

# **Texas PT Practice Act**

**Texas Board of  
Physical Therapy Examiners**

**Title 3, Subtitle H, Chapter 453, Occupations Code**



**Executive Council of  
Physical Therapy and  
Occupational Therapy Examiners**

**Title 3, Subtitle H, Chapter 452, Occupations Code**

**Amended to be Effective September 1, 2019**

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**Amended by the 86<sup>th</sup> Legislature, effective September 1, 2019**

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**Title 3, Subtitle H, Chapter 453, Occupations Code**  
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OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE H. PROFESSIONS RELATED TO CERTAIN TYPES OF THERAPY

CHAPTER 453. PHYSICAL THERAPISTS

SUBCHAPTER A. GENERAL PROVISION

**Sec. 453.001. DEFINITIONS.** In this chapter:

(1) "Board" means the Texas Board of Physical Therapy Examiners.

(2) "Coordinator of physical therapy programs" is the person employed in that position under Section 452.101.

(3) "Executive council" means the Executive Council of Physical Therapy and Occupational Therapy Examiners.

(4) "Physical therapist" means a person who is licensed by the board as a physical therapist and practices physical therapy. The term includes a hydrotherapist, physiotherapist, mechanotherapist, functional therapist, physical therapy practitioner, physical therapist specialist, physical therapy specialist, physiotherapy practitioner, kinesiotherapist, physical rehabilitation specialist, and myofunctional therapist.

(5) "Physical therapist assistant" means a person licensed by the board as a physical therapist assistant:

(A) who assists and is supervised by a physical

therapist in the practice of physical therapy; and

(B) whose activities require an understanding of physical therapy.

(6) "Physical therapy" means a form of health care that prevents, identifies, corrects, or alleviates acute or prolonged movement dysfunction or pain of anatomic or physiologic origin.

(7) "Physical therapy aide" or "physical therapy technician" means a person:

(A) who aids in the practice of physical therapy under the on-site supervision of a physical therapist or a physical therapist assistant; and

(B) whose activities require on-the-job training.

(8) "Referring practitioner" means a qualified licensed health care professional who, within the scope of professional licensure, may refer a person for health care services. The term includes:

(A) a physician licensed to practice medicine by a state board of medical examiners;

(B) a dentist licensed by a state board of dental examiners;

(C) a chiropractor licensed by a state board of chiropractic examiners; and

(D) a podiatrist licensed by a state board of podiatric medical examiners.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2017, 85<sup>th</sup> Leg., (S.B. 317), Sec. 2.01, eff. September 1, 2019.

**Sec. 453.002. APPLICATION OF SUNSET ACT.** The Texas Board of Physical Therapy Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2029.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1112, Sec. 3.07, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. [3249](#)), Sec. 4.06, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. [652](#)), Sec. 3.08, eff. June 17, 2011.

Acts 2017, 85<sup>th</sup> Leg., R.S., Ch. 535 (S.B. 317), Sec. 2.01, eff. September 1, 2017.

**Sec. 453.003. CONFLICT WITH OTHER LAW.** To the extent of any conflict between this chapter and Chapter 452, Chapter 452 controls.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.004. EFFECT OF CHAPTER; APPLICABILITY.**

(a) This chapter does not restrict the holder of a license issued by another state agency from performing health care services within the scope of the applicable licensing act if the license holder:

(1) does not represent to another that the license holder is a physical therapist;

(2) does not violate Sections 453.201(a) and (c) and 453.304;  
and

(3) practices strictly in conformity with the statutes and rules relating to the license holder's license.

(b) This chapter does not apply to:

(1) a physical therapy aide;

(2) a physical therapy student or physical therapist assistant student:

(A) participating in an accredited physical therapy or physical therapist assistant educational program; and

(B) being supervised by a license holder under this chapter;

(3) a student:

(A) participating in an accredited allied health science program leading to licensure by another state agency; and

(B) being supervised by properly licensed, certified, or registered personnel;

(4) a physical therapist who is licensed in another

jurisdiction of the United States if the person is engaging, for not more than 90 days in a 12-month period and under the supervision of a physical therapist licensed in this state, in a special project or clinic required for completion of a post-professional degree in physical therapy from an accredited college or university, and the person notifies the board of the person's intent to practice in this state; or

(5) a person who practices physical therapy or as a physical therapy assistant and who is:

