

SENATE BILL No. 170

AN ACT concerning the practice and licensing of health professions; relating to the enactment of compacts; enacting the psychology interjurisdictional compact; providing for the interjurisdictional authorization to practice telepsychology and temporary in-person, face-to-face psychology; enacting the physical therapy licensure compact; providing for interstate practice authority for physical therapy in compact states; authorizing criminal history record checks for physical therapist licensure; amending K.S.A. 65-2912, 65-2920 and 65-2923 and repealing the existing sections.

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

New Section 1. The board may assess a fee at the time of licensure or license renewal for any person seeking compact privilege to practice under the psychology interjurisdictional compact whose home state is Kansas, in addition to any other fees authorized by law for licensure, not to exceed \$25. The board shall adopt rules and regulations to establish the amount of such fee.

New Sec. 2. This section shall be known and may be cited as the psychology interjurisdictional compact (PSYPACT). This section shall take effect on and after January 1, 2022.

ARTICLE I  
PURPOSE

WHEREAS, States license psychologists in order to protect the public through verification of education, training and experience and ensure accountability for professional practice; and

WHEREAS, This compact is intended to regulate the day-to-day practice of telepsychology, the provision of psychological services using telecommunications technologies, by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority; and

WHEREAS, This compact is intended to regulate the temporary in-person, face-to-face practice of psychology by psychologists across state boundaries for 30 days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority; and

WHEREAS, This compact is intended to authorize state psychology regulatory authorities to afford legal recognition, in a manner consistent with the terms of the compact, to psychologists licensed in another state; and

WHEREAS, This compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of psychologists and that such state regulation will best protect public health and safety; and

WHEREAS, This compact does not apply when a psychologist is licensed in both the home and receiving states; and

WHEREAS, This compact does not apply to permanent in-person, face-to-face practice, but it does allow for authorization of temporary psychological practice.

Consistent with these principles, this compact is designed to achieve the following purposes and objectives:

(a) Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state which the psychologist is not licensed to practice psychology;

(b) enhance the states' ability to protect the public's health and safety, especially client/patient safety;

(c) encourage the cooperation of compact states in the areas of psychology licensure and regulation;

(d) facilitate the exchange of information between compact states regarding psychologist licensure, adverse actions and disciplinary history;

(e) promote compliance with the laws governing psychological practice in each compact state; and

(f) invest all compact states with the authority to hold licensed

psychologists accountable through the mutual recognition of compact state licenses.

ARTICLE II  
DEFINITIONS

(a) "Adverse action" means any action taken by a state psychology regulatory authority that finds a violation of a statute or regulation that is identified by the state psychology regulatory authority as discipline and is a matter of public record.

(b) "Association of state and provincial psychology boards" means the recognized membership organization composed of state and provincial psychology regulatory authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.

(c) "Authority to practice interjurisdictional telepsychology" means a licensed psychologist's authority to practice telepsychology, within the limits authorized under this compact, in another compact state.

(d) "Bylaws" means those bylaws established by the psychology interjurisdictional compact commission pursuant to article X for its governance or for directing and controlling its actions and conduct.

(e) "Client/patient" means the recipient of psychological services, whether psychological services are delivered in the context of healthcare, corporate, supervision or consulting services.

(f) "Commissioner" means the voting representative appointed by each state psychology regulatory authority pursuant to article X.

(g) "Compact state" means a state, the District of Columbia or a United States territory that has enacted this compact legislation and that has not withdrawn pursuant to article XIII(c) or been terminated pursuant to article XII(b).

(h) "Coordinated licensure information system" or "coordinated database" means an integrated process for collecting, storing and sharing information on psychologists' licensure and enforcement activities related to psychology licensure laws, administered by the recognized membership organization composed of state and provincial psychology regulatory authorities.

(i) "Confidentiality" means the principle that data or information is not made available or disclosed to unauthorized persons or processes.

(j) "Day" means any part of a day in which psychological work is performed.

(k) "Distant state" means the compact state where a psychologist is physically present, not through the use of telecommunications technologies, to provide temporary in-person, face-to-face psychological services.

(l) "E.passport" means a certificate issued by the association of state and provincial psychology boards that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.

