

As Amended by Senate Committee

{As Amended by House Committee of the Whole}

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2279

By Committee on Health and Human Services

2-9

1 AN ACT concerning physical therapy; enacting the physical therapy
2 licensure compact; providing for interstate practice authority for
3 physical therapists in compact states; authorizing criminal history
4 record checks; amending K.S.A. **65-2912**, 65-2920 and 65-2923 and
5 repealing the existing sections.
6

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

8 New Section 1. This act shall be known and may be cited as the
9 physical therapy licensure compact.

10 PHYSICAL THERAPY LICENSURE COMPACT

11 SECTION 1.

12 PURPOSE

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

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

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

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

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

25 (4) support spouses of relocating military members;

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

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

30 SECTION 2.

31 DEFINITIONS

32 As used in this compact, and except as otherwise provided, the

1 following definitions shall apply:

- 2 (a) "Active duty military" means full-time duty status in the active
3 uniformed service of the United States, including members of the national
4 guard and reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and
5 1211.
- 6 (b) "Adverse action" means disciplinary action taken by a physical
7 therapy licensing board based upon misconduct, unacceptable
8 performance, or a combination of both.
- 9 (c) "Alternative program" means a non-disciplinary monitoring or
10 practice remediation process approved by a physical therapy licensing
11 board. This includes, but is not limited to, substance abuse issues.
- 12 (d) "Compact privilege" means the authorization granted by a remote
13 state to allow a licensee from another member state to practice as a
14 physical therapist or work as a physical therapist assistant in the remote
15 state under its laws and rules. The practice of physical therapy occurs in
16 the member state where the patient or client is located at the time of the
17 patient or client encounter.
- 18 (e) "Continuing competence" means a requirement, as a condition of
19 license renewal, to provide evidence of participation in, or completion of,
20 or both, educational and professional activities relevant to practice or the
21 area of work.
- 22 (f) "Data system" means a repository of information about licensees,
23 including examination, licensure, investigative, compact privilege and
24 adverse action.
- 25 (g) "Encumbered license" means a license that a physical therapy
26 licensing board has limited in any way.
- 27 (h) "Executive board" means a group of directors elected or appointed
28 to act on behalf of and, within the powers granted to them, by the
29 commission.
- 30 (i) "Home state" means the member state that is the licensee's primary
31 state of residence.
- 32 (j) "Investigative information" means information, records and
33 documents received or generated by a physical therapy licensing board
34 pursuant to an investigation.
- 35 (k) "Jurisprudence requirement" means the assessment of an
36 individual's knowledge of the laws and rules governing the practice of
37 physical therapy in a state.
- 38 (l) "Licensee" means an individual who currently holds an
39 authorization from the state to practice as a physical therapist or to work as
40 a physical therapist assistant.
- 41 (m) "Member state" means a state that has enacted the compact.
- 42 (n) "Party state" means any member state in which a licensee holds a
43 current license or compact privilege or is applying for a license or compact

1 privilege.

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

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

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

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

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

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

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

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

22 SECTION 3.

23 STATE PARTICIPATION IN THE COMPACT

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

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

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

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

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

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

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

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

42 (b) Upon adoption of this compact, the member state shall have the
43 authority to obtain biometric-based information from each physical

1 therapy licensure applicant and submit this information to the federal
2 bureau of investigation for a criminal background check in accordance
3 with 28 U.S.C. § 534 and 42 U.S.C. §14616.

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

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

8 SECTION 4.

9 COMPACT PRIVILEGE

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

12 (1) Hold a license in the home state;

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

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

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

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

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

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

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

26 (b) The compact privilege is valid until the expiration date of the
27 home license. The licensee must comply with the requirements of section
28 4(a) to maintain the compact privilege in the remote state.

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

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

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

41 (1) The home state license is no longer encumbered; and

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

43 (f) Once an encumbered license in the home state is restored to good

1 standing, the licensee must meet the requirements of section 4(a) to obtain
2 a compact privilege in any remote state.