(A) practicing physical therapy in the United States armed services, United States Public Health Service, or Veterans Administration in compliance with federal regulations for licensure of health care providers;

(B) licensed in another jurisdiction of the United States or credentialed to practice physical therapy in another country if the person:

(i) is teaching, demonstrating, or practicing physical therapy in an educational seminar in this state for not more than 60 days in a 12-month period, and the person notifies the board of the person's intent to practice in this state; or

(ii) by contract or employment, is practicing physical therapy in this state for not more than 60 days in a 12-month period for an athletic team or organization

or a performing arts company temporarily competing or performing in this state; or

(C) licensed in another jurisdiction of the United States, if the person notifies the board of the person's intent to practice in this state, and:

(i) is practicing physical therapy for not more than 60 days during a declared local, state, or national disaster or emergency; or

(ii) is displaced from the person's residence or place of employment due to a declared local, state, or national disaster and is practicing physical therapy in this state for not more than 60 days after the date the disaster is declared.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1188 (H.B. [3717](#)), Sec. 1, eff. June 19, 2009.

**Sec. 453.005. PRACTICE OF PHYSICAL THERAPY.**

(a) The practice of physical therapy requires that a person practicing have education, training, and experience in physical therapy.

(b) The practice of physical therapy includes:

(1) measurement or testing of the function of the

musculoskeletal, neurological, pulmonary, or cardiovascular system;

(2) rehabilitative treatment concerned with restoring function or preventing disability caused by illness, injury, or birth defect;

(3) treatment, consultative, educational, or advisory services to reduce the incidence or severity of disability or pain to enable, train, or retrain a person to perform the independent skills and activities of daily living; and

(4) delegation of selective forms of treatment to support personnel while a physical therapist retains the responsibility for caring for the patient and directing and supervising the support personnel.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.006. PRACTICE OF MEDICINE.**

(a) A person may not engage in diagnosing diseases or in practicing medicine as defined by law on the basis of a license issued under this chapter.

(b) A person may not use an affix indicating or implying that the person is a physician on the basis of a license issued under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**SUBCHAPTER B. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS**

**Sec. 453.051. BOARD MEMBERSHIP.**

(a) The Texas Board of Physical Therapy Examiners consists of nine members appointed by the governor with the advice and consent of the senate as follows:

- (1) six physical therapist members; and
- (2) three members who represent the public.

(b) Appointments to the board shall be made without regard to the race, creed, sex, religion, disability, age, or national origin of the appointee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.052. PURPOSE OF BOARD.** The board shall regulate the practice of physical therapy in this state to safeguard the public health and welfare.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.053. PUBLIC MEMBER ELIGIBILITY.** A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

- (1) is registered, certified, or licensed by an occupational regulatory agency in the field of health care;
- (2) is employed by or participates in the management of a

business entity or other organization regulated by the executive council or board or receiving funds from the executive council or board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the executive council or board or receiving funds from the executive council or board; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the executive council or board, other than compensation or reimbursement authorized by law for executive council or board membership, attendance, or expenses.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.054. MEMBERSHIP RESTRICTIONS.**

(a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

(2) the person's spouse is an officer, manager, or paid

consultant of a Texas trade association in the field of health care.

(c) A person may not be a member of the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.02, eff. Sept. 1, 2017.

**Sec. 453.055. TERMS; VACANCY.**

(a) Members of the board serve staggered six-year terms with the terms of two physical therapist members and one public member expiring January 31 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the governor shall appoint a replacement to fill the unexpired part of the term.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.056. GROUNDS FOR REMOVAL.**

(a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office the qualifications required by Section 453.051(a);

(2) does not maintain during service on the board the qualifications required by Section 453.051(a);

(3) is ineligible for membership under Section 453.054;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the coordinator of physical therapy programs has knowledge that a potential ground for removal exists, the coordinator shall notify the presiding officer of the board of the potential ground.

The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the coordinator shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.03, eff. Sept. 1, 2017.

**Sec. 453.057. PER DIEM REIMBURSEMENT.**

(a) A member of the board is entitled to a per diem as set by the General Appropriations Act for each day the member engages in the business of the board.

(b) A member may receive reimbursement for meals, lodging, and transportation expenses as provided by the General Appropriations Act.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.058. OFFICERS.**

(a) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor.

(b) After the appointment of members every two years, the members of the board shall elect from among its members a secretary and other officers required to conduct the business of the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.04, eff. Sept. 1, 2017.