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

(n) "Home state" means a compact state where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one compact state and is practicing under the authorization to practice interjurisdictional telepsychology, the "home state" is the compact state where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one compact state and is practicing under the temporary authorization to practice, the "home state" is any compact state where

the psychologist is licensed.

(o) "Identity history summary" means a summary of information retained by the federal bureau of investigation, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization or military service.

(p) "In-person, face-to-face" means interactions in which the psychologist and the client/patient are in the same physical space and does not include interactions that may occur through the use of telecommunications technologies.

(q) "Interjurisdictional practice certificate" means a certificate issued by the association of state and provincial psychology boards that grants temporary authority to practice based on notification to the state psychology regulatory authority of intention to practice temporarily, and verification of one's qualifications for such practice.

(r) "License" means authorization by a state psychology regulatory authority to engage in the independent practice of psychology that would be unlawful without the authorization.

(s) "Non-compact state" means any state that is not, at the time, a compact state.

(t) "Psychologist" means an individual licensed for the independent practice of psychology.

(u) "Psychology interjurisdictional compact commission" or "commission" means the national administration of which all compact states are members.

(v) "Receiving state" means a compact state where the client/patient is physically located when the telepsychological services are delivered.

(w) "Rule" means a written statement by the psychology interjurisdictional compact commission promulgated pursuant to article XI that:

- (1) Is of general applicability;
- (2) implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural or practice requirement of the commission;
- (3) has the force and effect of statutory law in a compact state; and
- (4) includes the amendment, repeal or suspension of an existing rule.

(x) "Significant investigatory information" means:

(1) Investigative information that a state psychology regulatory authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate more than a violation of state statute or ethics code that would be considered more substantial than minor infraction; or

(2) investigative information that indicates that the psychologist represents an immediate threat to public health and safety, regardless of whether the psychologist has been notified or had an opportunity to respond.

(y) "State" means a state, commonwealth, territory or possession of the United States or the District of Columbia.

(z) "State psychology regulatory authority" means the board, office or other agency with the legislative mandate to license and regulate the practice of psychology.

(aa) "Telepsychology" means the provision of psychological services using telecommunications technologies.

(bb) "Temporary authorization to practice" means a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this compact, in another compact state.

(cc) "Temporary in-person, face-to-face practice" means a psychologist is physically present, not through the use of telecommunications technologies, in the distant state to provide for the practice of psychology for 30 days within a calendar year and based on notification to the distant state.

#### ARTICLE III

##### HOME STATE LICENSURE

(a) The home state shall be a compact state where a psychologist is licensed to practice psychology.

(b) A psychologist may hold one or more compact state licenses at a time. If the psychologist is licensed in more than one compact state, the home state is the compact state where the psychologist is physically present when the services are delivered as authorized by the authority to practice interjurisdictional telepsychology under the terms of this compact.

(c) Any compact state may require a psychologist not previously licensed in a compact state to obtain and retain a license to be authorized to practice in the compact state under circumstances not authorized by the authority to practice interjurisdictional telepsychology under the terms of this compact.

(d) Any compact state may require a psychologist to obtain and retain a license to be authorized to practice in a compact state under circumstances not authorized by temporary authorization to practice under the terms of this compact.

(e) A home state's license authorizes a psychologist to practice in a receiving state under the authority to practice interjurisdictional telepsychology only if the compact state:

(1) Currently requires the psychologist to hold an active e.passport;

(2) has a mechanism in place for receiving and investigating complaints about licensed individuals;

(3) notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

(4) requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the federal bureau of investigation, or other designee with similar authority, not later than 10 years after activation of the compact; and

(5) complies with the bylaws and rules of the commission.

(f) A home state's license grants temporary authorization to practice to a psychologist in a distant state only if the compact state:

(1) Currently requires the psychologist to hold an active interjurisdictional practice certificate;

(2) has a mechanism in place for receiving and investigating complaints about licensed individuals;

(3) notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

(4) requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the federal bureau of investigation, or other designee with similar authority, not later than 10 years after activation of the compact; and

(5) complies with the bylaws and rules of the commission.

#### ARTICLE IV

##### COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

(a) Compact states shall recognize the right of a psychologist, licensed in a compact state in conformance with article III, to practice

telepsychology in other compact states, or receiving states, in which the psychologist is not licensed, under the authority to practice interjurisdictional telepsychology as provided in the compact.

