



## **AK PT Scope Modernization Work Group - June 5, 2025**

Alaska Division of Corporations, Business and Professional Licensing  
Zoom  
2025-06-05 11:00 - 13:00 AKDT

### **Table of Contents**

#### **1. Call to Order.....3**

Please update your Zoom to Name, City

DCCED Meeting Code of Conduct 5-22-25.pdf.....3

#### **A. Roll Call.....5**

Work Group members:

- Jonathan Gates - PHY Board Member
- Leslie Adrian, FSBPT
- Rebecca Byerley - APTA-AK
- Sarah Kowalczyk
- Mark Venhaus
- Tina McLean
- Mark Cunningham
- Cortland Reger

PHY - PT Scope Workgroup Mtg - Agenda - 06-05-2025.pdf.....5

#### **2. Purpose and Summary of Workgroup - Review**

##### **A. PT Workgroup Objectives**

Develop a collaborative plan to address modernization of our scope of practice between all stakeholders (including the state licensing board, APTA-AK, national organizations, and licensees) to create statutory change. Identify needs for change/improvement in the current scope of practice language - AS 08.84.190(7) Develop draft language to address any needs that the workgroup identifies. Address the role of PTAs in scope of practice language Develop an updated draft of scope of practice language with future action steps for recommendation to the PHY Board.

#### **3. Discussion - Draft Language.....7**

Review and edit rough draft of AK practice act w/ edits established in 05/23/2025 meeting. Edits were pulled from completed crosswalk, and can be referenced in the comment section of the draft.

Primary discussion to cover the following:

1. Revisit 08.84.190 (11) (b) and (f)
  1. Look at other definitions of primary care that exist in Alaska statutes
2. Confirm 08.84.190 (11) (d) and (14) as they relate to ordering of diagnostic imaging (Jeff and Molly)

Resources for discussion:

1. AS 21.07.250 (11) “primary care provider” means a health care provider who provides general medical care services and does not specialize in treating a single injury, illness, or condition or who provides obstetrical, gynecological, or pediatric medical care services;

2. AS 08.64.380 (6) = Practice of medicine or practice of osteopathy = (6) "practice of medicine" or "practice of osteopathy" means:

(A) for a fee, donation or other consideration, to diagnose, treat, operate on, prescribe for, or administer to, any human ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other mental or physical condition; or to attempt to perform or represent that a person is authorized to perform any of the acts set out in this subparagraph;

(B) to use or publicly display a title in connection with a person’s name including "doctor of medicine," "physician," "M.D.," or "doctor of osteopathic medicine" or "D.O." or a specialist designation including "surgeon," "dermatologist," or a similar title in such a manner as to show that the person is willing or qualified to diagnose or treat the sick or injured;

AK Modernized PT SOP - draft 05.23.2025.docx.....7

#### **4. Next Meeting Dates/Times**

- Thursday, June 17 - 11am - 1pm

#### **5. Next Steps**

Objectives:

- Finalize proposed language to be sent to the PT/OT Board for review.
- Determine need for 06/17/2025 meeting based on progress made today

#### **6. Adjourn**



## Department of Commerce, Community, and Economic Development

# Virtual Meeting Code of Conduct

I understand that by participating in any virtual board meeting or event hosted by the Department of Commerce, Community, and Economic Development, **I am agreeing to the following code of conduct:**

### Expected Behavior

- All board members, invited guests, members of the public, and staff will be treated with respect.
- Be considerate, respectful, and collaborative with fellow participants.
- Demonstrate understanding that the boards are following a business agenda and may reasonably change it to ensure meeting efficiency.
- Speak only when recognized by the Chair. When speaking, adhere to the topic and time limits.
- Recognize the Chair has the authority to manage the meeting, and staff may intercede to assist, if needed.
- All participants are subject to State and Federal laws.

---

### Unacceptable Behavior

- Harassment, intimidation, stalking, or discrimination in any form is considered unacceptable behavior and is prohibited.
- Physical, verbal or non-verbal abuse, or threat of violence toward any board member, invited guest, member of the public, staff, or any other meeting guest/participant by any meeting participant is prohibited.
- Disruption of any meeting or hosted online session is prohibited. Public participants should mute their microphones and turn off video when not recognized by the chair.
- Examples of unacceptable behavior include:
  - Interrupting the meeting without being recognized by the Chair.
  - Making harassing comments or exhibiting other disruptive unprofessional behavior.
  - Comments related to gender, gender identity or expression, age, sexual orientation, disability, physical appearance, body size, race, religion, national origin, or political affiliation;
  - Sharing screen or presenting video without being recognized by the Chair;
  - Inappropriate use of nudity and/or sexual images in presentations;

- Use of music, noise, or background conversations as a disruption. While this may happen briefly or incidentally, prolonged or repeated incidents are prohibited.
- Shouting, badgering, or continued talking over the speaker who has been recognized by the Chair.

---

### **Reporting Unacceptable Behavior**

If you or anyone else in the meeting is in immediate danger or threat of danger at any time, please contact local law enforcement by calling 911. All other reports should be made to a member of the management team.

---

### **Consequences**

If the director of the division/agency hosting the meeting determines that a person has violated any part of this code of conduct, staff or board members may take any of the following actions against any individual or group found to be in repeated violation of the code of conduct:

Sanctions may include, but are not limited to:

- Verbal or written warnings;
- Limiting a participant's ability to engage in the meeting, including muting, stopping video, or expelling a participant from the meeting;
- Suspending attendance at a future meeting or event – both virtual and in-person;
- Reporting conduct to an appropriate state entity/organization;
- Reporting conduct to local law enforcement.



## **AK PT Scope Modernization Work Group - June 5, 2025**

Alaska Division of Corporations, Business and Professional Licensing

Thursday, June 5, 2025 at 11:00 AM AKDT to Thursday, June 5, 2025 at 1:00 PM AKDT  
Zoom

**Meeting Details:** <https://us02web.zoom.us/meeting/register/vfFwxBidRUCvMvs3eGX3IA>

### **Agenda**

#### **1. Call to Order**

**11:00 AM**

Please update your Zoom to Name, City

##### **A. Roll Call**

Work Group members:

- Jonathan Gates - PHY Board Member
- Leslie Adrian, FSBPT
- Rebecca Byerley - APTA-AK
- Sarah Kowalczyk
- Mark Venhaus
- Tina McLean
- Mark Cunningham
- Cortland Reger

#### **2. Purpose and Summary of Workgroup - Review**

**11:05 AM**

Presenter: Jonathan Gates

##### **A. PT Workgroup Objectives**

1. Develop a collaborative plan to address modernization of our scope of practice between all stakeholders (including the state licensing board, APTA-AK, national organizations, and licensees) to create statutory change.
2. Identify needs for change/improvement in the current scope of practice language - AS 08.84.190(7)
3. Develop draft language to address any needs that the workgroup identifies.
4. Address the role of PTAs in scope of practice language
5. Develop an updated draft of scope of practice language with future action steps for recommendation to the PHY Board.

