
<u>A licensee who is active duty military or is the spouse of</u>	301
<u>an individual who is active duty military may designate one of</u>	302
<u>the following as the home state:</u>	303
<u>A. Home of record;</u>	304
<u>B. Permanent Change of Station (PCS); or</u>	305
<u>C. State of current residence if it is different than the</u>	306
<u>PCS state or home of record.</u>	307
<u>SECTION 6. ADVERSE ACTIONS</u>	308
<u>A. A home state shall have exclusive power to impose</u>	309
<u>adverse action against a license issued by the home state.</u>	310
<u>B. A home state may take adverse action based on the</u>	311
<u>investigative information of a remote state, so long as the home</u>	312
<u>state follows its own procedures for imposing adverse action.</u>	313
<u>C. Nothing in this Compact shall override a member state's</u>	314
<u>decision that participation in an alternative program may be</u>	315
<u>used in lieu of adverse action and that such participation shall</u>	316
<u>remain non-public if required by the member state's laws. Member</u>	317
<u>states must require licensees who enter any alternative programs</u>	318
<u>in lieu of discipline to agree not to practice in any other</u>	319
<u>member state during the term of the alternative program without</u>	320
<u>prior authorization from such other member state.</u>	321
<u>D. Any member state may investigate actual or alleged</u>	322
<u>violations of the statutes and rules authorizing the practice of</u>	323
<u>physical therapy in any other member state in which a physical</u>	324

therapist or physical therapist assistant holds a license or 325
compact privilege. 326

E. A remote state shall have the authority to: 327

1. Take adverse actions as set forth in Section 4.D. 328
against a licensee's compact privilege in the state; 329

2. Issue subpoenas for both hearings and investigations 330
that require the attendance and testimony of witnesses, and the 331
production of evidence. Subpoenas issued by a physical therapy 332
licensing board in a party state for the attendance and 333
testimony of witnesses, and/or the production of evidence from 334
another party state, shall be enforced in the latter state by 335
any court of competent jurisdiction, according to the practice 336
and procedure of that court applicable to subpoenas issued in 337
proceedings pending before it. The issuing authority shall pay 338
any witness fees, travel expenses, mileage, and other fees 339
required by the service statutes of the state where the 340
witnesses and/or evidence are located; and 341

3. If otherwise permitted by state law, recover from the 342
licensee the costs of investigations and disposition of cases 343
resulting from any adverse action taken against that licensee. 344

F. Joint Investigations 345

1. In addition to the authority granted to a member state 346
by its respective physical therapy practice act or other 347
applicable state law, a member state may participate with other 348
member states in joint investigations of licensees. 349

2. Member states shall share any investigative, 350
litigation, or compliance materials in furtherance of any joint 351
or individual investigation initiated under the Compact. 352

<u>SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT</u>	353
<u>COMMISSION.</u>	354
<u>A. The Compact member states hereby create and establish a</u>	355
<u>joint public agency known as the Physical Therapy Compact</u>	356
<u>Commission:</u>	357
<u>1. The Commission is an instrumentality of the Compact</u>	358
<u>states.</u>	359
<u>2. Venue is proper and judicial proceedings by or against</u>	360
<u>the Commission shall be brought solely and exclusively in a</u>	361
<u>court of competent jurisdiction where the principal office of</u>	362
<u>the Commission is located. The Commission may waive venue and</u>	363
<u>jurisdictional defenses to the extent it adopts or consents to</u>	364
<u>participate in alternative dispute resolution proceedings.</u>	365
<u>3. Nothing in this Compact shall be construed to be a</u>	366
<u>waiver of sovereign immunity.</u>	367
<u>B. Membership, Voting, and Meetings</u>	368
<u>1. Each member state shall have and be limited to one (1)</u>	369
<u>delegate selected by that member state's licensing board.</u>	370
<u>2. The delegate shall be a current member of the licensing</u>	371
<u>board, who is a physical therapist, physical therapist</u>	372
<u>assistant, public member, or the board administrator.</u>	373
<u>3. Any delegate may be removed or suspended from office as</u>	374
<u>provided by the law of the state from which the delegate is</u>	375
<u>appointed.</u>	376
<u>4. The member state board shall fill any vacancy occurring</u>	377
<u>in the Commission.</u>	378
<u>5. Each delegate shall be entitled to one (1) vote with</u>	379

regard to the promulgation of rules and creation of bylaws and 380
shall otherwise have an opportunity to participate in the 381
business and affairs of the Commission. 382

