

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL 57
Committee Substitute Favorable 2/15/17
Committee Substitute #2 Favorable 2/23/17
Senate Health Care Committee Substitute Adopted 5/18/17

Short Title: Enact Physical Therapy Licensure Compact.

(Public)

Sponsors:

Referred to:

February 8, 2017

A BILL TO BE ENTITLED

AN ACT ESTABLISHING A PHYSICAL THERAPY LICENSURE COMPACT TO FACILITATE THE INTERSTATE PRACTICE OF PHYSICAL THERAPY AND EASING OCCUPATIONAL LICENSING BURDENS ON MILITARY FAMILIES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 18B of Chapter 90 of the General Statutes, G.S. 90-270.24 through G.S. 90-270.44, is recodified as Article 18E of Chapter 90 of the General Statutes, G.S. 90-270.90 through G.S. 90-270.110.

SECTION 2. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 18F.

"Physical Therapy Licensure Compact.

§ 90-270.120. Purpose.

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/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. 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 multistate physical therapy practice.
- (4) Support spouses of relocating military members.
- (5) Enhance the exchange of licensure, investigative, and disciplinary information between member states.
- (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.

§ 90-270.121. Definitions.

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

- (1) Active duty military. – 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. Sections 1209 and 1211.



- 1 (2) Adverse action. – Disciplinary action taken by a physical therapy licensing
2 board based upon misconduct, unacceptable performance, or a combination
3 of both.
- 4 (3) Alternative program. – A nondisciplinary monitoring or practice remediation
5 process approved by a physical therapy licensing board. This includes, but is
6 not limited to, substance abuse issues.
- 7 (4) Compact privilege. – The authorization granted by a remote state to allow a
8 licensee from another member state to practice as a physical therapist or
9 work as a physical therapist assistant in the remote state under its laws and
10 rules. The practice of physical therapy occurs in the member state where the
11 patient/client is located at the time of the patient/client encounter.
- 12 (5) Continuing competence. – A requirement, as a condition of license renewal,
13 to provide evidence of participation in, and/or completion of, educational
14 and professional activities relevant to practice or area of work.
- 15 (6) Data system. – A repository of information about licensees, including
16 examination, licensure, investigative, compact privilege, and adverse action.
- 17 (7) Encumbered license. – A license that a physical therapy licensing board has
18 limited in any way.
- 19 (8) Executive board. – A group of directors elected or appointed to act on behalf
20 of, and within the powers granted to them by, the Commission.
- 21 (9) Home state. – The member state that is the licensee's primary state of
22 residence.
- 23 (10) Investigative information. – Information, records, and documents received or
24 generated by a physical therapy licensing board pursuant to an investigation.
- 25 (11) Jurisprudence requirement. – The assessment of an individual's knowledge
26 of the laws and rules governing the practice of physical therapy in a state.
- 27 (12) Licensee. – An individual who currently holds an authorization from the
28 state to practice as a physical therapist or to work as a physical therapist
29 assistant.
- 30 (13) Member state. – A state that has enacted the Compact. For purposes of this
31 Article, the State of North Carolina may designate the North Carolina Board
32 of Physical Therapy Examiners as the entity responsible for carrying out any
33 action required by or of a member state under this Article, including the
34 imposition of fees or the payment of assessments.
- 35 (14) Party state. – Any member state in which a licensee holds a current license
36 or compact privilege or is applying for a license or compact privilege.
- 37 (15) Physical therapist. – An individual who is licensed by a state to practice
38 physical therapy.
- 39 (16) Physical therapist assistant. – An individual who is licensed/certified by a
40 state and who assists the physical therapist in selected components of
41 physical therapy.
- 42 (17) Physical therapy, physical therapy practice, or the practice of physical
43 therapy. – The care and services provided by or under the direction and
44 supervision of a licensed physical therapist.
- 45 (18) Physical Therapy Compact Commission or Commission. – The national
46 administrative body whose membership consists of all states that have
47 enacted the Compact.
- 48 (19) Physical Therapy Licensing Board or Licensing Board. – The agency that is
49 responsible for the licensing and regulation of physical therapists and
50 physical therapist assistants.

- 1 (20) Remote state. – A member state other than the home state where a licensee is
2 exercising or seeking to exercise the compact privilege.
3 (21) Rule. – A regulation, principle, or directive promulgated by the Commission
4 that has the force of law.
5 (22) State. – Any state, commonwealth, district, or territory of the United States
6 of America that regulates the practice of physical therapy.