(b) To exercise the authority to practice interjurisdictional telepsychology under the terms and provisions of this compact, a psychologist licensed to practice in a compact state shall:

(1) Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

(A) Regionally accredited by an accrediting body recognized by the United States department of education to grant graduate degrees or authorized by provincial statute or royal charter to grant doctoral degrees; or

(B) a foreign college or university deemed to be equivalent to subparagraph (A) by a foreign credential evaluation service that is a member of the national association of credential evaluation services or by a recognized foreign credential evaluation service;

(2) hold a graduate degree in psychology that meets the following criteria:

(A) The program, wherever it may be administratively housed, shall be clearly identified and labeled as a psychology program. Such program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists;

(B) the psychology program shall stand as a recognizable, coherent, organizational entity within the institution;

(C) there shall be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines;

(D) the program shall consist of an integrated, organized sequence of study;

(E) there shall be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

(F) the designated director of the program shall be a psychologist and a member of the core faculty;

(G) the program shall have an identifiable body of students who are matriculated in that program for a degree;

(H) the program shall include supervised practicum, internship or field training appropriate to the practice of psychology;

(I) the curriculum shall encompass a minimum of three academic years of full-time graduate study for a doctoral degree and a minimum of one academic year of full-time graduate study for a master's degree; and

(J) the program includes an acceptable residency as defined by the rules of the commission;

(3) possess a current, full and unrestricted license to practice psychology in a home state that is a compact state;

(4) have no history of adverse action that violates the rules of the commission;

(5) have no criminal record history reported on an identity history summary that violates the rules of the commission;

(6) possess a current, active e.passport;

(7) provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology, criminal background and knowledge and adherence to legal requirements in the home and receiving states and provide a release of information to allow for primary source verification in a manner specified by the commission; and

(8) meet other criteria as defined by the rules of the commission.

(c) The home state maintains authority over the license of any psychologist practicing into a receiving state under the authority to

practice interjurisdictional telepsychology.

(d) A psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology shall be subject to the receiving state's scope of practice. A receiving state may, in accordance with that state's due process law, limit or revoke a psychologist's authority to practice interjurisdictional telepsychology in the receiving state and may take any other necessary actions under the receiving state's applicable law to protect the health and safety of the receiving state's citizens. If a receiving state takes action, the state shall promptly notify the home state and the commission.

(e) If a psychologist's license in any home state or another compact state, or any authority to practice interjurisdictional telepsychology in any receiving state, is restricted, suspended or otherwise limited, the e.passport shall be revoked and therefore the psychologist shall not be eligible to practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology.

#### ARTICLE V

##### COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

(a) Compact states shall also recognize the right of a psychologist, licensed in a compact state in conformance with Article III, to practice temporarily in other compact states, or distant states, in which the psychologist is not licensed, as provided in the compact.

(b) To exercise the temporary authorization to practice under the terms and provisions of this compact, a psychologist licensed to practice in a compact state shall:

(1) Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

(A) Regionally accredited by an accrediting body recognized by the United States department of education to grant graduate degrees or authorized by provincial statute or royal charter to grant doctoral degrees; or

(B) a foreign college or university deemed to be equivalent to subparagraph (A) by a foreign credential evaluation service that is a member of the national association of credential evaluation services or by a recognized foreign credential evaluation service;

(2) hold a graduate degree in psychology that meets the following criteria:

(A) The program, wherever it may be administratively housed, shall be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists;

(B) the psychology program shall stand as a recognizable, coherent, organizational entity within the institution;

(C) there shall be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines;

(D) the program shall consist of an integrated, organized sequence of study;

(E) there shall be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

(F) the designated director of the program shall be a psychologist and a member of the core faculty;

(G) the program shall have an identifiable body of students who are matriculated in that program for a degree;

(H) the program shall include supervised practicum, internship or field training appropriate to the practice of psychology;

(I) the curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degrees and a minimum

of one academic year of full-time graduate study for master's degrees; and

(J) the program includes an acceptable residency as defined by the rules of the commission;

(3) possess a current, full and unrestricted license to practice psychology in a home state that is a compact state;

(4) no history of adverse action that violate the rules of the commission;

(5) no criminal record history that violates the rules of the commission;

(6) possess a current, active interjurisdictional practice certificate;

(7) provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the commission; and

(8) meet other criteria as defined by the rules of the commission.