6. A delegate shall vote in person or by such other means 383
as provided in the bylaws. The bylaws may provide for delegates' 384
participation in meetings by telephone or other means of 385
communication. 386

7. The Commission shall meet at least once during each 387
calendar year. Additional meetings shall be held as set forth in 388
the bylaws. 389

C. The Commission shall have the following powers and 390
duties: 391

1. Establish the fiscal year of the Commission; 392

2. Establish bylaws; 393

3. Maintain its financial records in accordance with the 394
bylaws; 395

4. Meet and take such actions as are consistent with the 396
provisions of this Compact and the bylaws; 397

5. Promulgate uniform rules to facilitate and coordinate 398
implementation and administration of this Compact. The rules 399
shall have the force and effect of law and shall be binding in 400
all member states; 401

6. Bring and prosecute legal proceedings or actions in the 402
name of the Commission, provided that the standing of any state 403
physical therapy licensing board to sue or be sued under 404
applicable law shall not be affected; 405

7. Purchase and maintain insurance and bonds; 406

8. Borrow, accept, or contract for services of personnel, 407
including, but not limited to, employees of a member state; 408
9. Hire employees, elect or appoint officers, fix 409
compensation, define duties, grant such individuals appropriate 410
authority to carry out the purposes of the Compact, and to 411
establish the Commission's personnel policies and programs 412
relating to conflicts of interest, qualifications of personnel, 413
and other related personnel matters; 414
10. Accept any and all appropriate donations and grants of 415
money, equipment, supplies, materials and services, and to 416
receive, utilize and dispose of the same; provided that at all 417
times the Commission shall avoid any appearance of impropriety 418
and/or conflict of interest; 419
11. Lease, purchase, accept appropriate gifts or donations 420
of, or otherwise to own, hold, improve or use, any property, 421
real, personal or mixed; provided that at all times the 422
Commission shall avoid any appearance of impropriety; 423
12. Sell convey, mortgage, pledge, lease, exchange, 424
abandon, or otherwise dispose of any property real, personal, or 425
mixed; 426
13. Establish a budget and make expenditures; 427
14. Borrow money; 428
15. Appoint committees, including standing committees 429
composed of members, state regulators, state legislators or 430
their representatives, and consumer representatives, and such 431
other interested persons as may be designated in this Compact 432
and the bylaws; 433
16. Provide and receive information from, and cooperate 434

<u>with, law enforcement agencies;</u>	435
<u>17. Establish and elect an Executive Board; and</u>	436
<u>18. Perform such other functions as may be necessary or</u>	437
<u>appropriate to achieve the purposes of this Compact consistent</u>	438
<u>with the state regulation of physical therapy licensure and</u>	439
<u>practice.</u>	440
<u>D. The Executive Board</u>	441
<u>The Executive Board shall have the power to act on behalf</u>	442
<u>of the Commission according to the terms of this Compact.</u>	443
<u>1. The Executive Board shall be comprised of nine members:</u>	444
<u>a. Seven voting members who are elected by the Commission</u>	445
<u>from the current membership of the Commission;</u>	446
<u>b. One ex-officio, nonvoting member from the recognized</u>	447
<u>national physical therapy professional association; and</u>	448
<u>c. One ex-officio, nonvoting member from the recognized</u>	449
<u>membership organization of the physical therapy licensing</u>	450
<u>boards.</u>	451
<u>2. The ex-officio members will be selected by their</u>	452
<u>respective organizations.</u>	453
<u>3. The Commission may remove any member of the Executive</u>	454
<u>Board as provided in bylaws.</u>	455
<u>4. The Executive Board shall meet at least annually.</u>	456
<u>5. The Executive Board shall have the following Duties and</u>	457
<u>responsibilities:</u>	458
<u>a. Recommend to the entire Commission changes to the rules</u>	459
<u>or bylaws, changes to this Compact legislation, fees paid by</u>	460