7 **"§ 90-270.122. State participation in the compact.**

8 (a) To participate in the Compact, a state must do all of the following:

- 9 (1) Participate fully in the Commission's data system, including using the
10 Commission's unique identifier as defined in rules.
11 (2) Have a mechanism in place for receiving and investigating complaints about
12 licensees.
13 (3) Notify the Commission, in compliance with the terms of the Compact and
14 rules, of any adverse action or the availability of investigative information
15 regarding a licensee.
16 (4) Fully implement a criminal background check requirement, within a time
17 frame established by rule, by receiving the results of the Federal Bureau of
18 Investigation record search on criminal background checks and use the
19 results in making licensure decisions in accordance with subsection (b) of
20 this section.
21 (5) Comply with the rules of the Commission.
22 (6) Utilize a recognized national examination as a requirement for licensure
23 pursuant to the rules of the Commission.
24 (7) Have continuing competence requirements as a condition for license
25 renewal.

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

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

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

34 **"§ 90-270.123. Compact privilege.**

35 (a) In order to exercise the compact privilege under the terms and provisions of the
36 Compact, the licensee shall meet all of the following qualifications:

- 37 (1) Hold a license in the home state.
38 (2) Have no encumbrance on any state license.
39 (3) Be eligible for a compact privilege in any member state in accordance with
40 subsections (d), (g), and (h) of this section.
41 (4) Have not had any adverse action against any license or compact privilege
42 within the previous two years.
43 (5) Notify the Commission that the licensee is seeking the compact privilege
44 within a remote state(s).
45 (6) Pay any applicable fees, including any state fee, for the compact privilege.
46 (7) Meet any jurisprudence requirements established by the remote state(s) in
47 which the licensee is seeking a compact privilege.
48 (8) Report to the Commission adverse action taken by any nonmember state
49 within 30 days from the date the adverse action is taken.

1 **(b)** The compact privilege is valid until the expiration date of the home license. The
2 licensee must comply with the requirements of subsection (a) of this section to maintain the
3 compact privilege in the remote state.

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

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

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

14 **(1)** The home state license is no longer encumbered.

15 **(2)** Two years have elapsed from the date of the adverse action.

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

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

21 **(1)** The specific period of time for which the compact privilege was removed
22 has ended.

23 **(2)** All fines have been paid.

24 **(3)** Two years have elapsed from the date of the adverse action.

25 **(h)** Once the requirements of subsection (g) of this section have been met, the licensee
26 must meet the requirements in subsection (a) of this section to obtain a compact privilege in a
27 remote state.

28 **"§ 90-270.124. Active duty military personnel or their spouses.**

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

31 **(1)** Home of record.

32 **(2)** State listed on Permanent Change of Station (PCS) order.

33 **(3)** State of current residence or duty station if it is different than the PCS state
34 or home of record.

35 **"§ 90-270.125. Adverse actions.**

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

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

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

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

49 **(e)** A remote state shall have the authority to do all of the following:

50 **(1)** Take adverse actions as set forth in subsection (d) of G.S. 90-270.123
51 against a licensee's compact privilege in the state.