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

6 (1) The specific period of time for which the compact privilege was
7 removed has ended;

8 (2) all fines have been paid; and

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

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

13 SECTION 5.

14 ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

18 (a) Home of record;

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

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

22 SECTION 6.

23 ADVERSE ACTIONS

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

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

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

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

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

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

43 (2) issue subpoenas for both hearings and investigations that require

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

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

13 (f) Joint investigations:

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

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

21 SECTION 7.

22 ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT 23 COMMISSION

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

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

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

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

35 (b) Membership, voting, and meetings:

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

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

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

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

1 commission.

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

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

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

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

11 (1) Establish the fiscal year of the commission;

12 (2) establish bylaws;

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

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

16 (5) promulgate uniform rules to facilitate and coordinate
17 implementation and administration of this compact. The rules shall have
18 the force and effect of law and shall be binding in all member states;

19 (6) bring and prosecute legal proceedings or actions in the name of
20 the commission, provided that the standing of any state physical therapy
21 licensing board to sue or be sued under applicable law shall not be
22 affected;

23 (7) purchase and maintain insurance and bonds;

24 (8) borrow, accept or contract for services of personnel including, but
25 not limited to, employees of a member state;

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

31 (10) accept any and all appropriate donations and grants of money,
32 equipment, supplies, materials and services and receive, utilize and
33 dispose of the same, except that at all times the commission shall avoid
34 any appearance of impropriety or conflict of interest, or both;

35 (11) lease, purchase, accept appropriate gifts or donations of, or
36 otherwise own, hold, improve or use, any property, real, personal or
37 mixed, except that at all times the commission shall avoid any appearance
38 of impropriety;

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

41 (13) establish a budget and make expenditures;

42 (14) borrow money;

43 (15) appoint committees, including standing committees comprised of

1 members, state regulators, state legislators or their representatives, and
2 consumer representatives and such other interested persons as may be
3 designated in this compact and the bylaws;

4 (16) provide and receive information from, and cooperate with, law
5 enforcement agencies;

6 (17) establish and elect an executive board; and

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

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

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

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

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

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

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

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

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

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

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

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

32 (C) prepare and recommend the budget;

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

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

36 (F) establish additional committees as necessary; and

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

38 (e) Meetings of the commission:

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

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

1 commission or executive board or other committees of the commission
2 must discuss:

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

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

8 (C) current, threatened or reasonably anticipated litigation;

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

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

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

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

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

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

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

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

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

36 (f) Financing of the commission:

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

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

43 (3) The commission may levy on and collect an annual assessment

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

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

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

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

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

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

42 (3) The commission shall indemnify and hold harmless any member,
43 officer, executive director, employee or representative of the commission

1 for the amount of any settlement or judgment obtained against that person
2 arising out of any actual or alleged act, error or omission that occurred
3 within the scope of commission employment, duties or responsibilities, or
4 that such person had a reasonable basis for believing occurred within the
5 scope of commission employment, duties or responsibilities, so long as the
6 actual or alleged act, error or omission did not result from the intentional
7 or willful or wanton misconduct of that person.

8 SECTION 8.

9 DATA SYSTEM

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

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

18 (1) Identifying information;

19 (2) licensure data;

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

21 (4) non-confidential information related to alternative program
22 participation;

23 (5) any denial of application for licensure, and the reason for such
24 denial; and

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

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

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

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

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

39 SECTION 9.

40 RULEMAKING

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

1 or amendment.

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

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

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

12 (1) On the website of the commission or other publicly accessible
13 platform; and

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

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

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

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

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

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

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

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

32 (1) At least 25 persons;

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

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

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

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

43 (2) Hearings shall be conducted in a manner providing each person

1 who wishes to comment a fair and reasonable opportunity to comment
2 orally or in writing.

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

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

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

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

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

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

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

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

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

29 (4) protect public health and safety.