<u>Compact member states such as annual dues, and any commission</u>	461
<u>Compact fee charged to licensees for the compact privilege;</u>	462
<u>b. Ensure Compact administration services are</u>	463
<u>appropriately provided, contractual or otherwise;</u>	464
<u>c. Prepare and recommend the budget;</u>	465
<u>d. Maintain financial records on behalf of the Commission;</u>	466
<u>e. Monitor Compact compliance of member states and provide</u>	467
<u>compliance reports to the Commission;</u>	468
<u>f. Establish additional committees as necessary; and</u>	469
<u>g. Other duties as provided in rules or bylaws.</u>	470
<u>E. Meetings of the Commission</u>	471
<u>1. All meetings shall be open to the public, and public</u>	472
<u>notice of meetings shall be given in the same manner as required</u>	473
<u>under the rulemaking provisions in Section 9.</u>	474
<u>2. The Commission or the Executive Board or other</u>	475
<u>committees of the Commission may convene in a closed, non-public</u>	476
<u>meeting if the Commission or Executive Board or other committees</u>	477
<u>of the Commission must discuss:</u>	478
<u>a. Non-compliance of a member state with its obligations</u>	479
<u>under the Compact;</u>	480
<u>b. The employment, compensation, discipline or other</u>	481
<u>matters, practices or procedures related to specific employees</u>	482
<u>or other matters related to the Commission's internal personnel</u>	483
<u>practices and procedures;</u>	484
<u>c. Current, threatened, or reasonably anticipated</u>	485
<u>litigation;</u>	486

<u>d. Negotiation of contracts for the purchase, lease, or</u>	487
<u>sale of goods, services, or real estate;</u>	488
<u>e. Accusing any person of a crime or formally censuring</u>	489
<u>any person;</u>	490
<u>f. Disclosure of trade secrets or commercial or financial</u>	491
<u>information that is privileged or confidential;</u>	492
<u>g. Disclosure of information of a personal nature where</u>	493
<u>disclosure would constitute a clearly unwarranted invasion of</u>	494
<u>personal privacy;</u>	495
<u>h. Disclosure of investigative records compiled for law</u>	496
<u>enforcement purposes;</u>	497
<u>i. Disclosure of information related to any investigative</u>	498
<u>reports prepared by or on behalf of or for use of the Commission</u>	499
<u>or other committee charged with responsibility of investigation</u>	500
<u>or determination of compliance issues pursuant to the Compact;</u>	501
<u>or</u>	502
<u>j. Matters specifically exempted from disclosure by</u>	503
<u>federal or member state statute.</u>	504
<u>3. If a meeting, or portion of a meeting, is closed</u>	505
<u>pursuant to this provision, the Commission's legal counsel or</u>	506
<u>designee shall certify that the meeting may be closed and shall</u>	507
<u>reference each relevant exempting provision.</u>	508
<u>4. The Commission shall keep minutes that fully and</u>	509
<u>clearly describe all matters discussed in a meeting and shall</u>	510
<u>provide a full and accurate summary of actions taken, and the</u>	511
<u>reasons therefore, including a description of the views</u>	512
<u>expressed. All documents considered in connection with an action</u>	513
<u>shall be identified in such minutes. All minutes and documents</u>	514

of a closed meeting shall remain under seal, subject to release 515
by a majority vote of the Commission or order of a court of 516
competent jurisdiction. 517

F. Financing of the Commission 518

1. The Commission shall pay, or provide for the payment 519
of, the reasonable expenses of its establishment, organization, 520
and ongoing activities. 521

2. The Commission may accept any and all appropriate 522
revenue sources, donations, and grants of money, equipment, 523
supplies, materials, and services. 524

3. The Commission may levy on and collect an annual 525
assessment from each member state or impose fees on other 526
parties to cover the cost of the operations and activities of 527
the Commission and its staff, which must be in a total amount 528
sufficient to cover its annual budget as approved each year for 529
which revenue is not provided by other sources. The aggregate 530
annual assessment amount shall be allocated based upon a formula 531
to be determined by the Commission, which shall promulgate a 532
rule binding upon all member states. 533

4. The Commission shall not incur obligations of any kind 534
prior to securing the funds adequate to meet the same; nor shall 535
the Commission pledge the credit of any of the member states, 536
except by and with the authority of the member state. 537

5. The Commission shall keep accurate accounts of all 538
receipts and disbursements. The receipts and disbursements of 539
the Commission shall be subject to the audit and accounting 540
procedures established under its bylaws. However, all receipts 541
and disbursements of funds handled by the Commission shall be 542
audited yearly by a certified or licensed public accountant, and 543

the report of the audit shall be included in and become part of 544
the annual report of the Commission. 545