- 1 (2) Issue subpoenas for both hearings and investigations that require the
2 attendance and testimony of witnesses and the production of evidence.
3 Subpoenas issued by a physical therapy licensing board in a party state for
4 the attendance and testimony of witnesses, and/or the production of evidence
5 from another party state, shall be enforced in the latter state by any court of
6 competent jurisdiction, according to the practice and procedure of that court
7 applicable to subpoenas issued in proceedings pending before it. The issuing
8 authority shall pay any witness fees, travel expenses, mileage, and other fees
9 required by the service statutes of the state where the witnesses and/or
10 evidence are located.
- 11 (3) If otherwise permitted by state law, recover from the licensee the costs of
12 investigations and disposition of cases resulting from any adverse action
13 taken against that licensee.
- 14 (f) Joint Investigations. –
- 15 (1) In addition to the authority granted to a member state by its respective
16 physical therapy practice act or other applicable state law, a member state
17 may participate with other member states in joint investigations of licensees.
- 18 (2) Member states shall share any investigative, litigation, or compliance
19 materials in furtherance of any joint or individual investigation initiated
20 under the Compact.
- 21 **"§ 90-270.126. Establishment of the Physical Therapy Compact Commission.**
- 22 (a) The Compact member states hereby create and establish a joint public agency
23 known as the Physical Therapy Compact Commission:
- 24 (1) The Commission is an instrumentality of the Compact states.
- 25 (2) Venue is proper and judicial proceedings by or against the Commission shall
26 be brought solely and exclusively in a court of competent jurisdiction where
27 the principal office of the Commission is located. The Commission may
28 waive venue and jurisdictional defenses to the extent it adopts or consents to
29 participate in alternative dispute resolution proceedings.
- 30 (3) Nothing in this Compact shall be construed to be a waiver of sovereign
31 immunity.
- 32 (b) Membership, Voting, and Meetings. –
- 33 (1) Each member state shall have and be limited to one delegate selected by that
34 member state's licensing board.
- 35 (2) The delegate shall be a current member of the licensing board, who is a
36 physical therapist, physical therapist assistant, public member, or the board
37 administrator.
- 38 (3) Any delegate may be removed or suspended from office as provided by the
39 law of the state from which the delegate is appointed.
- 40 (4) The member state board shall fill any vacancy occurring in the Commission.
- 41 (5) Each delegate shall be entitled to one vote with regard to the promulgation
42 of rules and creation of bylaws and shall otherwise have an opportunity to
43 participate in the business and affairs of the Commission.
- 44 (6) A delegate shall vote in person or by such other means as provided in the
45 bylaws. The bylaws may provide for delegates' participation in meetings by
46 telephone or other means of communication.
- 47 (7) The Commission shall meet at least once during each calendar year.
48 Additional meetings shall be held as set forth in the bylaws.
- 49 (c) The Commission shall have all of the following powers and duties:
- 50 (1) Establish the fiscal year of the Commission.
- 51 (2) Establish bylaws.

- 1 (3) Maintain its financial records in accordance with the bylaws.
2 (4) Meet and take such actions as are consistent with the provisions of this
3 Compact and the bylaws.
4 (5) Promulgate uniform rules to facilitate and coordinate implementation and
5 administration of this Compact. The rules shall have the force and effect of
6 law and shall be binding in all member states.
7 (6) Bring and prosecute legal proceedings or actions in the name of the
8 Commission, provided that the standing of any state physical therapy
9 licensing board to sue or be sued under applicable law shall not be affected.
10 (7) Purchase and maintain insurance and bonds.
11 (8) Borrow, accept, or contract for services of personnel, including employees
12 of a member state.
13 (9) Hire employees, elect or appoint officers, fix compensation, define duties,
14 and grant such individuals appropriate authority to (i) carry out the purposes
15 of the Compact and (ii) establish the Commission's personnel policies and
16 programs relating to conflicts of interest, qualifications of personnel, and
17 other related personnel matters.
18 (10) Accept any and all appropriate donations and grants of money, equipment,
19 supplies, materials and services, and to receive, utilize, and dispose of the
20 same; provided that at all times the Commission shall avoid any appearance
21 of impropriety and/or conflict of interest.
22 (11) Lease, purchase, and accept appropriate gifts or donations of, or otherwise to
23 own, hold, improve, or use any property, real, personal, or mixed; provided
24 that at all times the Commission shall avoid any appearance of impropriety.
25 (12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
26 dispose of any property real, personal, or mixed.
27 (13) Establish a budget and make expenditures.
28 (14) Borrow money.
29 (15) Appoint committees, including standing committees composed of members,
30 state regulators, state legislators or their representatives, consumer
31 representatives, and such other interested persons as may be designated in
32 this Compact and the bylaws.
33 (16) Provide and receive information from, and cooperate with, law enforcement
34 agencies.
35 (17) Establish and elect an Executive Board.
36 (18) Perform such other functions as may be necessary or appropriate to achieve
37 the purposes of this Compact consistent with the state regulation of physical
38 therapy licensure and practice.
39 (d) The Executive Board. –
40 The Executive Board shall have the power to act on behalf of the Commission according to
41 the terms of this Compact:
42 (1) The Executive Board shall be composed of the following nine members:
43 a. Seven voting members who are elected by the Commission from the
44 current membership of the Commission.
45 b. One ex officio, nonvoting member from the recognized national
46 physical therapy professional association.
47 c. One ex officio, nonvoting member from the recognized membership
48 organization of the physical therapy licensing boards.
49 (2) The ex officio members will be selected by their respective organizations.
50 (3) The Commission may remove any member of the Executive Board as
51 provided in bylaws.