(c) A psychologist practicing into a distant state under the temporary authorization to practice shall practice within the scope of practice authorized by the distant state.

(d) A psychologist practicing into a distant state under the temporary authorization to practice shall be subject to the distant state's authority and law. A distant state may, in accordance with that state's due process law, limit or revoke a psychologist's temporary authorization to practice in the distant state and may take any other necessary actions under the distant state's applicable law to protect the health and safety of the distant state's citizens. If a distant state takes action, the state shall promptly notify the home state and the commission.

(e) If a psychologist's license in any home state or another compact state, or any temporary authorization to practice in any distant state, is restricted, suspended or otherwise limited, the interjurisdictional practice certificate shall be revoked and therefore the psychologist shall not be eligible to practice in a compact state under the temporary authorization to practice.

#### ARTICLE VI

##### CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

A psychologist may practice in a receiving state under the authority to practice interjurisdictional telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate state psychology regulatory authority, as defined in the rules of the commission, and under the following circumstances:

(a) The psychologist initiates a client/patient contact in a home state via telecommunications technologies with a client/patient in a receiving state; and

(b) other conditions regarding telepsychology as determined by rules promulgated by the commission.

#### ARTICLE VII

##### ADVERSE ACTIONS

(a) A home state shall have the power to impose adverse action against a psychologist's license issued by the home state. A distant state shall have the power to take adverse action on a psychologist's temporary authorization to practice within that distant state.

(b) A receiving state may take adverse action on a psychologist's authority to practice interjurisdictional telepsychology within that receiving state. A home state may take adverse action against a psychologist based on an adverse action taken by a distant state regarding temporary in-person, face-to-face practice.

(c) If a home state takes adverse action against a psychologist's

license, that psychologist's authority to practice interjurisdictional telepsychology is terminated and the e.passport is revoked. Furthermore, that psychologist's temporary authorization to practice is terminated and the interjurisdictional practice certificate is revoked.

(1) All home state disciplinary orders that impose adverse action shall be reported to the commission in accordance with the rules promulgated by the commission. A compact state shall report adverse actions in accordance with the rules of the commission.

(2) In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the rules of the commission.

(3) Other actions may be imposed as determined by the rules promulgated by the commission.

(d) A home state's psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee that occurred in a receiving state as it would if such conduct had occurred by a licensee within the home state. In such cases, the home state's law shall control in determining any adverse action against a psychologist's license.

(e) A distant state's psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under temporary authorization practice that occurred in that distant state as it would if such conduct had occurred by a licensee within the home state. In such cases, the distant state's law shall control in determining any adverse action against a psychologist's temporary authorization to practice.

(f) Nothing in this compact shall override a compact state's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the compact state's law. Compact states shall require psychologists who enter any alternative programs to not provide telepsychology services under the authority to practice interjurisdictional telepsychology or provide temporary psychological services under the temporary authorization to practice in any other compact state during the term of the alternative program.

(g) No other judicial or administrative remedies shall be available to a psychologist in the event a compact state imposes an adverse action pursuant to subsection (c).

#### ARTICLE VIII

#### ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S

#### PSYCHOLOGY REGULATORY AUTHORITY

In addition to any other powers granted under state law, a compact state's psychology regulatory authority shall have the authority under this compact to:

(a) Issue subpoenas, for both hearings and investigations, that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a compact state's psychology regulatory authority for the attendance and testimony of witnesses or the production of evidence from another compact state shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state psychology regulatory authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses or evidence are located; and

(b) issue cease and desist or injunctive relief orders to revoke a

psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice.

(c) During the course of any investigation, a psychologist may not change such psychologist's home state licensure. A home state psychology regulatory authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The home state psychology regulatory authority shall promptly report the conclusions of such investigations to the commission. Once an investigation has been completed, and pending the outcome of such investigation, the psychologist may change the psychologist's home state licensure. The commission shall promptly notify the new home state of any such decisions as provided in the rules of the commission. All information provided to the commission or distributed by compact states pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters. The commission may create additional rules for mandated or discretionary sharing of information by compact states.