#### **3. Discussion - Draft Language**

**11:10 AM**

Review and edit rough draft of AK practice act w/ edits established in 05/23/2025 meeting.

Edits were pulled from completed crosswalk, and can be referenced in the comment section of the draft.

Primary discussion to cover the following:

1. Revisit 08.84.190 (11) (b) and (f)
  1. Look at other definitions of primary care that exist in Alaska statutes
2. Confirm 08.84.190 (11) (d) and (14) as they relate to ordering of diagnostic imaging (Jeff and Molly)

Resources for discussion:

1. AS 21.07.250 (11) "primary care provider" means a health care provider who provides general medical care services and does not specialize in treating a single injury, illness, or condition or who provides obstetrical, gynecological, or pediatric medical care services;
2. AS 08.64.380 (6) = Practice of medicine or practice of osteopathy = (6) "practice of medicine" or "practice of osteopathy" means:
  - (A) for a fee, donation or other consideration, to diagnose, treat, operate on, prescribe for, or administer to, any human ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other mental or physical condition; or to attempt to perform or represent that a person is authorized to perform any of the acts set out in this subparagraph;
  - (B) to use or publicly display a title in connection with a person's name including "doctor of medicine," "physician," "M.D.," or "doctor of osteopathic medicine" or "D.O." or a specialist designation including "surgeon," "dermatologist," or a similar title in such a manner as to show that the person is willing or qualified to diagnose or treat the sick or injured;

#### **4. Next Meeting Dates/Times**

**12:45 PM**

- Thursday, June 17 - 11am - 1pm

#### **5. Next Steps**

**12:55 PM**

Objectives:

- Finalize proposed language to be sent to the PT/OT Board for review.
- Determine need for 06/17/2025 meeting based on progress made today

#### **6. Adjourn**

**1:00 PM**

**CHAPTER 84.  
PHYSICAL THERAPISTS AND OCCUPATIONAL THERAPISTS**

**Article**

1. State Physical Therapy and Occupational Therapy Board (§§ 08.84.010, 08.84.020)
2. Licensing (§§ 08.84.030 – 08.84.120)
3. Unlawful Acts (§§ 08.84.130 – 08.84.180)

3A. Interstate Physical Therapy Licensure Compact (§ 08.84.188) 4. General Provisions (§§ 08.84.190, 08.84.200)

**ARTICLE 1.  
STATE PHYSICAL THERAPY AND OCCUPATIONAL THERAPY BOARD**

**Section**

10. Creation and membership of board

20. Applicability of Administrative Procedure Act

**1.01 Legislative Intent**

This act is enacted for the purpose of protecting the public health, safety, and welfare, and provides for jurisdiction administrative control, supervision, licensure, and regulation of the practice of physical therapy and occupational therapy. It is the legislature's intent that only individuals who meet and maintain prescribed standards of competence and conduct may engage in the practice of physical therapy and occupational therapy as authorized by this act. This act shall be liberally construed to promote the public interest and to accomplish the purpose stated herein.

**Sec. 08.84.010. Creation and membership of board.** (a) There is created the State Physical Therapy and Occupational Therapy Board, which consists of seven members. The membership consists of three physical therapists licensed in the state or two physical therapists and one physical therapist assistant licensed in the state, three occupational therapists licensed in the state or two occupational therapists and one occupational therapy assistant licensed in the state, and one lay person with no direct financial interest in the health care industry. Members of the board shall be United States citizens domiciled in the state.

(b) The board shall control all matters pertaining to the licensing of physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants and the practice of physical therapy and the practice of occupational therapy. The board shall

- (1) pass upon the qualifications of applicants;
- (2) provide for the examination of applicants;
- (3) issue temporary permits and licenses to persons qualified under this chapter;
- (4) suspend, revoke, or refuse to issue or renew a license under AS 08.84.120;
- (5) keep a current register listing the name, business address, date, and number of the license of each person

**Commented [1]:** Leave AK language as-is.

**Commented [SR2]:** Add occupational therapy to Legislative Intent opening paragraph to make universal for both programs

**Commented [3]:** Adopt MPA language - add to Sec. 08.84.190

**Commented [4]:** Does it fit better here?

**Commented [SR5R4]:** Consensus of group to keep 1.01 Legislative Intent as opening paragraph

who is licensed to practice under this chapter;

(6) adopt regulations under AS 44.62 (Administrative Procedure Act) necessary to carry out the purposes of

this chapter, including regulations establishing qualifications for licensure and renewal of licensure under this chapter; (7) implement the Interstate Physical Therapy Licensure Compact under AS 08.84.188.

**Sec. 08.84.020. Applicability of Administrative Procedure Act.** The board shall comply with AS 44.62 (Administrative Procedure Act).

## **ARTICLE 2. LICENSING**

### **Section**

**30. Qualifications for licensing**

**32. Foreign-educated applicants**

**34. Exemption from criminal justice information and criminal history record check 40. Application for license**

**50. Fees**

**60. Licensure by acceptance of credentials**

**65. Temporary permit**

**75. Limited permit**

**80. Examinations**

**90. Licensure**

**100. Renewal of license**

**120. Refusal, revocation, and suspension of license; discipline**

**Sec. 08.84.030. Qualifications for licensing.** (a) To be eligible for licensure by the board as a physical therapist or physical therapist assistant, an applicant, unless a graduate of a foreign school of physical therapy located outside the United States, shall

(1) have graduated from a professional physical therapy education program that includes supervised field work and is accredited by a national accreditation agency approved by the board;

-1-

(2) pass, to the satisfaction of the board, an examination prepared by a national testing service approved by the board to determine the applicant's fitness for practice as a physical therapist or physical therapist assistant, or be entitled to licensure without examination as provided in AS 08.84.060;

and (3) meet qualifications for licensure established in regulations adopted by the board under AS 08.84.010(b);

(4) have been fingerprinted and have provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400



(b) To be eligible for licensure by the board as an occupational therapist or occupational therapy assistant, an applicant, unless a graduate of a foreign school of occupational therapy located outside the United States, shall

(1) have graduated from a professional occupational therapy education program that includes supervised field work and is accredited by a national accreditation agency approved by the board;

(2) pass, to the satisfaction of the board, an examination prepared by a national testing service approved by the board or an examination recognized by a national accreditation agency approved by the board to determine the applicant's fitness for practice as an occupational therapist or occupational therapy assistant, or be entitled to licensure without examination under AS 08.84.060;

and (3) meet qualifications for licensure established in regulations adopted by the board under AS 08.84.010(b);

(4) have been fingerprinted and have provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

**Sec. 08.84.032. Foreign-educated applicants.** (a) To be eligible for licensure by the board as a physical therapist or physical therapist assistant, an applicant who is a graduate of a school of physical therapy that is located outside the United States shall