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

42 SECTION 10.

43 OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

1 (a) Oversight:

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

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

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

16 (b) Default, technical assistance and termination:

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

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

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

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

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

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

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

43 (6) The defaulting state may appeal the action of the commission by

1 petitioning the United States district court for the District of Columbia or
2 the federal district where the commission has its principal offices. The
3 prevailing member state shall be awarded all costs of such litigation,
4 including reasonable attorney fees.

5 (c) Dispute resolution:

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

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

11 (d) Enforcement:

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

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

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

25 SECTION 11.

26 DATE OF IMPLEMENTATION OF THE INTERSTATE 27 COMMISSION FOR PHYSICAL THERAPY PRACTICE AND 28 ASSOCIATED RULES, WITHDRAWAL AND AMENDMENT

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

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

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

43 (1) A member state's withdrawal shall not take effect until six months

1 after enactment of the repealing statute.

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

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

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

13 SECTION 12.

14 CONSTRUCTION AND SEVERABILITY

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

26 New Sec. 2. (a) As part of an original application for a license as a
27 physical therapist or a certificate as a physical therapy assistant, ~~or {or}~~ as
28 part of an original application for reinstatement of a license or certificate
29 or in ~~connection with any investigation of any holder of a license or~~
30 ~~certificate or as part of an application by a physical therapist licensed~~
31 ~~in a home state for compact privilege to practice in Kansas under the~~
32 ~~physical therapy licensure compact connection with any investigation~~
33 *of any holder of a license or certificate*, the state board of healing arts
34 may require a person to be fingerprinted and submit to a state and national
35 criminal history record check. The fingerprints shall be used to identify the
36 person and to determine whether the person has a record of criminal
37 history in this state or other jurisdiction. The state board of healing arts is
38 authorized to submit the fingerprints to the Kansas bureau of investigation
39 and the federal bureau of investigation for a state and national criminal
40 history record check. The state board of healing arts may use the
41 information obtained from fingerprinting and the criminal history for
42 purposes of verifying the identification of the person and in the official
43 determination of the qualifications and fitness of the person to be issued or

1 to maintain a license or certificate.

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

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

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

14 **Sec. 3. K.S.A. 65-2912 is hereby amended to read as follows: 65-**
15 **2912. (a) The board may refuse to grant a license to any physical**
16 **therapist or a certificate to any physical therapist assistant, or may**
17 **suspend or revoke the license or compact privilege of any licensed**
18 **physical therapist or certificate or compact privilege of any certified**
19 **physical therapist assistant, or may limit the license or compact**
20 **privilege of any licensed physical therapist or certificate or compact**
21 **privilege of any certified physical therapist assistant or may censure a**
22 **licensed physical therapist or certified physical therapist assistant for**
23 **any of the following grounds:**

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

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

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

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

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

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

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

1 **(8) evaluating or treating patients in a manner not consistent with**
2 **K.S.A. 65-2921, and amendments thereto; and**

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

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

11 ~~Sec. 3.~~ **4.** K.S.A. 65-2920 is hereby amended to read as follows: 65-
12 2920. Professional liability insurance coverage shall be maintained in
13 effect by each licensed physical therapist actively practicing in this state
14 *including each physical therapist licensed in a home state, and practicing*
15 *in this state under the physical therapy licensure compact*, as a condition
16 to rendering professional services as a physical therapist in this state. The
17 board shall fix by rules and regulations the minimum level of coverage for
18 such professional liability insurance.

19 ~~Sec. 4.~~ **5.** K.S.A. 65-2923 is hereby amended to read as follows: 65-
20 2923. (a) The board shall adopt rules and regulations establishing
21 minimum education and training requirements for the practice of dry
22 needling by a licensed physical therapist *including a physical therapist*
23 *licensed in a home state and practicing in this state under the physical*
24 *therapy licensure compact*.

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

27 ~~Sec. 5.~~ **6.** K.S.A. **65-2912**, 65-2920 and 65-2923 are hereby repealed.

28 ~~Sec. 6.~~ **7.** This act shall take effect and be in force from and after its
29 publication in the ~~statute book~~ ***Kansas register***.