**Sec. 453.059. MEETINGS.**

(a) A special meeting of the board:

(1) may be called jointly by the presiding officer and secretary; or

(2) shall be called on the written request of any two members.

(b) The secretary shall keep a record of each meeting of the board. The record shall be open to public inspection at all times. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.060. TRAINING.**

(a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing board and executive council operations;

(2) the programs, functions, rules, and budgets of the board and executive council;

(3) the scope of and limitation on the rulemaking authority of the board and executive council;

(4) the types of board and executive council rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business regulated by the board, including rules, interpretations, and enforcement actions that:

(A) regulate the scope of practice of persons engaged in a profession or business regulated by the board;

(B) restrict advertising by persons engaged in a profession or business regulated by the board;

(C) affect the price of goods or services provided by persons engaged in a profession or business regulated by the board; or

(D) restrict participation in a profession or business regulated by the board;

(5) the results of the most recent formal audit of the board and executive council;

(6) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosure of conflicts of interest; and

(B) other laws applicable to members of the board in performing their duties; and

(7) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the person's attendance at the program occurs before or after the person qualifies for office.

(d) The director of the executive council shall create a training manual that includes the information required by Subsection (b). The director shall distribute a copy of the training manual annually to each board member. On receipt of the training manual, each board member shall sign and submit to the director a statement acknowledging receipt of the training manual.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.05, eff. Sept. 1, 2017.

**Sec. 453.061. CIVIL LIABILITY.** A member of the board is not liable in a civil action for an act performed in good faith in executing duties as a board member.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

#### **SUBCHAPTER C. POWERS AND DUTIES**

**Sec. 453.101. GENERAL POWERS AND DUTIES.** Except as provided by Chapter 452, the board shall administer and enforce this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.102. RULES.**

(a) The board may adopt rules necessary to implement this chapter.

(b) The board may adopt bylaws and rules necessary to govern its

proceedings.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.103. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING.**

(a) The board may not adopt rules restricting advertising or competitive bidding by a person regulated by the board except to prohibit false, misleading, or deceptive practices by the person.

(b) The board may not include in rules to prohibit false, misleading, or deceptive practices a rule that:

(1) restricts the person's use of any medium for advertising;

(2) restricts the person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.104. FEES.**

(a) The board may recommend to the executive council reasonable and necessary fees for licenses issued or services performed under this chapter that in the aggregate produce sufficient revenue to cover the cost of administering this chapter.

(b) The board may not recommend to the executive council a fee that existed on September 1, 1993, for an amount less than the

amount of that fee on that date.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.105. EMPLOYEES; DIVISION OF RESPONSIBILITIES.**

(a) The board may request the executive council to assign administrative and clerical employees as necessary to carry out the board's functions.

(b) The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the director and staff of the executive council.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.06, eff. Sept. 1, 2017.

**Sec. 453.106. LIST OF LICENSE HOLDERS.**

(a) The secretary shall maintain a list of the names of each physical therapist licensed under this chapter.

(b) The list shall be open to public inspection at all times.

(c) On March 1 of each year, the coordinator of physical therapy programs shall transmit an official copy of the list to the executive council.

(d) A certified copy of the list of license holders is admissible as evidence in a court of this state.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.209(a), eff. Sept. 1, 2001.

**Sec. 453.107. BOARD DUTIES REGARDING COMPLAINTS.**

(a) The board by rule shall:

(1) adopt a form to standardize information concerning complaints made to the board; and

(2) prescribe information to be provided to a person when the person files a complaint with the board.

(b) The board shall provide reasonable assistance to a person who wishes to file a complaint.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.108. PROSECUTING VIOLATIONS.** The board shall assist the proper legal authorities in prosecuting a person who violates this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.109. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION**

(a) The board shall develop a policy to encourage the use of:

(1) negotiated rulemaking under Chapter 2008, Government

Code, for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The board's procedure relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.07, eff. Sept. 1, 2017.

#### **SUBCHAPTER D. PUBLIC INTEREST INFORMATION AND COMPLAINT**

##### **PROCEDURES**

##### **Sec. 453.151. PUBLIC INTEREST INFORMATION.**

(a) The board shall prepare information of public interest describing the functions of the board and the procedures by which complaints are filed with and resolved by the board.

(b) The board shall make the information available to the public and appropriate state agencies.