(1) have completed, to the satisfaction of the board, a resident course of study and professional instruction substantially equivalent to a professional physical therapy education program that is accredited by a board-approved national accreditation agency in the United States;

(2) have completed, to the satisfaction of the board, an internship under the continuous direction and immediate supervision of a physical therapist in an institution that ordinarily provides physical therapy and is approved by the board, for that period of time specified by the board, and furnish documentary evidence of compliance with this paragraph;

(3) pass an examination recognized by the board that measures the competence of the applicant in the English language if the applicant's physical therapist or physical therapist assistant education program was not taught in English;

(4) have met applicable requirements under 8 U.S.C. 1101 – 1503 (Immigration and Nationality Act), unless a United States citizen;

(5) pass the examination approved by the board under AS 08.84.030(a)(2);

(6) pay the fee required under AS 08.84.050;

(7) meet additional qualifications for licensure established in regulations adopted by the board under AS

08.84.010(b); and

(8) have been fingerprinted and have provided the fees required by the Department of Public Safety under AS

12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

(b) To be eligible for licensure by the board as an occupational therapist or occupational therapy assistant, an applicant who is a graduate of a school of occupational therapy that is located outside the United States shall

(1) have completed, to the satisfaction of the board, a resident course of study and professional instruction substantially equivalent to a professional occupational therapy education program that is accredited by a board- approved national accreditation agency in the United States;

(2) have completed, to the satisfaction of the board, supervised field work equivalent to that required under AS 08.84.030(b);

(3) pass an examination recognized by the board that measures the competence of the applicant in the English language if the applicant's occupational therapist or occupational therapy assistant education program was not taught in English;

(4) have met applicable requirements under 8 U.S.C. 1101 – 1503 (Immigration and Nationality Act), unless a United States citizen;

(5) pass an examination approved by the board under AS 08.84.030(b);

(6) pay the fee required under AS 08.84.050;

(7) meet additional qualifications for licensure established in regulations adopted by the board under AS 08.84.010(b); and

-2-

(8) have been fingerprinted and have provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

**Sec. 08.84.034. Exemption from criminal justice information and criminal history record check.** A physical therapist, physical therapist assistant, occupational therapist, or occupational therapy assistant holding a valid license under this chapter on July 1, 2024, is exempt from the requirements of AS 08.84.030(a)(4) and (b)(4) and 08.84.032(a)(8) and (b)(8), but is otherwise subject to this chapter.

**Sec. 08.84.040. Application for license.** To be licensed under this chapter to practice physical therapy or occupational therapy, an applicant shall apply to the board on a form prescribed by the board. An applicant shall include in the application evidence under oath that the applicant possesses the qualifications required by AS 08.84.030 or 08.84.032.

**Sec. 08.84.050. Fees.** The Department of Commerce, Community, and Economic Development shall set fees under AS 08.01.065 for the following:

- (1) application;
- (2) license by examination;
- (3) license by acceptance of credentials; (4) renewal;
- (5) temporary permit;
- (6) limited permit;
- (7) compact privilege.

**Sec. 08.84.060. Licensure by acceptance of credentials.** The board may license without examination an applicant who is a physical therapist, physical therapist assistant, occupational therapist, or occupational therapy assistant licensed under the laws of another state, if the requirements for licensure in that state were, at the date of the applicant's licensure, substantially equal to the requirements in this state.

**Sec. 08.84.065. Temporary permit.** (a) The board may issue a nonrenewable temporary permit to an applicant for licensure by acceptance of credentials or by examination who

(1) meets the requirements of

(A) AS 08.84.030(a)(1) or (b)(1); or

(B) AS 08.84.032(a)(2) and (4) or (b)(2) and (4); and

(2) pays the required fee.

(b) A temporary permit issued to an applicant for licensure by acceptance of credentials is valid for eight months

or until the board considers the applicant's application for acceptance of credentials, whichever occurs first.

(c) A temporary permit issued to an applicant for licensure as a physical therapist or physical therapist assistant by examination is valid for eight months or until the results of the first examination for which the applicant is scheduled are published, whichever occurs first. If the applicant fails to take the first examination for which the applicant is

scheduled, the applicant's temporary permit lapses the day of the examination.

(d) A temporary permit issued to an applicant who is a graduate of a foreign school of physical therapy or

occupational therapy located outside the United States is valid until the results of the first examination for which the applicant is scheduled are published following completion of the internship required under AS 08.84.032.

(e) A temporary permit issued to an applicant for licensure as an occupational therapist or occupational therapy assistant by examination is valid for eight months or until the results of the examination for which the applicant is scheduled are published, whichever occurs first. If the applicant fails to take an examination for which the applicant is scheduled the applicant's temporary permit lapses on the day of the examination.

**Sec. 08.84.070. Registration fee.** *[Repealed, Sec. 8 ch 49 SLA 1969.]*

**Sec. 08.84.075. Limited permit.** (a) The board may issue a limited permit to a person to practice occupational therapy in the state as a visiting, nonresident occupational therapist or occupational therapy assistant, if the person

(1) applies on the form provided by the board;

(2) has not previously been denied occupational therapy licensure in the state;

(3) is licensed to practice occupational therapy in another state or satisfies the requirements for certification by

the American Occupational Therapy Association;

(4) provides proof satisfactory to the board that the person will not practice in the state for more than 120 days

in the calendar year for which the permit is issued; and (5) pays the fee required under AS 08.84.050.

(b) The board may issue a limited permit to a person to practice physical therapy in the state as a visiting, nonresident physical therapist or physical therapist assistant, if the person

(1) applies on the form provided by the board;

-3-

(2) has not previously been denied physical therapy licensure in the state;

(3) is licensed to practice physical therapy in another state;

(4) provides proof satisfactory to the board that the person will not practice in the state for more than 120 days

in the calendar year for which the permit is issued; and (5) pays the fee required under AS 08.84.050.

(c) A limited permit is valid for a period of 120 consecutive days in a calendar year. (d) A person may not receive more than

(1) one limited permit to practice occupational therapy or physical therapy in a 12-month period; and

(2) three limited permits to practice occupational therapy or physical therapy during the person's lifetime.

**Sec. 08.84.080. Examinations.** The board shall examine applicants for licensure under this chapter at the times and places it determines.

**Sec. 08.84.090. Licensure.** The board shall license an applicant who meets the qualifications for licensure under this chapter and shall issue a license certificate to each person licensed. A license certificate is prima facie evidence of the right of the person to hold out as a licensed physical therapist, licensed physical therapist assistant, licensed occupational therapist, or licensed occupational therapy assistant.

**Sec. 08.84.100. Renewal of license.** (a) *[Repealed, § 49 ch 94 SLA 1987.]*

(b) If the license remains lapsed for more than three years, the board may require the applicant to submit proof,

satisfactory to the board, of continued competency.