#### ARTICLE IX

##### COORDINATED LICENSURE INFORMATION SYSTEM

(a) The Commission shall provide for the development and maintenance of a coordinated licensure information system and reporting system containing licensure and disciplinary action information on all individuals to whom this compact is applicable in all compact states as defined by the rules of the commission.

(b) Notwithstanding any other provision of state law to the contrary, a compact state shall submit a uniform data set to the coordinated database on all licensees as required by the rules of the commission, including:

- (1) Identifying information;
- (2) licensure data;
- (3) significant investigatory information;
- (4) adverse actions against a psychologist's license;
- (5) an indicator that a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice is revoked;
- (6) non-confidential information related to alternative program participation information;
- (7) any denial of application for licensure and the reasons for such denial; and
- (8) other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(c) The coordinated database administrator shall promptly notify all compact states of any adverse action taken against, or significant investigative information on, any licensee in a compact state.

(d) Compact states reporting information to the coordinated database may designate information that may not be shared with the public without the express permission of the compact state reporting the information.

(e) Any information submitted to the coordinated database that is subsequently required to be expunged by the law of the compact state reporting the information shall be removed from the coordinated database.

#### ARTICLE X

##### ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION

(a) The compact states hereby create and establish a joint public agency known as the psychology interjurisdictional compact commission.

- (1) The commission is a body politic and an instrumentality of the

compact states.

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

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

(b) *Membership, voting and meetings.*

(1) The commission shall consist of one voting representative appointed by each compact state who shall serve as that state's commissioner. The state psychology regulatory authority shall appoint its delegate. This delegate shall be empowered to act on behalf of the compact state. This delegate shall be limited to:

(A) The executive director, executive secretary or similar executive;

(B) a current member of the state psychology regulatory authority of a compact state; or

(C) a designee empowered with the appropriate delegate authority to act on behalf of the compact state.

(2) Any commissioner may be removed or suspended from office as provided by the law of the state from which the commissioner is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compact state in which the vacancy exists.

(3) Each commissioner shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for commissioners' participation in meetings by telephone or other means of communication.

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

(5) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in article XI.

(6) The commission may convene in a closed, non-public meeting if the commission must discuss:

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

(B) the employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(C) current, threatened or reasonably anticipated litigation against the commission;

(D) negotiation of contracts for the purchase or sale of goods, services or real estate;

(E) accusation against any person of a crime or formally censuring any person;

(F) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) disclosure of investigatory records compiled for law enforcement purposes;

(I) disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the compact; or

(J) matters specifically exempted from disclosure by federal and state statute.

(7) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken of any person participating in the meeting and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(c) The commission shall, by a majority vote of the commissioners, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including, but not limited to:

- (1) Establishing the fiscal year of the commission;
  - (2) providing reasonable standards and procedures:
    - (A) For the establishment and meetings of other committees; and
    - (B) governing any general or specific delegation of any authority or function of the commission;
  - (3) providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals of such proceedings and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the commission shall make public a copy of the vote to close the meeting revealing the vote of each commissioner, with no proxy votes allowed;
  - (4) establishing the titles, duties and authority and reasonable procedures for the election of the officers of the commission;
  - (5) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar law of any compact state, the bylaws shall exclusively govern the personnel policies and programs of the commission;
  - (6) promulgating a code of ethics to address permissible and prohibited activities of commission members and employees;
  - (7) providing a mechanism for concluding the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment or reserving of all of its debts and obligations;
  - (8) the commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the compact states;
  - (9) the commission shall maintain its financial records in accordance with the bylaws; and
  - (10) the commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.
- (d) The commission shall have the following powers:
- (1) The authority to promulgate uniform rules to facilitate and

coordinate implementation and administration of this compact. Such uniform rules shall have the force and effect of law and shall be binding in all compact states;

(2) to bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state psychology regulatory authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;

(3) to purchase and maintain insurance and bonds;

(4) to borrow, accept or contract for services of personnel, including, but not limited to, employees of a compact state;

(5) to hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

(6) to accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same, provided that at all times the commission shall strive to avoid any appearance of impropriety or conflict of interest;

(7) to lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any real or personal property, or mixed, provided that at all times the commission shall strive to avoid any appearance of impropriety;

(8) to sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any real or personal property, or mixed;

(9) to establish a budget and make expenditures;

(10) to borrow money;

(11) to appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, consumer representatives and such other interested persons as may be designated in this compact and the bylaws;

(12) to provide and receive information from, and to cooperate with, law enforcement agencies;

(13) to adopt and use an official seal; and

(14) to perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice and telepsychology practice.