G. Qualified Immunity, Defense, and Indemnification 546

1. The members, officers, executive director, employees 547
and representatives of the Commission shall be immune from suit 548
and liability, either personally or in their official capacity, 549
for any claim for damage to or loss of property or personal 550
injury or other civil liability caused by or arising out of any 551
actual or alleged act, error or omission that occurred, or that 552
the person against whom the claim is made had a reasonable basis 553
for believing occurred within the scope of Commission 554
employment, duties or responsibilities; provided that nothing in 555
this paragraph shall be construed to protect any such person 556
from suit and/or liability for any damage, loss, injury, or 557
liability caused by the intentional or willful or wanton 558
misconduct of that person. 559

2. The Commission shall defend any member, officer, 560
executive director, employee or representative of the Commission 561
in any civil action seeking to impose liability arising out of 562
any actual or alleged act, error, or omission that occurred 563
within the scope of Commission employment, duties, or 564
responsibilities, or that the person against whom the claim is 565
made had a reasonable basis for believing occurred within the 566
scope of Commission employment, duties, or responsibilities; 567
provided that nothing herein shall be construed to prohibit that 568
person from retaining his or her own counsel; and provided 569
further, that the actual or alleged act, error, or omission did 570
not result from that person's intentional or willful or wanton 571
misconduct. 572

3. The Commission shall indemnify and hold harmless any 573

member, officer, executive director, employee, or representative 574
of the Commission for the amount of any settlement or judgment 575
obtained against that person arising out of any actual or 576
alleged act, error or omission that occurred within the scope of 577
Commission employment, duties, or responsibilities, or that such 578
person had a reasonable basis for believing occurred within the 579
scope of Commission employment, duties, or responsibilities, 580
provided that the actual or alleged act, error, or omission did 581
not result from the intentional or willful or wanton misconduct 582
of that person. 583

SECTION 8. DATA SYSTEM 584

A. The Commission shall provide for the development, 585
maintenance, and utilization of a coordinated database and 586
reporting system containing licensure, adverse action, and 587
investigative information on all licensed individuals in member 588
states. 589

B. Notwithstanding any other provision of state law to the 590
contrary, a member state shall submit a uniform data set to the 591
data system on all individuals to whom this Compact is 592
applicable as required by the rules of the Commission, 593
including: 594

1. Identifying information; 595

2. Licensure data; 596

3. Adverse actions against a license or compact privilege; 597

4. Non-confidential information related to alternative 598
program participation; 599

5. Any denial of application for licensure, and the 600
reason(s) for such denial; and 601

6. Other information that may facilitate the 602
administration of this Compact, as determined by the rules of 603
the Commission. 604

C. Investigative information pertaining to a licensee in 605
any member state will only be available to other party states. 606

D. The Commission shall promptly notify all member states 607
of any adverse action taken against a licensee or an individual 608
applying for a license. Adverse action information pertaining to 609
a licensee in any member state will be available to any other 610
member state. 611

E. Member states contributing information to the data 612
system may designate information that may not be shared with the 613
public without the express permission of the contributing state. 614

F. Any information submitted to the data system that is 615
subsequently required to be expunged by the laws of the member 616
state contributing the information shall be removed from the 617
data system. 618

SECTION 9. RULEMAKING 619

A. The Commission shall exercise its rulemaking powers 620
pursuant to the criteria set forth in this Section and the rules 621
adopted thereunder. Rules and amendments shall become binding as 622
of the date specified in each rule or amendment. 623

B. If a majority of the legislatures of the member states 624
rejects a rule, by enactment of a statute or resolution in the 625
same manner used to adopt the Compact within 4 years of the date 626
of adoption of the rule, then such rule shall have no further 627
force and effect in any member state. 628

C. Rules or amendments to the rules shall be adopted at a 629

regular or special meeting of the Commission. 630

D. Prior to promulgation and adoption of a final rule or 631
rules by the Commission, and at least thirty (30) days in 632
advance of the meeting at which the rule will be considered and 633
voted upon, the Commission shall file a Notice of Proposed 634
Rulemaking: 635

1. On the website of the Commission or other publicly 636
accessible platform; and 637

2. On the website of each member state physical therapy 638
licensing board or other publicly accessible platform or the 639
publication in which each state would otherwise publish proposed 640
rules. 641

E. The Notice of Proposed Rulemaking shall include: 642

1. The proposed time, date, and location of the meeting in 643
which the rule will be considered and voted upon; 644

2. The text of the proposed rule or amendment and the 645
reason for the proposed rule; 646

3. A request for comments on the proposed rule from any 647
interested person; and 648

4. The manner in which interested persons may submit 649
notice to the Commission of their intention to attend the public 650
hearing and any written comments. 651

F. Prior to adoption of a proposed rule, the Commission 652
shall allow persons to submit written data, facts, opinions, and 653
arguments, which shall be made available to the public. 654