(c) A license may not be renewed unless the applicant submits proof of continued competence to practice physical

therapy or occupational therapy in a manner established by the board in regulations adopted under AS 08.84.010(b).

**Sec. 08.84.110. Renewal fee.** *[Repealed, Sec. 8 ch 49 SLA 1969.]*

**Sec. 08.84.120. Refusal, revocation, and suspension of license; discipline.** (a) The board may refuse to license an applicant, may refuse to renew the license of a person, may discipline a person, and may suspend or revoke the license of a person who

Practicing or offering to practice beyond the scope of the practice of physical therapy.

Acting in a manner inconsistent with generally accepted standards of physical therapy practice, regardless of whether actual injury to the patient is established.

- (1) has obtained or attempted to obtain a license by fraud or material misrepresentation;
  - (2) uses drugs or alcohol in any manner that affects the person's ability to practice physical therapy or occupational therapy competently and safely;
  - (3) has been convicted of a state or federal felony or other crime that effects the person's ability to practice competently and safely;
  - (4) is guilty, in the judgement of the board, of gross negligence or malpractice or has engaged in conduct contrary to the recognized standards of ethics of the physical therapy profession or the occupational therapy profession;
  - (5) has continued to practice physical therapy or occupational therapy after becoming unfit because of physical or mental disability;
  - (6) has failed to refer a patient to another qualified professional when the patient's condition is beyond the training or ability of the person;
  - (7) as a physical therapist assistant, has attempted to practice physical therapy that has not been initiated, supervised, and terminated by a licensed physical therapist;
  - (8) as an occupational therapy assistant, has attempted to practice occupational therapy that has not been supervised by a licensed occupational therapist; or
  - (9) has failed to comply with this chapter, a regulation adopted under this chapter, or an order of the board.
- (b) The refusal or suspension of a license may be modified or rescinded if the person has been rehabilitated to the satisfaction of the board.
- (c) The board may not impose disciplinary sanctions on a licensee for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if the licensee
- (1) or another licensed health care provider is available to provide follow-up care;
  - (2) requests that the person consent to sending a copy of all records of the encounter to a primary care provider
- if the licensee is not the person's primary care provider and, if the person consents, the licensee sends the records to the person's primary care provider; and
- (3) meets the requirements established by the board in regulation.
  - (d) The board shall adopt regulations restricting the evaluation, diagnosis, supervision, and treatment of a person

as authorized under (c) of this section by establishing standards of care, including standards for training, confidentiality, supervision, practice, and related issues.

**Commented [SR6]:** Need to renumber accordingly

**Commented [7]:** Add MPA to existing 08.84.150 (regulation project to look at changing the bulleted list in 08.84.160?)

**Commented [8]:** Should be 08.84.150 I think?

### ARTICLE 3. UNLAWFUL ACTS

#### Section

-4-

130. False claim of license prohibited

140. Penalty for fraud in obtaining license 150. License required; exceptions

160. Scope of authorized practice

180. Investigation

Sec. 08.84.130. False claim of license prohibited. (a) A person not licensed as a physical therapist, or whose license is suspended or revoked or has lapsed, who uses in connection with the person's name the words or letters "P.T.," "Physical Therapist," "L.P.T.," "Licensed Physical Therapist," or other letters, words, or insignia indicating or implying that the person is a licensed physical therapist, or who, in any way, orally or in writing, directly or by implication, holds out as a licensed physical therapist, is guilty of a class B misdemeanor.

(b) A person not licensed as a physical therapist assistant, or whose license is suspended or revoked or has lapsed, who, in any way, orally or in writing, directly or by implication, holds out as a licensed physical therapist assistant is guilty of a class B misdemeanor.

(c) A person not licensed as an occupational therapist, or whose license is suspended or revoked, or whose license is lapsed, who uses in connection with the person's name the words "Licensed Occupational Therapist," or other letters, words, or insignia indicating or implying that the person is a licensed occupational therapist, or who orally or in writing, directly or by implication, holds out as a licensed occupational therapist is guilty of a class B misdemeanor.

(d) A person not licensed as an occupational therapy assistant, or whose license is suspended or revoked, or whose license is lapsed, who orally or in writing, directly or by implication, holds out as a licensed occupational therapy assistant is guilty of a class B misdemeanor.

Sec. 08.84.140. Penalty for fraud in obtaining license. A person who willfully makes a false oath or affirmation or who obtains or attempts to obtain a license by a fraudulent representation is guilty of a class B misdemeanor.

Sec. 08.84.150. License required; exceptions. (a) It is unlawful for a person to practice physical therapy without being licensed under this chapter unless the person is

(1) a student in an accredited physical therapy program;

(2) a graduate of a foreign school of physical therapy fulfilling the internship requirement of AS 08.84.032, and then only unless under the continuous direction and immediate supervision of a physical therapist;

(3) issued a limited permit under AS 08.84.075; or

(4) granted a compact privilege under AS 08.84.188.

(b) A person may not provide services that the person describes as occupational therapy without being licensed

under this chapter unless the person is

(1) a student in an accredited occupational therapy program or in a supervised field work program;

(2) a graduate of a foreign school of occupational therapy fulfilling the internship requirement of AS 08.84.032,

and then only unless under the continuous direction and immediate supervision of an occupational therapist;

(3) an occupational therapist or occupational therapy assistant employed by the United States Government

while in the discharge of official duties;

(4) granted a limited permit under AS 08.84.075;

(5) licensed under this title and uses occupational therapy skills in the practice of the profession for which the

license is issued; or

(6) employed as a teacher or teacher's aide by an educational institution and is required to use occupational

therapy skills during the course of employment, if

(A) the occupational therapy skills are used under a program implemented by the employer and developed

by a licensed occupational therapist;

(B) the employer maintains direct supervision of the person's use of occupational therapy skills; and (C) the person does not represent to

(i) be an occupational therapist or occupational therapy assistant; and (ii) practice occupational therapy.

**Sec. 08.84.160. Scope of authorized practice.** This chapter does not authorize a person to practice medicine, osteopathy, chiropractic, or other method of healing, but only to practice physical therapy or occupational therapy.

**Sec. 08.84.170. Penalty.** *[Repealed, Sec. 7 ch 46 SLA 1986.]*

**Sec. 08.84.180. Investigation.** The board shall request appropriate authorities to conduct investigations of every supposed violation of this chapter coming to its notice and shall report all cases that in the judgment of the board warrant prosecution to the proper law enforcement officials.

**Sec. 08.84.185. Limits or conditions on license; discipline.** *[Repealed, Sec. 49 ch 94 SLA 1987.]* -5-

**ARTICLE 3A.**  
**INTERSTATE PHYSICAL THERAPY LICENSURE COMPACT**

**Sec. 08.84.188. Compact enacted.** The Interstate Physical Therapy Licensure Compact as contained in this section is enacted into law and entered into on behalf of the state with all other states and jurisdictions legally joining it in a form substantially as follows:

**SECTION 1. PURPOSE**

The purpose of this Compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient or client is located at the time of the patient/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; and (6) Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that

state's practice standards.

