

PHYSICAL THERAPY LICENSURE COMPACT

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Douglas V. Sagers

LONG TITLE

General Description:

This bill enacts the Physical Therapy Licensure Compact.

Highlighted Provisions:

This bill:

- ▶ amends qualifications for licensure;
- ▶ enacts the Physical Therapy Licensure Compact; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-24b-302, as last amended by Laws of Utah 2016, Chapter 238

ENACTS:

58-24c-101, Utah Code Annotated 1953

58-24c-102, Utah Code Annotated 1953

58-24c-103, Utah Code Annotated 1953

58-24c-104, Utah Code Annotated 1953



28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **58-24b-302** is amended to read:

30 **58-24b-302. Licensure.**

31 (1) An applicant for a license as a physical therapist shall:

32 (a) be of good moral character;

33 (b) complete the application process, including payment of fees;

34 (c) submit proof of graduation from a professional physical therapist education
35 program that is accredited by a recognized accreditation agency;

36 (d) after complying with Subsection (1)(c), pass a licensing examination;

37 (e) be able to read, write, speak, understand, and be understood in the English language
38 and demonstrate proficiency to the satisfaction of the board if requested by the board; and

39 (f) meet any other requirements established [~~by the division, by rule~~] division rule
40 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

41 (2) An applicant for a license as a physical therapist assistant shall:

42 (a) be of good moral character;

43 (b) complete the application process, including payment of fees set by the division, in
44 accordance with Section **63J-1-504**, to recover the costs of administering the licensing
45 requirements relating to physical therapist assistants;

46 (c) submit proof of graduation from a physical therapist assistant education program
47 that is accredited by a recognized accreditation agency;

48 (d) after complying with Subsection (2)(c), pass a licensing examination approved by
49 division rule made in collaboration with the board and in accordance with Title 63G, Chapter
50 3, Utah Administrative Rulemaking Act;

51 (e) be able to read, write, speak, understand, and be understood in the English language
52 and demonstrate proficiency to the satisfaction of the board if requested by the board; [~~and~~]

53 (f) submit to, and pass, a criminal background check, in accordance with standards
54 established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
55 Rulemaking Act; and

56 [~~(f)~~] (g) meet any other requirements established by the division, by rule made in
57 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

58 (3) An applicant for a license as a physical therapist who is educated outside of the

59 United States shall:

60 (a) be of good moral character;

61 (b) complete the application process, including payment of fees;

62 (c) (i) provide satisfactory evidence that the applicant graduated from a professional
63 physical therapist education program that is accredited by a recognized accreditation agency; or

64 (ii) (A) provide satisfactory evidence that the applicant graduated from a physical
65 therapist education program that prepares the applicant to engage in the practice of physical
66 therapy, without restriction;

67 (B) provide satisfactory evidence that the education program described in Subsection
68 (3)(c)(ii)(A) is recognized by the government entity responsible for recognizing a physical
69 therapist education program in the country where the program is located; and

70 (C) pass a credential evaluation to ensure that the applicant has satisfied uniform
71 educational requirements;

72 (d) after complying with Subsection (3)(c), pass a licensing examination;

73 (e) be able to read, write, speak, understand, and be understood in the English language
74 and demonstrate proficiency to the satisfaction of the board if requested by the board; and

75 (f) meet any other requirements established by the division, by rule made in accordance
76 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

77 (4) The division shall issue a license to a person who holds a current unrestricted
78 license to practice physical therapy in a state, district, or territory of the United States of
79 America, other than Utah, if the person:

80 (a) is of good moral character;

81 (b) completes the application process, including payment of fees; and

82 (c) is able to read, write, speak, understand, and be understood in the English language
83 and demonstrate proficiency to the satisfaction of the board if requested by the board.

84 (5) (a) Notwithstanding Subsection 58-1-307(1)(c), an individual may not engage in an
85 internship in physical therapy, unless the person is:

86 (i) certified by the division; or

87 (ii) exempt from licensure under Section 58-24b-304.

88 (b) The provisions of Subsection (5)(a) apply, regardless of whether the individual is
89 participating in the supervised clinical training program for the purpose of becoming a physical

90 therapist or a physical therapist assistant.