G. The Commission shall grant an opportunity for a public 655
hearing before it adopts a rule or amendment if a hearing is 656

requested by: 657

1. At least twenty-five (25) persons; 658

2. A state or federal governmental subdivision or agency; 659

or 660

3. An association having at least twenty-five (25) 661
members. 662

H. If a hearing is held on the proposed rule or amendment, 663
the Commission shall publish the place, time, and date of the 664
scheduled public hearing. If the hearing is held via electronic 665
means, the Commission shall publish the mechanism for access to 666
the electronic hearing. 667

1. All persons wishing to be heard at the hearing shall 668
notify the executive director of the Commission or other 669
designated member in writing of their desire to appear and 670
testify at the hearing not less than five (5) business days 671
before the scheduled date of the hearing. 672

2. Hearings shall be conducted in a manner providing each 673
person who wishes to comment a fair and reasonable opportunity 674
to comment orally or in writing. 675

3. All hearings will be recorded. A copy of the recording 676
will be made available on request. 677

4. Nothing in this section shall be construed as requiring 678
a separate hearing on each rule. Rules may be grouped for the 679
convenience of the Commission at hearings required by this 680
section. 681

I. Following the scheduled hearing date, or by the close 682
of business on the scheduled hearing date if the hearing was not 683
held, the Commission shall consider all written and oral 684

comments received. 685

J. If no written notice of intent to attend the public 686
hearing by interested parties is received, the Commission may 687
proceed with promulgation of the proposed rule without a public 688
hearing. 689

K. The Commission shall, by majority vote of all members, 690
take final action on the proposed rule and shall determine the 691
effective date of the rule, if any, based on the rulemaking 692
record and the full text of the rule. 693

L. Upon determination that an emergency exists, the 694
Commission may consider and adopt an emergency rule without 695
prior notice, opportunity for comment, or hearing, provided that 696
the usual rulemaking procedures provided in the Compact and in 697
this section shall be retroactively applied to the rule as soon 698
as reasonably possible, in no event later than ninety (90) days 699
after the effective date of the rule. For the purposes of this 700
provision, an emergency rule is one that must be adopted 701
immediately in order to: 702

1. Meet an imminent threat to public health, safety, or 703
welfare; 704

2. Prevent a loss of Commission or member state funds; 705

3. Meet a deadline for the promulgation of an 706
administrative rule that is established by federal law or rule; 707
or 708

4. Protect public health and safety. 709

M. The Commission or an authorized committee of the 710
Commission may direct revisions to a previously adopted rule or 711
amendment for purposes of correcting typographical errors, 712

errors in format, errors in consistency, or grammatical errors. 713
Public notice of any revisions shall be posted on the website of 714
the Commission. The revision shall be subject to challenge by 715
any person for a period of thirty (30) days after posting. The 716
revision may be challenged only on grounds that the revision 717
results in a material change to a rule. A challenge shall be 718
made in writing, and delivered to the chair of the Commission 719
prior to the end of the notice period. If no challenge is made, 720
the revision will take effect without further action. If the 721
revision is challenged, the revision may not take effect without 722
the approval of the Commission. 723

SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT 724

A. Oversight 725

1. The executive, legislative, and judicial branches of 726
state government in each member state shall enforce this Compact 727
and take all actions necessary and appropriate to effectuate the 728
Compact's purposes and intent. The provisions of this Compact 729
and the rules promulgated hereunder shall have standing as 730
statutory law. 731

2. All courts shall take judicial notice of the Compact 732
and the rules in any judicial or administrative proceeding in a 733
member state pertaining to the subject matter of this Compact 734
which may affect the powers, responsibilities or actions of the 735
Commission. 736

3. The Commission shall be entitled to receive service of 737
process in any such proceeding, and shall have standing to 738
intervene in such a proceeding for all purposes. Failure to 739
provide service of process to the Commission shall render a 740
judgment or order void as to the Commission, this Compact, or 741