**SECTION 2. DEFINITIONS**

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

- (1) "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and

1211.(2) "Adverse action" means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.

- (3) "Alternative program" means a non-disciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes substance abuse issues.

- (4) "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient or client is located at the time of the patient/client encounter.



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

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

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

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

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

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

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

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

(13) "Member state" means a state that has enacted the Compact.

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

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

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

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

(18) "Physical Therapy Compact Commission" or "Commission" means the national administrative body whose membership consists of all states that have enacted the Compact.

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

-6-

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

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

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

### **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

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

(1) Participate fully in the Commission's data system, including using the Commission's unique identifier as

defined in rules;

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

(3) Notify the Commission, in compliance with the terms of the Compact and rules, of any adverse action or the

availability of investigative information regarding a licensee;

(4) Fully implement a criminal background check requirement, within a time frame established by rule, by

receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions in accordance with Section 3(b);

(5) Comply with the rules of the Commission;

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

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

(b) Upon adoption of this statute, the member state shall have the authority to obtain biometric-based information

from each physical therapy licensure applicant and submit this information to the Federal Bureau of Investigation for a criminal background check in accordance with 28 U.S.C. §534 and 34 U.S.C. §40316.

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

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

### **SECTION 4. COMPACT PRIVILEGE**

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

(1) Hold a license in the home state;

(2) Have no encumbrance on any state license;

(3) Be eligible for a compact privilege in any member state in accordance with Section 4(d), (g) and (h); (4) Have not had any adverse action against any license or compact privilege within the

previous 2 years; (5) Notify the Commission that the licensee is seeking the compact privilege within a remote state;

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

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

(8) Report to the Commission adverse action taken by any nonmember state within 30 days from the date the adverse action is taken.

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

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

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

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

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

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

(f) Once an encumbered license in the home state is restored to good standing, the licensee must meet the

requirements of Section 4(a) to obtain a compact privilege in any remote state.

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

in any remote state until the following occur:

(1) The specific period of time for which the compact privilege was removed has ended; (2) All fines have been paid; and

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

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

-7-

## **SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

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

- (1) Home of record;
- (2) Permanent Change of Station (PCS); or
- (3) State of current residence if it is different than the PCS state or home of record.

#### SECTION 6. ADVERSE ACTIONS

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

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

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

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

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

- (1) Take adverse actions as set forth in Section 4(d) against a licensee's compact privilege in the state; (2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of

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

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

(f) Joint Investigations

- (1) In addition to the authority granted to a member state by its respective physical therapy practice act or other

applicable state law, a member state may participate with other member states in joint investigations of licensees.

- (2) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or

individual investigation initiated under the Compact.

#### **SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION**

(a) The Compact member states hereby create and establish a joint public agency known as the Physical Therapy Compact Commission.

(1) The Commission is an instrumentality of the Compact states.

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

(3) Nothing in this Compact shall be construed to be a waiver of sovereign immunity. (b) Membership, Voting, and Meetings

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

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

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

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

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

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

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

(c) The Commission shall have the following powers and duties: (1) Establish the fiscal year of the Commission;

(2) Establish bylaws;

-8-

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

(4) Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

(5) Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact.

The rules shall have the force and effect of law and shall be binding in all member states;

(6) Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing

of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected; (7) Purchase and maintain insurance and bonds;

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

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

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

(11) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety; (12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real,

personal, or mixed;

(13) Establish a budget and make expenditures;

(14) Borrow money;

(15) Appoint committees, including standing committees composed of members, state regulators, state

legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

(16) Provide and receive information from, and cooperate with, law enforcement agencies;

(17) Establish and elect an Executive Board; and

(18) Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact

consistent with the state regulation of physical therapy licensure and practice.

(d) The Executive Board shall have the power to act on behalf of the Commission according to the terms of this

Compact.

(1) The Executive Board shall be composed of nine members:

(A) Seven voting members who are elected by the Commission from the current membership of the Commission;

(B) One ex-officio, nonvoting member from the recognized national physical therapy professional association; and

(C) One ex-officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

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

(3) The Commission may remove any member of the Executive Board as provided in bylaws. (4) The Executive Board shall meet at least annually.

(5) The Executive Board shall have the following duties and responsibilities:

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

(B) Ensure Compact administration services are appropriately provided, contractual or otherwise;

(C) Prepare and recommend the budget;

(D) Maintain financial records on behalf of the Commission;

(E) Monitor Compact compliance of member states and provide compliance reports to the Commission; (F) Establish additional committees as necessary; and

(G) Other duties as provided in rules or bylaws. (e) Meetings of the Commission

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

(2) The Commission or the Executive Board or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Board or other committees of the Commission must discuss:

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

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

(C) Current, threatened, or reasonably anticipated litigation;

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

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

(F) Disclosure of trade secrets or commercial or financial information that is privileged or confidential; (G) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted

invasion of personal privacy;

-9-

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

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

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

(3) If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's

legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

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

(f) Financing of the Commission

(1) The Commission shall pay, or provide for the payment of, the reasonable expenses of its

establishment, organization, and ongoing activities.

(2) The Commission may accept any and all appropriate revenue sources, donations, and grants of

money, equipment, supplies, materials, and services.

(3) The Commission may levy on and collect an annual assessment from each member state or

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

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

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

(g) Qualified Immunity, Defense, and Indemnification

(1) The members, officers, executive director, employees and representatives of the Commission

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



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

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

-10-

#### SECTION 8. DATA SYSTEM

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

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

- (1) Identifying information;
- (2) Licensure data;
- (3) Adverse actions against a license or compact privilege;
- (4) Non-confidential information related to alternative program participation;
- (5) Any denial of application for licensure, and the reason(s) for such denial; and
- (6) Other information that may facilitate the administration of this Compact, as determined by the

rules of the Commission.

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

party states.

(d) The Commission shall promptly notify all member states of any adverse action taken against a

licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

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

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

## **SECTION 9. RULEMAKING**

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

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

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

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

(1) On the website of the Commission or other publicly accessible platform; and

(2) On the website of each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules. (e) The Notice of Proposed Rulemaking shall include:

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

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

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

(4) The manner in which interested persons may submit notice to the Commission of their intention to

attend the public hearing and any written comments.

(f) Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts,

opinions, and arguments, which shall be made available to the public.

(g) The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if

a hearing is requested by:

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

(2) A state or federal governmental subdivision or agency; or (3) An association having at least twenty-five (25) members.

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

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

-11-

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

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

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

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

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

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

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

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

rule; or

- (4) Protect public health and safety.