91 Section 2. Section **58-24c-101** is enacted to read:

92 **CHAPTER 24c. PHYSICAL THERAPY LICENSURE COMPACT**

93 **58-24c-101. Title.**

94 This chapter is known as the "Physical Therapy Licensure Compact."

95 Section 3. Section **58-24c-102** is enacted to read:

96 **58-24c-102. Physical Therapy Licensure Compact.**

97 PHYSICAL THERAPY LICENSURE COMPACT

98 SECTION 1. PURPOSE

99 The purpose of this Compact is to facilitate interstate practice of physical therapy with
100 the goal of improving public access to physical therapy services. The practice of physical
101 therapy occurs in the state where the patient/client is located at the time of the patient/client
102 encounter. The Compact preserves the regulatory authority of states to protect public health and
103 safety through the current system of state licensure.

104 This Compact is designed to achieve the following objectives:

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

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

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

110 4. Support spouses of relocating military members;

111 5. Enhance the exchange of licensure, investigative, and disciplinary information
112 between member states; and

113 6. Allow a remote state to hold a provider of services with a compact privilege in that
114 state accountable to that state's practice standards.

115 SECTION 2. DEFINITIONS

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

118 1. "Active Duty Military" means full-time duty status in the active uniformed service of
119 the United States, including members of the National Guard and Reserve on active duty orders
120 pursuant to 10 U.S.C. Section 1209 and 1211.

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

123 3. "Alternative Program" means a non-disciplinary monitoring or practice remediation
124 process approved by a physical therapy licensing board. This includes, but is not limited to,
125 substance abuse issues.

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

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

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

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

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

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

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

143 11. "Jurisprudence Requirement" means the assessment of an individual's knowledge of
144 the laws and rules governing the practice of physical therapy in a state.

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

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

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

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

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

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

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

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

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

164 21. "Rule" means a regulation, principle, or directive promulgated by the Commission
165 that has the force of administrative rule.

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

168 SECTION 3. STATE PARTICIPATION IN THE COMPACT

169 A. To participate in the Compact, a state must:

170 1. Participate fully in the Commission's data system, including using the Commission's
171 unique identifier as defined in rules;

172 2. Have a mechanism in place for receiving and investigating complaints about
173 licensees;

174 3. Notify the Commission, in compliance with the terms of the Compact and rules, of
175 any adverse action or the availability of investigative information regarding a licensee;

176 4. Fully implement a criminal background check requirement, within a time frame
177 established by rule, by receiving the results of the Federal Bureau of Investigation record search
178 on criminal background checks and use the results in making licensure decisions in accordance
179 with Section 3B;

180 5. Comply with the rules of the Commission;

181 6. Utilize a recognized national examination as a requirement for licensure pursuant to
182 the rules of the Commission; and

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

184 B. Upon adoption of this statute, the member state shall have the authority to obtain
185 biometric-based information from each physical therapy licensure applicant and submit this
186 information to the Federal Bureau of Investigation for a criminal background check in
187 accordance with 28 U.S.C. SEC. 534 and 42 U.S.C. SEC. 14616.

188 C. A member state shall grant the compact privilege to a licensee holding a valid
189 unencumbered license in another member state in accordance with the terms of the Compact
190 and rules.

191 D. Member states may charge a fee for granting a compact privilege.

192 SECTION 4. COMPACT PRIVILEGE

193 A. To exercise the compact privilege under the terms and provisions of the Compact,
194 the licensee shall:

195 1. Hold a license in the home state;

196 2. Have no encumbrance on any state license;

197 3. Be eligible for a compact privilege in any member state in accordance with Section
198 4D, G and H;

199 4. Have not had any adverse action against any license or compact privilege within the
200 previous 2 years;

201 5. Notify the Commission that the licensee is seeking the compact privilege within a
202 remote state(s);

203 6. Pay any applicable fees, including any state fee, for the compact privilege;

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

206 8. Report to the Commission adverse action taken by any non-member state within 30
207 days from the date the adverse action is taken.