- 1 (4) The Executive Board shall meet at least annually.
- 2 (5) The Executive Board shall have all of the following duties and
3 responsibilities:
- 4 a. Recommend to the entire Commission changes to the rules or
5 bylaws, changes to this Compact legislation, fees paid by Compact
6 member states such as annual dues, and any commission Compact
7 fee charged to licensees for the compact privilege.
- 8 b. Ensure Compact administration services are appropriately provided,
9 contractual or otherwise.
- 10 c. Prepare and recommend the budget.
- 11 d. Maintain financial records on behalf of the Commission.
- 12 e. Monitor Compact compliance of member states and provide
13 compliance reports to the Commission.
- 14 f. Establish additional committees as necessary.
- 15 g. Other duties as provided in rules or bylaws.
- 16 (e) Meetings of the Commission. –
- 17 (1) All meetings shall be open to the public, and public notice of meetings shall
18 be given in the same manner as required under the rule-making provisions in
19 G.S. 90-270.128.
- 20 (2) The Commission or the Executive Board or other committees of the
21 Commission may convene in a closed, nonpublic meeting if the Commission
22 or Executive Board or other committees of the Commission must discuss
23 any of the following:
- 24 a. Noncompliance of a member state with its obligations under the
25 Compact.
- 26 b. The employment, compensation, discipline, or other matters,
27 practices or procedures related to specific employees, or other
28 matters related to the Commission's internal personnel practices and
29 procedures.
- 30 c. Current, threatened, or reasonably anticipated litigation.
- 31 d. Negotiation of contracts for the purchase, lease, or sale of goods,
32 services, or real estate.
- 33 e. Accusing any person of a crime or formally censuring any person.
- 34 f. Disclosure of trade secrets or commercial or financial information
35 that is privileged or confidential.
- 36 g. Disclosure of information of a personal nature where disclosure
37 would constitute a clearly unwarranted invasion of personal privacy.
- 38 h. Disclosure of investigative records compiled for law enforcement
39 purposes.
- 40 i. Disclosure of information related to any investigative reports
41 prepared by or on behalf of or for use of the Commission or other
42 committee charged with responsibility of investigation or
43 determination of compliance issues pursuant to the Compact.
- 44 j. Matters specifically exempted from disclosure by federal or member
45 state statute.
- 46 (3) If a meeting, or portion of a meeting, is closed pursuant to this provision, the
47 Commission's legal counsel or designee shall certify that the meeting may be
48 closed and shall reference each relevant exempting provision.
- 49 (4) The Commission shall keep minutes that fully and clearly describe all
50 matters discussed in a meeting and shall provide a full and accurate
51 summary of actions taken, and the reasons therefore, including a description

1 of the views expressed. All documents considered in connection with an
2 action shall be identified in such minutes. All minutes and documents of a
3 closed meeting shall remain under seal, subject to release by a majority vote
4 of the Commission or order of a court of competent jurisdiction.

5 (f) Financing of the Commission. –

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

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

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

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

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

30 (g) Qualified Immunity, Defense, and Indemnification. –

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

41 (2) The Commission shall defend any member, officer, executive director,
42 employee, or representative of the Commission in any civil action seeking to
43 impose liability arising out of any actual or alleged act, error, or omission
44 that occurred within the scope of Commission employment, duties, or
45 responsibilities, or that the person against whom the claim is made had a
46 reasonable basis for believing occurred within the scope of Commission
47 employment, duties, or responsibilities; provided that nothing herein shall be
48 construed to prohibit that person from retaining his or her own counsel; and
49 provided further, that the actual or alleged act, error, or omission did not
50 result from that person's intentional or willful or wanton misconduct.

1 (3) The Commission shall indemnify and hold harmless any member, officer,
2 executive director, employee, or representative of the Commission for the
3 amount of any settlement or judgment obtained against that person arising
4 out of any actual or alleged act, error, or omission that occurred within the
5 scope of Commission employment, duties, or responsibilities, or that such
6 person had a reasonable basis for believing occurred within the scope of
7 Commission employment, duties, or responsibilities; provided that the actual
8 or alleged act, error, or omission did not result from the intentional or willful
9 or wanton misconduct of that person.