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

#### SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

**(a) Oversight**

**(1) The executive, legislative, and judicial branches of state government in each member state shall**

**enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.**

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

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

**(b) Default, Technical Assistance, and Termination**

**(1) If the Commission determines that a member state has defaulted in the performance of its**

**obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:**

**(A) Provide written notice to the defaulting state and other member states of the nature of the**

**default, the proposed means of curing the default and/or any other action to be taken by the Commission; and (B) Provide remedial training and specific technical assistance regarding the default.**

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

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

**-12-**

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

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

**(6) The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal**

offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(c) Dispute Resolution

(1) Upon request by a member state, the Commission shall attempt to resolve disputes related to the

Compact that arise among member states and between member and non-member states.

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

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

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

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

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

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

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

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

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

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

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

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

#### **SECTION 12. CONSTRUCTION AND SEVERABILITY**

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

#### ARTICLE 3A.

#### INTERSTATE PHYSICAL THERAPY LICENSURE COMPACT

**Commented [9]:** Cannot change this section, per compact requirements.

Sec. 08.84.188. Compact enacted. The Interstate Physical Therapy Licensure Compact as contained in this section is enacted into law and entered into on behalf of the state with all other states and jurisdictions legally joining it in a form substantially as follows:

##### SECTION 1. PURPOSE

The purpose of this Compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient or client is located at the time of the patient/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; and (6) Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that

state's practice standards.

##### SECTION 2. DEFINITIONS

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

(1) "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and

1211.(2) "Adverse action" means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.

(3) "Alternative program" means a non-disciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes substance abuse issues.

(4) "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient or client is located at the time of the patient/client encounter.

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

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

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

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

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

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

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

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

(13) "Member state" means a state that has enacted the Compact.

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

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

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

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

(18) "Physical Therapy Compact Commission" or "Commission" means the national administrative body whose membership consists of all states that have enacted the Compact.

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

-6-

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

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



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

### SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

(1) Participate fully in the Commission's data system, including using the Commission's unique identifier as

defined in rules;

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

(3) Notify the Commission, in compliance with the terms of the Compact and rules, of any adverse action or the

availability of investigative information regarding a licensee;

(4) Fully implement a criminal background check requirement, within a time frame established by rule, by

receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions in accordance with Section 3(b);

(5) Comply with the rules of the Commission;

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

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

(b) Upon adoption of this statute, the member state shall have the authority to obtain biometric-based information

from each physical therapy licensure applicant and submit this information to the Federal Bureau of Investigation for a criminal background check in accordance with 28 U.S.C. §534 and 34 U.S.C. §40316.

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

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

### SECTION 4. COMPACT PRIVILEGE

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

(1) Hold a license in the home state;

(2) Have no encumbrance on any state license;

(3) Be eligible for a compact privilege in any member state in accordance with Section 4(d), (g) and (h); (4) Have not had any adverse action against any license or compact privilege within the previous 2 years; (5) Notify the Commission that the licensee is seeking the compact privilege

within a remote state;

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

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

(8) Report to the Commission adverse action taken by any nonmember state within 30 days from the date the adverse action is taken.

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

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

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

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

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

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

(f) Once an encumbered license in the home state is restored to good standing, the licensee must meet the

requirements of Section 4(a) to obtain a compact privilege in any remote state.

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

in any remote state until the following occur:

(1) The specific period of time for which the compact privilege was removed has ended; (2) All fines have been paid; and

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

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

-7-

#### SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

- (1) Home of record;
- (2) Permanent Change of Station (PCS); or
- (3) State of current residence if it is different than the PCS state or home of record.

#### SECTION 6. ADVERSE ACTIONS

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

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

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

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

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

(1) Take adverse actions as set forth in Section 4(d) against a licensee's compact privilege in the state; (2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of

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

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

(f) Joint Investigations

(1) In addition to the authority granted to a member state by its respective physical therapy practice act or other

applicable state law, a member state may participate with other member states in joint investigations of licensees.

(2) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or

individual investigation initiated under the Compact.

## **SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION**

(a) The Compact member states hereby create and establish a joint public agency known as the Physical Therapy Compact Commission.

(1) The Commission is an instrumentality of the Compact states.

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

(3) Nothing in this Compact shall be construed to be a waiver of sovereign immunity. (b) Membership, Voting, and Meetings

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

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

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

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

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

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

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

(c) The Commission shall have the following powers and duties: (1) Establish the fiscal year of the Commission;

(2) Establish bylaws;

-8-

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

(4) Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

(5) Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact.

The rules shall have the force and effect of law and shall be binding in all member states;

(6) Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing

of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected; (7) Purchase and maintain insurance and bonds;

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

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

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

(11) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety; (12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real,

personal, or mixed;

(13) Establish a budget and make expenditures;

(14) Borrow money;

(15) Appoint committees, including standing committees composed of members, state regulators, state

legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

(16) Provide and receive information from, and cooperate with, law enforcement agencies;

(17) Establish and elect an Executive Board; and

(18) Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact

consistent with the state regulation of physical therapy licensure and practice.

(d) The Executive Board shall have the power to act on behalf of the Commission according to the terms of this

Compact.

(1) The Executive Board shall be composed of nine members:

(A) Seven voting members who are elected by the Commission from the current membership of the Commission;

(B) One ex-officio, nonvoting member from the recognized national physical therapy professional association; and

(C) One ex-officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

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

(3) The Commission may remove any member of the Executive Board as provided in bylaws. (4) The Executive Board shall meet at least annually.

(5) The Executive Board shall have the following duties and responsibilities:

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

(B) Ensure Compact administration services are appropriately provided, contractual or otherwise;

(C) Prepare and recommend the budget;

(D) Maintain financial records on behalf of the Commission;

(E) Monitor Compact compliance of member states and provide compliance reports to the Commission; (F) Establish additional committees as necessary; and

(G) Other duties as provided in rules or bylaws. (e) Meetings of the Commission

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

(2) The Commission or the Executive Board or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Board or other committees of the Commission must discuss:

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

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

(C) Current, threatened, or reasonably anticipated litigation;

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

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

(F) Disclosure of trade secrets or commercial or financial information that is privileged or confidential; (G) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted

invasion of personal privacy;

-9-

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

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

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

(3) If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's

legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

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

(f) Financing of the Commission

(1) The Commission shall pay, or provide for the payment of, the reasonable expenses of its

establishment, organization, and ongoing activities.

(2) The Commission may accept any and all appropriate revenuesources,donations,andgrantsof

money, equipment, supplies, materials, and services.

(3) The Commission may levy on and collect an annual assessment from each member state or

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

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

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

(g) Qualified Immunity, Defense, and Indemnification

(1) The members, officers, executive director, employees and representatives of the Commission

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

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

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

-10-

#### SECTION 8. DATA SYSTEM

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

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

- (1) Identifying information;
- (2) Licensure data;
- (3) Adverse actions against a license or compact privilege;
- (4) Non-confidential information related to alternative program participation;
- (5) Any denial of application for licensure, and the reason(s) for such denial; and
- (6) Other information that may facilitate the administration of this Compact, as determined by the

rules of the Commission.