(e) *The executive board.* The elected officers shall serve as the executive board, and the executive board shall have the power to act on behalf of the commission according to the terms of this compact.

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

(A) Five voting members who are elected from the current membership of the commission by the commission; and

(B) one ex-officio, nonvoting member from the recognized membership organization composed of state and provincial psychology regulatory authorities.

(2) The ex-officio member shall have served as staff or member on a state psychology regulatory authority and shall be selected by its respective organization.

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

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

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

(A) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact

states, such as annual dues and any other applicable fees;

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

(C) prepare and recommend the budget;

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

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

(F) establish additional committees as necessary; and

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

(f) *Financing of the commission.*

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

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

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

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

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

(g) *Qualified immunity, defense and indemnification.*

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

(2) The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities: *Provided*, That nothing herein shall be construed to prohibit that person from retaining such person's own counsel: *And provided further*, That the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any

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

ARTICLE XI  
RULEMAKING

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

(b) If a majority of the legislatures of the compact states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compact state.

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

(d) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) On the website of the commission; and

(2) on the website of each compact states' psychology regulatory authority or the publication in which each state would otherwise publish proposed rules.

(e) The notice of proposed rulemaking shall include:

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

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

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

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

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

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

(1) At least 25 persons who submit comments independently of each other;

(2) a governmental subdivision or agency; or

(3) a duly appointed person in an association that has at least 25 members.

(h) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time and date of the scheduled public hearing.

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

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

(3) No transcript of the hearing is required unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This paragraph shall not preclude the commission from making a transcript or recording of the hearing if the commission so chooses.

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

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

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

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

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

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

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

#### ARTICLE XII

##### OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

(a) *Oversight.*

(1) The executive, legislative and judicial branches of state government in each compact state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

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

(3) The commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a

proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.

(b) *Default, technical assistance and termination.*

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

(A) Provide written notice to the defaulting state and other compact states of the nature of the default, the proposed means of remedying the default and any other action to be taken by the commission; and

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

(2) If a state in default fails to remedy the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compact states, and all rights, privileges and benefits conferred by this compact shall be terminated on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

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

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

(5) The commission shall not bear any costs incurred by the 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.

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

(c) *Dispute resolution.*

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

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

(d) *Enforcement.*

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

(2) By majority vote, the commission may initiate legal action in the United States district court for the state of Georgia or the federal district where the compact has its principal offices against a compact 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 of such litigation, including reasonable attorney fees.

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

ARTICLE XIII

DATE OF IMPLEMENTATION OF THE PSYCHOLOGY  
INTERJURISDICTIONAL COMPACT COMMISSION AND  
ASSOCIATED RULES, WITHDRAWAL AND AMENDMENTS

(a) The compact shall come into effect on the date on which the compact is enacted into law in the 7<sup>th</sup> compact state. The provisions that become effective at that time shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

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

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

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

(2) withdrawal shall not affect the continuing requirement of the withdrawing state's psychology regulatory authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

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

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

ARTICLE XIV

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state member thereto, the compact shall remain in full force and effect as to the remaining compact states.

New Sec. 3. This section shall be known and may be cited as the physical therapy licensure compact.

SECTION 1.

PURPOSE

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

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

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

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

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

(4) support spouses of relocating military members;

(5) enhance the exchange of licensure, investigative and disciplinary information between member states; and

(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.

SECTION 2.  
DEFINITIONS

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

(a) "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. §§ 1209 and 1211.

(b) "Adverse action" means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.

(c) "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.

(d) "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 or client is located at the time of the patient or client encounter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### SECTION 3.