10 **"§ 90-270.127. Data system.**

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

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

17 (1) Identifying information.

18 (2) Licensure data.

19 (3) Adverse actions against a license or compact privilege.

20 (4) Nonconfidential information related to alternative program participation.

21 (5) Any denial of application for licensure and the reason(s) for such denial.

22 (6) Other information that may facilitate the administration of this Compact, as
23 determined by the rules of the Commission.

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

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

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

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

35 **"§ 90-270.128. Rule Making.**

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

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

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

45 (d) Prior to promulgation and adoption of a final rule or rules by the Commission, and
46 at least 30 days in advance of the meeting at which the rule will be considered and voted upon,
47 the Commission shall file a Notice of Proposed Rule Making on both of the following:

48 (1) On the Web site of the Commission or other publicly accessible platform.

49 (2) On the Web site of each member state physical therapy licensing board or
50 other publicly accessible platform or the publication in which each state
51 would otherwise publish proposed rules.

1 (e) The Notice of Proposed Rule Making shall include all of the following:

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

4 (2) The text of the proposed rule or amendment and the reason for the proposed
5 rule.

6 (3) A request for comments on the proposed rule from any interested person.

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

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

12 (g) The Commission shall grant an opportunity for a public hearing before it adopts a
13 rule or amendment if a hearing is requested by any of the following:

14 (1) At least 25 persons.

15 (2) A state or federal governmental subdivision or agency.

16 (3) An association having at least 25 members.

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

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

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

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

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

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

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

39 (k) The Commission shall, by majority vote of all members, take final action on the
40 proposed rule and shall determine the effective date of the rule, if any, based on the
41 rule-making record and the full text of the rule.

42 (l) Upon determination that an emergency exists, the Commission may consider and
43 adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided
44 that the usual rule-making procedures provided in the Compact and in this section shall be
45 retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days
46 after the effective date of the rule. For the purposes of this provision, an emergency rule is one
47 that must be adopted immediately in order to do any of the following:

48 (1) Meet an imminent threat to public health, safety, or welfare.

49 (2) Prevent a loss of Commission or member state funds.

50 (3) Meet a deadline for the promulgation of an administrative rule that is
51 established by federal law or rule.

1 (4) Protect public health and safety.

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

12 **"§ 90-270.129. Oversight, dispute resolution, and enforcement.**

13 (a) Oversight. –

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

19 (2) All courts shall take judicial notice of the Compact and the rules in any
20 judicial or administrative proceeding in a member state pertaining to the
21 subject matter of this Compact which may affect the powers, responsibilities,
22 or actions of the Commission.

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

28 (b) Default, Technical Assistance, and Termination. –

29 (1) If the Commission determines that a member state has defaulted in the
30 performance of its obligations or responsibilities under this Compact or the
31 promulgated rules, the Commission shall do all of the following:

32 a. Provide written notice to the defaulting state and other member states
33 of the nature of the default, the proposed means of curing the default
34 and/or any other action to be taken by the Commission.

35 b. Provide remedial training and specific technical assistance regarding
36 the default.

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

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

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

- 1 (5) The Commission shall not bear any costs related to a state that is found to be
2 in default or that has been terminated from the Compact, unless agreed upon
3 in writing between the Commission and the defaulting state.
- 4 (6) The defaulting state may appeal the action of the Commission by petitioning
5 the U.S. District Court for the District of Columbia or the federal district
6 where the Commission has its principal offices. The prevailing member shall
7 be awarded all costs of such litigation, including reasonable attorneys' fees.
- 8 (c) Dispute Resolution. –
- 9 (1) Upon request by a member state, the Commission shall attempt to resolve
10 disputes related to the Compact that arise among member states and between
11 member and nonmember states.
- 12 (2) The Commission shall promulgate a rule providing for both mediation and
13 binding dispute resolution for disputes as appropriate.
- 14 (d) Enforcement. –
- 15 (1) The Commission, in the reasonable exercise of its discretion, shall enforce
16 the provisions and rules of this Compact.
- 17 (2) By majority vote, the Commission may initiate legal action in the United
18 States District Court for the District of Columbia or the federal district where
19 the Commission has its principal offices against a member state in default to
20 enforce compliance with the provisions of the Compact and its promulgated
21 rules and bylaws. The relief sought may include both injunctive relief and
22 damages. In the event judicial enforcement is necessary, the prevailing
23 member shall be awarded all costs of such litigation, including reasonable
24 attorneys' fees.
- 25 (3) The remedies herein shall not be the exclusive remedies of the Commission.
26 The Commission may pursue any other remedies available under federal or
27 state law.