(c) Information maintained by the executive council or the board under this chapter regarding the home address or personal telephone number of a person licensed under this chapter or a person who is an owner or manager of a physical therapy facility registered under this chapter is confidential and not subject to disclosure under Chapter 552, Government Code. A person licensed under this chapter or a person who is an owner or manager of a physical therapy facility registered under this chapter must provide the board with a business address or address of record that will be subject to disclosure under Chapter 552, Government Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 867 (H.B. [588](#)), Sec. 1, eff. September 1, 2013.

**Sec. 453.152. COMPLAINTS.** A license holder shall at all times prominently display in the license holder's place of business a sign containing:

(1) the board's name, mailing address, and telephone number;  
and

(2) a statement informing consumers that a complaint against a license holder can be directed to the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.153. RECORD OF COMPLAINTS.**

(a) The board shall keep an information file about each complaint filed with the executive council and referred to the board. The board's information file must be kept current and contain a record for each complaint of:

- (1) each person contacted in relation to the complaint;
- (2) a summary of findings made at each step of the complaint process;
- (3) an explanation of the legal basis and reason for a complaint that is dismissed;
- (4) the schedule required under Section 453.154 and a notation about a change in the schedule; and
- (5) other relevant information.

(b) If a written complaint is received by the board that the board has authority to resolve, the board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless notice would jeopardize an undercover investigation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.154. GENERAL RULES INVOLVING COMPLAINT INVESTIGATION AND DISPOSITION.**

(a) The board shall adopt rules relating to the investigation of a complaint received by the board. The rules shall:

(1) distinguish between categories of complaints;

(2) ensure that complaints are not dismissed without appropriate consideration;

(3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;

(4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint;

(5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the board to obtain the services of a private investigator; and

(6) require the board to advise the executive council of complaints that have been disposed of.

(b) The board shall:

(1) dispose of each complaint in a timely manner; and

(2) establish a schedule for conducting each phase of the investigation of a complaint that is under the control of the board not later than the 30th day after the date the board receives the complaint.

(c) Each party shall be notified of the projected time requirements for the complaint.

(d) Each party to the complaint must be notified of a change in the schedule not later than the seventh day after the date the change is made.

(e) The staff of the executive council shall notify the board of a complaint that is unresolved after the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.09, eff. Sept. 1, 2017.

**Sec. 453.155. PUBLIC PARTICIPATION.**

(a) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the board's jurisdiction.

(b) The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

## SUBCHAPTER E. LICENSE REQUIREMENTS.

### Sec. 453.201. LICENSE REQUIRED; USE OF TITLE.

(a) A person may not practice physical therapy or practice as a physical therapist assistant, unless the person is an individual who holds a license issued by the board.

(b) A person, including the person's employee or other agent or representative, may not extend or provide physical therapy services unless the services are provided by a physical therapist.

(c) A person is considered to be practicing physical therapy if the person:

(1) performs, offers to perform, or attempts to perform physical therapy; or

(2) publicly professes to be or holds the person out to be a physical therapist or as providing physical therapy.

(d) Unless the person is a physical therapist, a person, including the person's employee or other agent or representative, may not use in connection with the person's name or business activity:

(1) the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "licensed physical therapist," "registered physical therapist," or "physical therapist assistant";

(2) the letters "PT," "PhT," "LPT," "RPT," "DPT," "MPT," or "PTA"; or

(3) any other words, letters, abbreviations, or insignia

indicating or implying, by any means or in any way, that physical therapy is provided or supplied.

(e) A person may not use the title "Physical Therapist" unless the person is a physical therapist.

(f) A person may not use the title "Physical Therapist Assistant" unless the person is a physical therapist assistant.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.2095, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 474 (S.B. [1099](#)), Sec. 1, eff. September 1, 2013.

**Sec. 453.202. LICENSE APPLICATION.**

(a) An applicant for a physical therapist license or a physical therapist assistant license must submit to the board a written application on a form provided by the board.

(b) The application must be accompanied by a nonrefundable application fee prescribed by the executive council.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.11, eff. Sept. 1, 2017.

**Sec. 453.203. QUALIFICATIONS FOR PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT LICENSE.**

(a) An applicant for a physical therapist license must, in addition to other requirements and qualifications established by the board, present:

(1) evidence satisfactory to the board that the applicant has completed an accredited physical therapy educational program; or

(2) official documentation from an educational credentials review agency approved by the board certifying that the applicant has completed a program equivalent to a Commission on Accreditation in Physical Therapy Education accredited program.