##### STATE PARTICIPATION IN THE COMPACT

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

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

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

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

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

(5) comply with the rules of the commission;

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

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

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

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

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

#### SECTION 4.

##### COMPACT PRIVILEGE

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

(1) Hold a license in the home state;

(2) have no encumbrance on any state license;

(3) be eligible for a compact privilege in any member state in accordance with section 4(d), (g) and (h);

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

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

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

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

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

(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.

(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.

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

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

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

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

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

- (1) The specific period of time for which the compact privilege was removed has ended;
- (2) all fines have been paid; and
- (3) two years have elapsed from the date of the adverse action.

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

#### SECTION 5.

##### ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

- (a) Home of record;
- (b) permanent change of station (PCS); or
- (c) state of current residence, if it is different than the PCS state or home of record.

#### SECTION 6.

##### ADVERSE ACTIONS

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

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

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

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

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

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

(2) issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses, or the production of evidence, or both, from another party state shall be enforced in the latter state by any court of competent jurisdiction according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before that court. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses or evidence, or both, are located; and

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

(f) Joint investigations:

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

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

#### SECTION 7.

#### ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

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

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

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

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

(b) Membership, voting, and meetings:

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

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

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

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

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

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

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

(c) The commission shall have the following powers and duties:

- (1) Establish the fiscal year of the commission;
  - (2) establish bylaws;
  - (3) maintain its financial records in accordance with the bylaws;
  - (4) meet and take such actions as are consistent with the provisions of this compact and the bylaws;
  - (5) promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states;
  - (6) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected;
  - (7) purchase and maintain insurance and bonds;
  - (8) borrow, accept or contract for services of personnel including, but not limited to, employees of a member state;
  - (9) hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;
  - (10) accept any and all appropriate donations and grants of money, equipment, supplies, materials and services and receive, utilize and dispose of the same, except that at all times the commission shall avoid any appearance of impropriety or conflict of interest, or both;
  - (11) lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed, except that at all times the commission shall avoid any appearance of impropriety;
  - (12) sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;
  - (13) establish a budget and make expenditures;
  - (14) borrow money;
  - (15) appoint committees, including standing committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives and such other interested persons as may be designated in this compact and the bylaws;
  - (16) provide and receive information from, and cooperate with, law enforcement agencies;
  - (17) establish and elect an executive board; and
  - (18) perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of physical therapy licensure and practice.
- (d) The executive board shall have the power to act on behalf of the commission according to the terms of this compact.
- (1) The executive board shall be comprised of nine members:
    - (A) Seven voting members, who are elected by the commission from the current membership of the commission;
    - (B) one ex-officio, non-voting member from the recognized national physical therapy professional association; and
    - (C) one ex-officio, non-voting member from the recognized membership organization of the physical therapy licensing boards.
  - (2) The ex-officio members will be selected by their respective organizations.
  - (3) The commission may remove any member of the executive board as provided in the bylaws.
  - (4) The executive board shall meet at least annually.
  - (5) The executive board shall have the following duties and responsibilities:

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

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

(C) prepare and recommend the budget;

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

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

(F) establish additional committees as necessary; and

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

(e) Meetings of the commission:

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

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

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

(B) the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(C) current, threatened or reasonably anticipated litigation;

(D) negotiation of contracts for the purchase, lease or sale of goods, services or real estate;

(E) accusing any person of a crime or formally censuring any person;

(F) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) disclosure of investigative records compiled for law enforcement purposes;

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

(J) matters specifically exempted from disclosure by federal or member state statute.

(3) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

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

(f) Financing of the commission:

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

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

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

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

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

(g) Qualified immunity, defense and indemnification:

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

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

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

#### SECTION 8.

##### DATA SYSTEM

(a) The commission shall provide for the development, maintenance and utilization of a coordinated database and reporting system

containing licensure, adverse action and investigative information on all licensed individuals in member states.

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

- (1) Identifying information;
- (2) licensure data;
- (3) adverse actions against a license or compact privilege;
- (4) non-confidential information related to alternative program participation;
- (5) any denial of application for licensure, and the reason for such denial; and
- (6) other information that may facilitate the administration of this compact, as determined by the rules of the commission.