<u>promulgated rules.</u>	742
<u>B. Default, Technical Assistance, and Termination</u>	743
<u>1. If the Commission determines that a member state has</u>	744
<u>defaulted in the performance of its obligations or</u>	745
<u>responsibilities under this Compact or the promulgated rules,</u>	746
<u>the Commission shall:</u>	747
<u>a. Provide written notice to the defaulting state and</u>	748
<u>other member states of the nature of the default, the proposed</u>	749
<u>means of curing the default and/or any other action to be taken</u>	750
<u>by the Commission; and</u>	751
<u>b. Provide remedial training and specific technical</u>	752
<u>assistance regarding the default.</u>	753
<u>2. If a state in default fails to cure the default, the</u>	754
<u>defaulting state may be terminated from the Compact upon an</u>	755
<u>affirmative vote of a majority of the member states, and all</u>	756
<u>rights, privileges and benefits conferred by this Compact may be</u>	757
<u>terminated on the effective date of termination. A cure of the</u>	758
<u>default does not relieve the offending state of obligations or</u>	759
<u>liabilities incurred during the period of default.</u>	760
<u>3. Termination of membership in the Compact shall be</u>	761
<u>imposed only after all other means of securing compliance have</u>	762
<u>been exhausted. Notice of intent to suspend or terminate shall</u>	763
<u>be given by the Commission to the governor, the majority and</u>	764
<u>minority leaders of the defaulting state's legislature, and each</u>	765
<u>of the member states.</u>	766
<u>4. A state that has been terminated is responsible for all</u>	767
<u>assessments, obligations, and liabilities incurred through the</u>	768
<u>effective date of termination, including obligations that extend</u>	769
<u>beyond the effective date of termination.</u>	770

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state. 771
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6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees. 775
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C. Dispute Resolution 781

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states. 782
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2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate. 785
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D. Enforcement 788

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact. 789
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2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs 792
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of such litigation, including reasonable attorney's fees. 800

3. The remedies herein shall not be the exclusive remedies 801
of the Commission. The Commission may pursue any other remedies 802
available under federal or state law. 803

SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE 804
COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, 805
WITHDRAWAL, AND AMENDMENT 806

A. The Compact shall come into effect on the date on which 807
the Compact statute is enacted into law in the tenth member 808
state. The provisions, which become effective at that time, 809
shall be limited to the powers granted to the Commission 810
relating to assembly and the promulgation of rules. Thereafter, 811
the Commission shall meet and exercise rulemaking powers 812
necessary to the implementation and administration of the 813
Compact. 814

B. Any state that joins the Compact subsequent to the 815
Commission's initial adoption of the rules shall be subject to 816
the rules as they exist on the date on which the Compact becomes 817
law in that state. Any rule that has been previously adopted by 818
the Commission shall have the full force and effect of law on 819
the day the Compact becomes law in that state. 820

C. Any member state may withdraw from this Compact by 821
enacting a statute repealing the same. 822

1. A member state's withdrawal shall not take effect until 823
six (6) months after enactment of the repealing statute. 824

2. Withdrawal shall not affect the continuing requirement 825
of the withdrawing state's physical therapy licensing board to 826
comply with the investigative and adverse action reporting 827
requirements of this act prior to the effective date of 828

withdrawal. 829

D. Nothing contained in this Compact shall be construed to 830
invalidate or prevent any physical therapy licensure agreement 831
or other cooperative arrangement between a member state and a 832
non-member state that does not conflict with the provisions of 833
this Compact. 834

E. This Compact may be amended by the member states. No 835
amendment to this Compact shall become effective and binding 836
upon any member state until it is enacted into the laws of all 837
member states. 838

SECTION 12. CONSTRUCTION AND SEVERABILITY 839

This Compact shall be liberally construed so as to 840
effectuate the purposes thereof. The provisions of this Compact 841
shall be severable and if any phrase, clause, sentence or 842
provision of this Compact is declared to be contrary to the 843
constitution of any party state or of the United States or the 844
applicability thereof to any government, agency, person or 845
circumstance is held invalid, the validity of the remainder of 846
this Compact and the applicability thereof to any government, 847
agency, person or circumstance shall not be affected thereby. If 848
this Compact shall be held contrary to the constitution of any 849
party state, the Compact shall remain in full force and effect 850
as to the remaining party states and in full force and effect as 851
to the party state affected as to all severable matters. 852

Sec. 4755.571. Not later than ninety days after the 853
"Physical Therapy Licensure Compact" is entered into under 854
section 4755.57 of the Revised Code, the physical therapy 855
section of the Ohio occupational therapy, physical therapy, and 856
athletic trainers board shall select an individual to serve as a 857

delegate to the physical therapy compact commission created 858
under the compact. The physical therapy section shall fill a 859
vacancy in this position not later than ninety days after the 860
vacancy occurs. 861

Section 2. That existing section 4755.48 of the Revised 862
Code is hereby repealed. 863