208 B. The compact privilege is valid until the expiration date of the home license. The
209 licensee must comply with the requirements of Section 4A to maintain the compact privilege in
210 the remote state.

211 C. A licensee providing physical therapy in a remote state under the compact privilege
212 shall function within the laws and regulations of the remote state.

213 D. A licensee providing physical therapy in a remote state is subject to that state's

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

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

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

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

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

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

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

229 2. All fines have been paid; and

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

231 H. Once the requirements of Section 4G have been met, the license must meet the
232 requirements in Section 4A to obtain a compact privilege in a remote state.

233 SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

236 A. Home of record;

237 B. Permanent Change of Station (PCS); or

238 C. State of current residence if it is different than the PCS state or home of record.

239 SECTION 6. ADVERSE ACTIONS

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

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

244 C. Nothing in this Compact shall override a member state's decision that participation

245 in an alternative program may be used in lieu of adverse action and that such participation shall
246 remain non-public if required by the member state's laws. Member states must require licensees
247 who enter any alternative programs in lieu of discipline to agree not to practice in any other
248 member state during the term of the alternative program without prior authorization from such
249 other member state.

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

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

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

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

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

267 F. Joint Investigations

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

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

273 SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT
274 COMMISSION

275 A. The Compact member states hereby create and establish a joint public agency known

276 as the Physical Therapy Compact Commission:

277 1. The Commission is an instrumentality of the Compact states.

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

282 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

283 B. Membership, Voting, and Meetings

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

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

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

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

291 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of
292 rules and creation of bylaws and shall otherwise have an opportunity to participate in the
293 business and affairs of the Commission.

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

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

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

300 1. Establish the fiscal year of the Commission;

301 2. Establish bylaws;

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

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

305 5. Promulgate uniform rules to facilitate and coordinate implementation and
306 administration of this Compact. The rules shall have the force and effect of administrative rule

307 and shall be binding in all member states;

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

311 7. Purchase and maintain insurance and bonds;

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

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

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

321 11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold,
322 improve or use, any property, real, personal or mixed; provided that at all times the
323 Commission shall avoid any appearance of impropriety;

324 12. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
325 any property real, personal, or mixed;

326 13. Establish a budget and make expenditures;

327 14. Borrow money;

328 15. Appoint committees, including standing committees composed of members, state
329 regulators, state legislators or their representatives, and consumer representatives, and such
330 other interested persons as may be designated in this Compact and the bylaws;

331 16. Provide and receive information from, and cooperate with, law enforcement
332 agencies;

333 17. Establish and elect an Executive Board; and

334 18. Perform such other functions as may be necessary or appropriate to achieve the
335 purposes of this Compact consistent with the state regulation of physical therapy licensure and
336 practice.

337 D. The Executive Board

338 The Executive Board shall have the power to act on behalf of the Commission
339 according to the terms of this Compact.

340 1. The Executive Board shall be composed of nine members:

341 a. Seven voting members who are elected by the Commission from the current
342 membership of the Commission;

343 b. One ex-officio, nonvoting member from the recognized national physical therapy
344 professional association; and

345 c. One ex-officio, nonvoting member from the recognized membership organization of
346 the physical therapy licensing boards.

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

348 3. The Commission may remove any member of the Executive Board as provided in
349 bylaws.

350 4. The Executive Board shall meet at least annually.

351 5. The Executive Board shall have the following Duties and responsibilities:

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

355 b. Ensure Compact administration services are appropriately provided, contractual or
356 otherwise;

357 c. Prepare and recommend the budget;

358 d. Maintain financial records on behalf of the Commission;

359 e. Monitor Compact compliance of member states and provide compliance reports to
360 the Commission;

361 f. Establish additional committees as necessary; and

362 g. Other duties as provided in rules or bylaws.