(b) An applicant for a physical therapist assistant license must, in addition to other requirements and qualifications established by the board, present evidence satisfactory to the board that the applicant has completed an accredited physical therapist assistant program or an accredited physical therapy educational program.

(c) A physical therapy educational program or physical therapist assistant program is an accredited program if the program is accredited by the Commission on Accreditation in Physical Therapy Education.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.12, eff, Sept. 1, 2017.

**Sec. 453.204. FOREIGN-TRAINED APPLICANTS.** (a) To obtain a license under this chapter, an applicant who is foreign-trained must satisfy the examination requirements of Section 453.208.

(b) Before allowing a foreign-trained applicant to take the examination, the board shall require the applicant to furnish proof of completion of requirements substantially equal to those under Section 453.203.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.13, eff. Sept. 1, 2017.

**Sec. 453.205. LICENSE EXAMINATION.**

(a) The board by rule shall recognize a national testing entity to administer the examination required to obtain a physical therapist of physical therapist assistant license.

(b) The physical therapist examination is a national examination that tests entry-level competence related to physical therapy theory, examination and evaluation, prognosis, treatment intervention, prevention, and consultation.

(c) The physical therapist assistant examination is a national examination that tests for required knowledge and skills in the technical application of physical therapy services.

(d) An applicant for a license must agree to comply with the security and copyright provisions of the national examination. If

the board has knowledge of a violation of the security or copyright provisions or a compromise or attempted compromise of the provisions, the board shall report the matter to the testing entity.

(e) The board may disqualify an applicant from taking or retaking an examination for a period specified by the board if the board determines that the applicant engaged or attempted to engage in conduct that compromises or undermines the integrity of the examination process, including a violation of security or copyright provisions related to the national examination.

(f) If the board enters into a contract with a national testing entity under Subsection (a), the contract must include a provision requiring the national testing entity to provide to the board an examination score report for each applicant for a license under this chapter who took the examination.

(g) The board may require an applicant for a physical therapist or physical therapist assistant license to pass a jurisprudence examination.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.14, eff. Sept. 1, 2017.

**Sec. 453.206. EXAMINATION RESULTS.**

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Repealed by Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.26, eff. Sept. 1, 2017.

**Sec. 453.207. REEXAMINATION.**

(a) An applicant who fails to pass an examination under Section 453.205 may retake the examination under the policies of the national testing entity.

(b) Before retaking an examination, the applicant must:

(1) submit to the board a reexamination application prescribed by the board; and

(2) pay a nonrefundable application fee prescribed by the executive council.

Acts 1999, 76<sup>th</sup> Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.15, eff. Sept. 1, 2017.

**Sec. 453.208. ISSUANCE OF LICENSE.**

(a) The board shall issue a license to an applicant who:

(1) passes the examination under Section 453.205;

(2) meets the qualifications prescribed by Section 453.203;

and

(3) has not committed an act that constitutes a ground for denial of a license under Section 453.351.

(b) The board may issue a physical therapist assistant license to

a person who has not completed an accredited physical therapist assistant program if the person:

(1) meets the requirements under Section 453.203(a); and

(2) has not been the subject of disciplinary action in another state or nation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.209. PROVISIONAL LICENSE.**

(a) The board may issue a provisional license to an applicant licensed in another state that maintains professional standards considered by the board to be equivalent to and has licensing requirements that are substantially equivalent to the requirements under this chapter. An applicant for a provisional license under this section must:

(1) present proof to the board that the applicant is licensed in good standing as a physical therapist or physical therapist assistant in that state;

(2) have passed a national examination or other examination recognized by the board relating to the practice of physical therapy; and

(3) be sponsored by a person licensed under this chapter with whom the provisional license holder may practice.

(b) The board may waive the requirement of Subsection (a)(3) for an applicant if the board determines that compliance with that

requirement constitutes a hardship to the applicant.

(c) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a physical therapist or physical therapist assistant license.

(d) The board shall issue a physical therapist or physical therapist assistant license to the provisional license holder if:

(1) the provisional license holder passes a jurisprudence examination, if required;

(2) the board verifies that the provisional license holder has the academic and experience requirements for a physical therapist or physical therapist assistant license; and

(3) the provisional license holder satisfies any other requirements for a physical therapist or physical therapist assistant license.