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

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

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

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

#### SECTION 9.

##### RULEMAKING

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

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

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

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

- (1) On the website of the commission or other publicly accessible platform; and
- (2) on the website of each member state's physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(e) The notice of proposed rulemaking shall include:

- (1) The proposed time, date and location of the meeting in which the rule will be considered and voted upon;
- (2) the text of the proposed rule or amendment and the reason for the proposed rule;
- (3) a request for comments on the proposed rule from any interested person; and
- (4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

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

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

- (1) At least 25 persons;
- (2) a state or federal governmental subdivision or agency; or
- (3) an association having at least 25 members.

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

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

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

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

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

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

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

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

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

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

(m) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the

revision may not take effect without the approval of the commission.

SECTION 10.

OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

(a) Oversight:

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

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

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

(b) Default, technical assistance and termination:

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

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

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

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

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

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

(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.

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

(c) Dispute resolution:

(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.

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

(d) Enforcement:

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

(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 of such litigation, including reasonable attorney fees.

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

#### SECTION 11.

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

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

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

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

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

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

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

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

#### SECTION 12.

##### CONSTRUCTION AND SEVERABILITY

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

New Sec. 4. (a) As part of an original application for a license as a physical therapist or a certificate as a physical therapy assistant or as part of an original application for reinstatement of a license or certificate or in connection with any investigation of any holder of a license or certificate, the state board of healing arts may require a person to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdiction. The state board of healing arts is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The state board of healing arts may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license or certificate.

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

(c) The state board of healing arts may fix and collect a fee as may be required by the board in an amount necessary to reimburse the board for the cost of fingerprinting and the criminal history record check. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the healing arts fee fund.

(d) This section shall be a part of and supplemental to the physical therapy practice act.

Sec. 5. K.S.A. 65-2912 is hereby amended to read as follows: 65-

2912. (a) The board may refuse to grant a license to any physical therapist or a certificate to any physical therapist assistant, ~~or~~ may suspend or revoke the license *or compact privilege* of any licensed physical therapist or certificate *or compact privilege* of any certified physical therapist assistant, ~~or~~ may limit the license *or compact privilege* of any licensed physical therapist or certificate *or compact privilege* of any certified physical therapist assistant or may censure a licensed physical therapist or certified physical therapist assistant for any of the following grounds:

(1) Addiction to or distribution of intoxicating liquors or drugs for other than lawful purposes;

(2) conviction of a felony if the board determines, after investigation, that the physical therapist or physical therapist assistant has not been sufficiently rehabilitated to warrant the public trust;

(3) obtaining or attempting to obtain licensure or certification by fraud or deception;

(4) finding by a court of competent jurisdiction that the physical therapist or physical therapist assistant is a disabled person and has not thereafter been restored to legal capacity;

(5) unprofessional conduct as defined by rules and regulations adopted by the board;

(6) the treatment or attempt to treat ailments or other health conditions of human beings other than by physical therapy and as authorized by this act;

(7) failure to refer patients to other ~~health care~~ *healthcare* providers if symptoms are present for which physical therapy treatment is inadvisable or if symptoms indicate conditions for which treatment is outside the scope of knowledge of the licensed physical therapist;

(8) evaluating or treating patients in a manner not consistent with

K.S.A. 65-2921, and amendments thereto; and

(9) knowingly submitting any misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement.

(b) All proceedings pursuant to article 29 of chapter 65 of the Kansas Statutes Annotated, and ~~acts amendatory of the provisions thereof or supplemental amendments~~ *amendments* thereto, shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

Sec. 6. K.S.A. 65-2920 is hereby amended to read as follows: 65-2920. Professional liability insurance coverage shall be maintained in effect by each licensed physical therapist actively practicing in this state, *including each physical therapist licensed in a home state and practicing in this state under the physical therapy licensure compact*, as a condition to rendering professional services as a physical therapist in this state. The board shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.

Sec. 7. K.S.A. 65-2923 is hereby amended to read as follows: 65-2923. (a) The board shall adopt rules and regulations establishing minimum education and training requirements for the practice of dry needling by a licensed physical therapist, *including a physical therapist licensed in a home state and practicing in this state under the physical therapy licensure compact*.

(b) This section shall be *a part of and supplemental to the physical therapy practice act*.

Sec. 8. K.S.A. 65-2912, 65-2920 and 65-2923 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

\_\_\_\_\_

SENATE adopted

Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE

as amended \_\_\_\_\_

HOUSE adopted

Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*