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

party states.

(d) The Commission shall promptly notify all member states of any adverse action taken against a

licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

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



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

## **SECTION 9. RULEMAKING**

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

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

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

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

(1) On the website of the Commission or other publicly accessible platform; and

(2) On the website of each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules. (e) The Notice of Proposed Rulemaking shall include:

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

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

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

(4) The manner in which interested persons may submit notice to the Commission of their intention to

attend the public hearing and any written comments.

(f) Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts,

opinions, and arguments, which shall be made available to the public.

(g) The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if

a hearing is requested by:

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

(2) A state or federal governmental subdivision or agency; or (3) An association having at least twenty-five (25) members.

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

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

-11-

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

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

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

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

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

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

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

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

rule; or

- (4) Protect public health and safety.

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

## SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

**(a) Oversight**

**(1) The executive, legislative, and judicial branches of state government in each member state shall**

**enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.**

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

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

**(b) Default, Technical Assistance, and Termination**

**(1) If the Commission determines that a member state has defaulted in the performance of its**

**obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:**

**(A) Provide written notice to the defaulting state and other member states of the nature of the**

**default, the proposed means of curing the default and/or any other action to be taken by the Commission; and (B) Provide remedial training and specific technical assistance regarding the default.**

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

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

**-12-**

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

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

**(6) The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal**

offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(c) Dispute Resolution

(1) Upon request by a member state, the Commission shall attempt to resolve disputes related to the

Compact that arise among member states and between member and non-member states.

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

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

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

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

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

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

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

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

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

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

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

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

#### **SECTION 12. CONSTRUCTION AND SEVERABILITY**

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

## ARTICLE 4. GENERAL PROVISIONS

**Sec. 08.84.190. Definitions.** In this chapter, unless the context otherwise requires,

1. "Board" means the State Physical Therapy and Occupational Therapy Board.

2. Competence is the application of knowledge, skills, and behaviors required to function effectively, safely, ethically and legally within the context of the patient/client's role and environment.

3. Consultation means a physical therapist seeking assistance from, or rendering professional or expert opinion or advice to, another physical therapist or professional healthcare provider via electronic communications, telehealth, or in-person.

4. Continuing competence is the lifelong process of maintaining and documenting competence through ongoing self-assessment, development, and implementation of a personal learning plan, and subsequent reassessment.

5. "Electronic Communications" means the science and technology of communication (the process of exchanging information) over any distance by electronic transmission of impulses including activities that involve using electronic communications to store, organize, send, retrieve, and/or convey information.

\*N/A "Jurisdiction of the United States" means any state, the District of Columbia, the Commonwealth of Puerto Rico, or any American territory.

6. "Nexus to practice" means the criminal act of the applicant or licensee posing a risk to the public's welfare and safety relative to the practice of physical therapy.

7. "Patient/client" means any individual receiving physical therapy from a licensee, permit, or compact privilege holder under this Act.

89. "physical therapist assistant" means a person who assists in the practice of physical therapy or an aspect of physical therapy as initiated, supervised, and terminated by a licensed physical therapist; the responsibilities of a physical therapist assistant do not include evaluation. (currently #6).

\*N/A "Physical therapist assistant-patient/client relationship" means the formal or inferred relationship entered into by mutual consent between a licensed [certified] physical therapist assistant and a patient/client or their legally authorized representative established once the physical therapist assistant assumes or undertakes the care or treatment of a patient/client and continues until either the patient/client is discharged or treatment is formally transferred to another practitioner or as further defined by rule.

98. "Physical therapist" means a person who is a licensed healthcare practitioner pursuant to this [act] to practice physical therapy. The terms "physiotherapist" or "physio" shall be synonymous with "physical therapist" pursuant to this [act].

\*N/A "Physical therapist-patient/client relationship" means the formal or inferred relationship entered into by mutual consent between a licensed physical therapist and a patient/client or their legally authorized representative established once the physical therapist assumes or undertakes the care or treatment of a patient/client and continues until either the patient/client is

**Commented [10]:** Add to sec. 08.84.190 as it is reference in "legislative intent"

**Commented [11]:**

**Commented [SR12R11]:**

**Commented [SR13R11]:** Ensure this language adequately encompasses consultation as a two way street.

**Commented [14]:** Add definition to Sec. 08.84.190 (if referenced elsewhere in statute). Use MPA language.

**Commented [15]:** (Regulation project to revise 12 AAC 54.530 (a))

**Commented [SR16R15]:** Telerehabilitation - redefine to telehealth?

**Commented [17]:** No action - leave as is "State". (Consider defining in a regulatory project as it is used in regulation).

**Commented [18]:** Adopt MPA language - add to Sec. 08.84.190  
See Grounds for action (MPA). See commentary in regard to criminal acts NOT related to pt safety.

**Commented [19]:** Adopt MPA language - add to Sec. 08.84.190

**Commented [20]:** Leave 08.84.190 (6) as is.

**Commented [21]:** Define physical therapist assistant patient/client relationship in regulation - need a regulation project to go along with this bill.

**Commented [22]:** Adopt MPA language - to Sec. 08.84.190

discharged, or treatment is formally transferred to another healthcare practitioner or as further defined by rule.

10. "Physical therapy" means the care and services provided in-person or via telehealth by or under the direction and supervision of a physical therapist who is licensed pursuant to this [act]. The term "physiotherapy" shall be synonymous with "physical therapy" pursuant to this [act].

11. "Practice of physical therapy" means:

a. Examining, evaluating, and testing patients/clients with mechanical, physiological and developmental impairments, functional limitations, and disabilities or other health and movement-related conditions in order to determine a diagnosis, prognosis and plan of treatment intervention, and to assess the ongoing effects of intervention.

b. Alleviating impairments, functional limitations and disabilities; promoting health; and preventing disease by designing, implementing and modifying treatment interventions that may include, but not limited to: therapeutic exercise; needle insertion; patient-related instruction; therapeutic massage; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; manual therapy including soft tissue and joint mobilization/manipulation; functional training in self-care and in home, community or work integration or reintegration; as well as prescription application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective and supportive devices and equipment.

c. Reducing the risk of injury, impairment, functional limitation, and disability, including performance of participation-focused physical examinations and the promotion and maintenance of fitness, health, and wellness in populations of all ages.

d. Referring a patient/client to healthcare providers and facilities for services and testing to inform the physical therapist plan of care.

e. Engaging in administration, consultation, education, and research.

f. Physical therapists may serve as primary care providers for neuromusculoskeletal conditions and are expert practitioners privileged in evaluation and treatment of patients and clients recovering from injury or disease and in programs for maintaining wellness and fitness for patients and clients without apparent disease or injury.

\*N/A "Restricted [certificate/license]" for a physical therapist assistant means a [certificate/license] on which the board has placed any restrictions and/or condition as to scope of work, place of work, duration of certified or licensed status, or type or condition of patient/client to whom the certificate holder or licensee may provide services.