28 **"§ 90-270.130. Date of implementation of the interstate Commission for Physical Therapy**
29 **Practice and associated rules, withdrawal, and amendment.**

30 (a) The Compact shall come into effect on the date on which the Compact statute is
31 enacted into law in the tenth member state. The provisions, which become effective at that
32 time, shall be limited to the powers granted to the Commission relating to assembly and the
33 promulgation of rules. Thereafter, the Commission shall meet and exercise rule-making powers
34 necessary to the implementation and administration of the Compact.

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

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

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

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

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

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

4 **"§ 90-270.131. Construction and severability.**

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

14 **SECTION 3.** G.S. 93B-15.1 reads as rewritten:

15 **"§ 93B-15.1. Licensure for individuals with military training and experience; proficiency**
16 **examination; licensure by endorsement for military spouses; temporary**
17 **license.**

18 (a) Except as provided by subsection (a2) of this section, and notwithstanding any other
19 provision of law, an occupational licensing board, as defined in G.S. 93B-1, shall issue a
20 license, certification, or registration to a military-trained applicant to allow the applicant to
21 lawfully practice the applicant's occupation in this State if, upon application to an occupational
22 licensing board, the applicant satisfies the following conditions:

23 ...

24 (3) Has not committed any act in any jurisdiction that would have constituted
25 grounds for refusal, suspension, or revocation of a license to practice that
26 occupation in this State at the time the act was ~~committed~~committed and has
27 no pending complaints.

28 (4) ~~Pays any fees required by the occupational licensing board for which the~~
29 ~~applicant is seeking licensure, certification, or registration in this State.~~

30 ...

31 (b) Notwithstanding any other provision of law, an occupational licensing board, as
32 defined in G.S. 93B-1, shall issue a license, certification, or registration to a military spouse to
33 allow the military spouse to lawfully practice the military spouse's occupation in this State if,
34 upon application to an occupational licensing board, the military spouse satisfies the following
35 conditions:

36 ...

37 (4) Is in good ~~standing and~~standing; has not been disciplined by the agency that
38 had jurisdiction to issue the license, certification, or ~~permit~~permit; and has
39 no pending complaints.

40 (5) ~~Pays any fees required by the occupational licensing board for which the~~
41 ~~applicant is seeking licensure, certification, or registration in this State.~~

42 ...

43 (f) An occupational licensing board ~~may~~shall issue a temporary practice permit to a
44 military-trained applicant or military spouse licensed, certified, or registered in another
45 jurisdiction while the military-trained applicant or military spouse is satisfying the
46 requirements for licensure under subsection (a) or (b) of this section if that jurisdiction has
47 licensure, certification, or registration standards substantially equivalent to the standards for
48 licensure, certification, or registration of an occupation licensing board in this State. The
49 ~~military-trained applicant or military spouse may practice under the temporary permit~~ shall
50 remain valid for the later of one year or the required renewal date for the occupation the
51 temporary practice permit was issued for or until a license, certification, or registration is

1 granted ~~or until a notice to deny a license, certification, or registration is issued in accordance~~
2 ~~with rules adopted by the occupational licensing board.~~

3 ...

4 (k) An occupational licensing board shall not charge a military-trained applicant or a
5 military spouse an initial application fee for a license, certification, registration, or temporary
6 practice permit issued pursuant to this section. Nothing in this subsection shall be construed to
7 prohibit an occupational licensing board from charging its ordinary fee for a renewal
8 application or prohibit a third party from charging actual costs for a service such as a
9 background check."

10 **SECTION 4.** Sections 1 and 2 of this act become effective October 1, 2017. The
11 North Carolina Board of Physical Therapy Examiners shall report to the Revisor of Statutes
12 when the Physical Therapy Licensure Compact has been enacted by the tenth member state.
13 Section 3 becomes effective July 1, 2017, and applies to applications submitted on or after that
14 date. Except as otherwise provided, the remainder of this act is effective when it becomes law.