363 E. Meetings of the Commission

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

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

- 369 a. Non-compliance of a member state with its obligations under the Compact;
370 b. The employment, compensation, discipline or other matters, practices or procedures
371 related to specific employees or other matters related to the Commission's internal personnel
372 practices and procedures;
373 c. Current, threatened, or reasonably anticipated litigation;
374 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real
375 estate;
376 e. Accusing any person of a crime or formally censuring any person;
377 f. Disclosure of trade secrets or commercial or financial information that is privileged
378 or confidential;
379 g. Disclosure of information of a personal nature where disclosure would constitute a
380 clearly unwarranted invasion of personal privacy;
381 h. Disclosure of investigative records compiled for law enforcement purposes;
382 i. Disclosure of information related to any investigative reports prepared by or on behalf
383 of or for use of the Commission or other committee charged with responsibility of investigation
384 or determination of compliance issues pursuant to the Compact; or
385 j. Matters specifically exempted from disclosure by federal or member state statute.
386 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the
387 Commission's legal counsel or designee shall certify that the meeting may be closed and shall
388 reference each relevant exempting provision.
389 4. The Commission shall keep minutes that fully and clearly describe all matters
390 discussed in a meeting and shall provide a full and accurate summary of actions taken, and the
391 reasons therefore, including a description of the views expressed. All documents considered in
392 connection with an action shall be identified in such minutes. All minutes and documents of a
393 closed meeting shall remain under seal, subject to release by a majority vote of the Commission
394 or order of a court of competent jurisdiction.
395 F. Financing of the Commission
396 1. The Commission shall pay, or provide for the payment of, the reasonable expenses of
397 its establishment, organization, and ongoing activities.
398 2. The Commission may accept any and all appropriate revenue sources, donations, and
399 grants of money, equipment, supplies, materials, and services.

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

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

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

415 G. Qualified Immunity, Defense, and Indemnification

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

425 2. The Commission shall defend any member, officer, executive director, employee or
426 representative of the Commission in any civil action seeking to impose liability arising out of
427 any actual or alleged act, error, or omission that occurred within the scope of Commission
428 employment, duties, or responsibilities, or that the person against whom the claim is made had
429 a reasonable basis for believing occurred within the scope of Commission employment, duties,
430 or responsibilities; provided that nothing herein shall be construed to prohibit that person from

431 retaining his or her own counsel; and provided further, that the actual or alleged act, error, or
432 omission did not result from that person's intentional or willful or wanton misconduct.

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

440 SECTION 8. DATA SYSTEM

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

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

447 1. Identifying information;

448 2. Licensure data;

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

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

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

452 6. Other information that may facilitate the administration of this Compact, as

453 determined by the rules of the Commission.

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

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

459 E. Member states contributing information to the data system may designate
460 information that may not be shared with the public without the express permission of the
461 contributing state.

462 F. Any information submitted to the data system that is subsequently required to be
463 expunged by the laws of the member state contributing the information shall be removed from
464 the data system.

465 SECTION 9. RULEMAKING

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

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

473 C. Rules or amendments to the rules shall be adopted at a regular or special meeting of
474 the Commission.

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

- 478 1. On the website of the Commission or other publicly accessible platform; and
479 2. On the website of each member state physical therapy licensing board or other
480 publicly accessible platform or the publication in which each state would otherwise publish
481 proposed rules.

482 E. The Notice of Proposed Rulemaking shall include:

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

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

491 G. The Commission shall grant an opportunity for a public hearing before it adopts a
492 rule or amendment if a hearing is requested by:

- 493 1. At least twenty-five (25) persons;
494 2. A state or federal governmental subdivision or agency; or
495 3. An association having at least twenty-five (25) members.
- 496 H. If a hearing is held on the proposed rule or amendment, the Commission shall
497 publish the place, time, and date of the scheduled public hearing. If the hearing is held via
498 electronic means, the Commission shall publish the mechanism for access to the electronic
499 hearing.
- 500 1. All persons wishing to be heard at the hearing shall notify the executive director of
501 the Commission or other designated member in writing of their desire to appear and testify at
502 the hearing not less than five (5) business days before the scheduled date of the hearing.
- 503 2. Hearings shall be conducted in a manner providing each person who wishes to
504 comment a fair and reasonable opportunity to comment orally or in writing.
- 505 3. All hearings will be recorded. A copy of the recording will be made available on
506 request.
- 507 4. Nothing in this section shall be construed as requiring a separate hearing on each
508 rule. Rules may be grouped for the convenience of the Commission at hearings required by this
509 section.
- 510 I. Following the scheduled hearing date, or by the close of business on the scheduled
511 hearing date if the hearing was not held, the Commission shall consider all written and oral
512 comments received.
- 513 J. If no written notice of intent to attend the public hearing by interested parties is
514 received, the Commission may proceed with promulgation of the proposed rule without a
515 public hearing.
- 516 K. The Commission shall, by majority vote of all members, take final action on the
517 proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking
518 record and the full text of the rule.
- 519 L. Upon determination that an emergency exists, the Commission may consider and
520 adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided
521 that the usual rulemaking procedures provided in the Compact and in this section shall be
522 retroactively applied to the rule as soon as reasonably possible, in no event later than ninety
523 (90) days after the effective date of the rule. For the purposes of this provision, an emergency

524 rule is one that must be adopted immediately in order to:

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

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

527 3. Meet a deadline for the promulgation of an administrative rule that is established by

528 federal law or rule; or

529 4. Protect public health and safety.

530 M. The Commission or an authorized committee of the Commission may direct

531 revisions to a previously adopted rule or amendment for purposes of correcting typographical

532 errors, errors in format, errors in consistency, or grammatical errors. Public notice of any

533 revisions shall be posted on the website of the Commission. The revision shall be subject to

534 challenge by any person for a period of thirty (30) days after posting. The revision may be

535 challenged only on grounds that the revision results in a material change to a rule. A challenge

536 shall be made in writing, and delivered to the chair of the Commission prior to the end of the

537 notice period. If no challenge is made, the revision will take effect without further action. If the

538 revision is challenged, the revision may not take effect without the approval of the

539 Commission.

540 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

541 A. Oversight

542 1. The executive, legislative, and judicial branches of state government in each member

543 state shall enforce this Compact and take all actions necessary and appropriate to effectuate the

544 Compact's purposes and intent.

545 2. All courts shall take judicial notice of the Compact and the rules in any judicial or

546 administrative proceeding in a member state pertaining to the subject matter of this Compact

547 which may affect the powers, responsibilities or actions of the Commission.

548 3. The Commission shall be entitled to receive service of process in any such

549 proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure

550 to provide service of process to the Commission shall render a judgment or order void as to the

551 Commission, this Compact, or promulgated rules.

552 B. Default, Technical Assistance, and Termination

553 1. If the Commission determines that a member state has defaulted in the performance

554 of its obligations or responsibilities under this Compact or the promulgated rules, the

555 Commission shall:

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

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

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

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

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

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

575 6. The defaulting state may appeal the action of the Commission by petitioning the U.S.
576 District Court for the District of Columbia or the federal district where the Commission has its
577 principal offices. The prevailing member shall be awarded all costs of such litigation, including
578 reasonable attorney's fees.

579 C. Dispute Resolution

580 1. Upon request by a member state, the Commission shall attempt to resolve disputes
581 related to the Compact that arise among member states and between member and non-member
582 states.

583 2. The Commission shall promulgate a rule providing for both mediation and binding
584 dispute resolution for disputes as appropriate.

585 D. Enforcement

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

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

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

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

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

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

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

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

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

615 D. Nothing contained in this Compact shall be construed to invalidate or prevent any
616 physical therapy licensure agreement or other cooperative arrangement between a member state

617 and a non-member state that does not conflict with the provisions of this Compact.

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

621 SECTION 12. CONSTRUCTION AND SEVERABILITY

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

631 Section 4. Section **58-24c-103** is enacted to read:

632 **58-24c-103. Rulemaking authority.**

633 The division may adopt rules necessary to implement the provisions of this chapter in
634 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

635 Section 5. Section **58-24c-104** is enacted to read:

636 **58-24c-104. Physical therapy licensing board.**

637 As used in the compact, with reference to this state, "physical therapy licensing board"
638 or "licensing board" means the physical therapy licensing board created in Section [58-24b-201](#).

Legislative Review Note
Office of Legislative Research and General Counsel