\* N/A "Restricted license" for a physical therapist means a license on which the board has placed any restrictions and/or conditions as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of individual to whom the licensee may provide services.

12. Supervision the process by which a physical therapist (or Occupational Therapist) oversees and directs safe and effective delivery of patient care through appropriate verbal, written, or electronic communication. This may be accomplished with the physical therapist located onsite or remotely as deemed appropriate based on the patient/client needs.

**Commented [23]:** Define in physical therapist patient/client relationship in regulation - need a regulation project to go along with this bill.

**Commented [24]:** Adopt MPA language - to Sec. 08.84.190.

Then, add and adopt MPA definition of "Practice of Physical Therapy"

**Commented [25]:** Adopt MPA language as stated in 1st column (MPA) w/ addition of primary care language (f).

**Commented [SR26]:** Circle back at 6/5 meeting on primary care language

**Commented [27]:** Leave Sec. 08.84.120 as is. Unless we are going to begin issuing restricted license. SOP, not duration of license, as mentioned in "limited permit" in sec 08.84.075.

**Commented [28]:** Leave Sec. 08.84.120 as is. Unless we are going to begin issuing restricted license. SOP, not duration of license, as mentioned in "limited permit" in sec 08.84.075.

**Commented [29]:** Adopt MPA language w/ inclusion of OT for consistency throughout statute. (Regulation project will need to change 12 AAC 54.590 to include telehealth or rehab - pending decision on below language).

**Commented [SR30]:** Move the definition of "supervision" to regulation - Change the existing one in 12 AAC 54.590 to match MPA

13. "Telehealth" is the use of electronic communications to provide and deliver a host of health-related information and healthcare services, including, but not limited to physical therapy related information and services, over large and small distances. Telehealth encompasses a variety of healthcare and health promotion activities, including, but not limited to, education, advice, reminders, interventions, and monitoring of interventions.

14. "Testing" means standard methods and techniques used to gather data about the patient/client, including but not limited to imaging, electrodiagnostic and electrophysiologic tests and measures.

## CHAPTER 54.

### STATE PHYSICAL THERAPY AND OCCUPATIONAL THERAPY BOARD.

#### Article

1. Physical Therapy Licensure by Examination  
(12 AAC 54.010 – 12 AAC 54.080)
2. Physical Therapy Licensure by Credentials  
(12 AAC 54.100 – 12 AAC 54.130)
3. Physical Therapy License Renewal and Continuing Competency Requirements  
(12 AAC 54.200 – 12 AAC 54.440)
4. Physical Therapy Standards of Practice  
(12 AAC 54.500 – 12 AAC 54.590)
5. Occupational Therapy Licensure  
(12 AAC 54.600 – 12 AAC 54.660)
6. Occupational Therapy License Renewal and Continuing Competency Requirements  
(12 AAC 54.700 – 12 AAC 54.725)
7. Occupational Therapy Standards of Practice  
(12 AAC 54.800 – 12 AAC 54.890)
8. General Provisions

#### Section 10.

20. 30. 40. 50. 55. 60. 70. 80.

(12 AAC 54.900 – 12 AAC 54.990)

#### PHYSICAL THERAPY LICENSURE BY EXAMINATION.

(Repealed)

(Renumbered)

Requirements for physical therapy license by examination

Foreign-educated physical therapy applicants

Physical therapist temporary permits and scope of practice under those permits (Repealed)

(Repealed)

Supervised field work

Passing scores

#### ARTICLE 1.

**Commented [31]:** 12 AAC 54.530 "... do not have access to a physical therapist in person due to geographic constraints or health and safety constraints".

Adopt MPA language - to Sec. 08.84.190. Omit " " phrase from 12 AAC 54.530. Change Telerehab to Telehealth - 12 AAC 54.530. (regulation project)

**Commented [SR32R31]:** Statute overrides regulation and Centralized statute overrides this statement that exists in current PT/OT regulations

**Commented [33]:** Adopt MPA language ("testing" is in the practice of PT definition) - to Sec. 08.84.190.



**12 AAC 54.010. OFFICERS OF THE BOARD.** Repealed 9/26/91.

**12 AAC 54.020. BOARD MEETINGS.** Renumbered as 12 AAC 54.960, 9/26/91.

**12 AAC 54.030. REQUIREMENTS FOR PHYSICAL THERAPY LICENSE BY EXAMINATION.**

**“Examination” No action - 12 AAC 54.030 and sec 08.84.030 fine as is.**

(a) An applicant for a physical therapist or a physical therapist assistant license by examination, other than an applicant who is a graduate of a school of physical therapy that is located outside of the United States, shall submit a completed application on a form prescribed by the board with

(1) payment of the fees established in 12 AAC 02.320;

(2) the applicant's certified transcript sent directly to the department from a physical therapy school meeting the requirements of AS 08.84.030(a)(1);

from (3) a signed letter of professional reference sent directly to the department on a form provided by the department

(A) the head of the physical therapy school; or

(B) an instructor, physician, supervising physical therapist, or supervisor;

and (4) the jurisprudence questionnaire prepared by the board covering the provisions of AS 08.84 and this chapter;

(5) proof of passing examination scores, sent directly to the department from the Federation of State Boards of Physical Therapy (FSBPT).

(b) Repealed 8/7/2021.

(c) An applicant who has applied for, but not yet received, licensure in another state and who has passed the national physical therapy examination in that state may have the examination scores transferred to the board and may apply for licensure by examination under (a) of this section.

**Authority:** AS 08.84.010 AS 08.84.030 AS 08.84.040

**12 AAC 54.040. FOREIGN-EDUCATED PHYSICAL THERAPY APPLICANTS.** (a) A physical

therapist or physical therapist assistant applicant for license by examination who received an education and qualifying -15-

**Other Items:**

**\*Electronic Communications:**

Adopt MPA ~~definiiton~~definition

This is mentioned under “Teleheath (MPA)”. \*Would like to see “...and do not have access to a PT in person...” omitted. (Regulation project to revise 12 AAC 54.530 (a))

**\*Onsite Supervision:**

Leave 12 AAC 54.590 as is.

Additional reference: 12 AAC 54.520

**\*Physical therapy aide:**

Keep 12 AAC 54.590 (3) as is.

**\*Supervision:**

~~Adopt MPA language w/ inclusion of OT for consistency throughout statute. (Regulation project will need to change 12 AAC 54.590 to include telehealth or rehab – pending decision on below language).~~

**\*Telehealth:**

~~12 AAC 54.530 "... do not have access to a physical therapist in person due to geographic constraints or health and safety constraints".~~

~~Adopt MPA language – to Sec. 08.84.190.~~

Omit " " phrase from 12 AAC 54.530.

Change Telerehab to Telehealth - 12 AAC 54.530. (regulation project)