(e) The board must complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The board may extend that deadline if the results on an examination have not been received by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.210. TEMPORARY LICENSE.**

(a) The board by rule may provide for the issuance of a temporary license.

(b) The holder of a temporary license must practice under the supervision of a physical therapist.

(c) A rule adopted under this section must include a time limit for a person to hold a temporary license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.211. INACTIVE STATUS.**

(a) The board by rule may provide for a license holder to place the holder's license under this chapter on inactive status.

(b) A rule adopted under this section must include a time limit for a license holder's license to remain on inactive status.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.212. DISPLAY OF LICENSE.** A license holder under this chapter shall display the license holder's license in a conspicuous place in the principal office in which the license holder practices physical therapy.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 867 (H.B. [588](#)), Sec. 2, eff. September 1, 2013.

**Sec. 453.213. PHYSICAL THERAPY FACILITY REGISTRATION.**

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 833 (H.B. 3369), Sec. 1, eff. September 1, 2011.

Repealed by Acts 2017, 85<sup>th</sup> Leg., (S.B. 317), eff. September 1, 2019.

**Sec. 453.214. LICENSE BY ENDORSEMENT.**

(a) The board shall issue a physical therapist license or a physical therapist assistant license, as applicable, to an applicant who holds a current, unrestricted license in another jurisdiction that maintains licensing requirements that are substantially equivalent to the requirements under this chapter. An applicant for a license under this section must:

(1) present proof to the board that the applicant is licensed in good standing as a physical therapist or physical therapist assistant in that jurisdiction;

(2) provide to the board information regarding the status of any other professional license that the applicant holds or has held in this state or another jurisdiction;

(3) present proof to the board that the applicant has passed a jurisprudence examination required by the board;

(4) meet the qualifications required by Section 453.203 or 453.204, as applicable;

(5) not have committed an act that is grounds for denial of a license under Section 453.351;

(6) submit to the board a current photograph that meets the requirements for a United States passport; and

(7) meet any additional requirements provided by board rule.

(b) The board shall adopt rules for issuing a provisional license under Section 453.209 to an applicant for a license by endorsement who encounters a delay that is outside the applicant's control in submitting to the board the documentation required by this section. Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317) Sec. 2.16, eff. Sept. 1, 2017.

**Sec. 453.215. CRIMINAL HISTORY RECORD INFORMATION FOR LICENSE ISSUANCE.**

(a) The board shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the board, to the board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The board may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The board shall conduct a criminal history record information check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the board by the Department of Public

Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history record information check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history record information check. Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.16, eff. Sept. 1, 2017.

#### **SUBCHAPTER F. LICENSE RENEWAL**

##### **Sec. 453.251. LICENSE EXPIRATION.**

(a) A physical therapist or physical therapist assistant license expires on the later of:

(1) the second anniversary of the date the license is issued;

or

(2) another date determined by the board.

(b) The board may adopt a system under which licenses expire on various dates during the year. For the term in which the license expiration date is changed, license fees shall be prorated on a monthly basis so that each license holder pays only that portion of

the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.17, eff. Sept. 1, 2017.

**Sec. 453.252. RENEWAL OF LICENSE.**

(a) A person may renew an unexpired license by paying the required renewal fee to the executive council before the expiration date of the license.

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the executive council the renewal fee and a late fee set by the executive council in an amount that does not exceed one-half of the amount charged for renewal of the license. If a person's license has been expired for more than 90 days but less than one year, the person may renew the license by paying to the executive council all unpaid renewal fees and a late fee set by the executive council in an amount that does not exceed the amount charged for renewal of the license.

(c) A person whose license has been expired for one year or longer must comply with the board's requirements and procedures to reinstate the license and pay a reinstatement fee in the amount set by the executive council. If the person is unable to comply with

the board's requirements to reinstate the license, the person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

(d) At least 30 days before the expiration of a person's license, the executive council shall provide the person with notice of the impending license expiration.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 867 (H.B. [588](#)), Sec. 3, eff. September 1, 2013.

Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.18, eff. Sept. 1, 2017.

**Sec. 453.253. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER.**

(a) The board may renew without reexamination the expired license of a person who was licensed to practice as a physical therapist or physical therapist assistant in this state, moved to another state, is currently licensed and in good standing in the other state, and meets the board's requirements for renewal.

(b) The person must pay to the executive council a renewal fee set by the executive council under this section in an amount that does not exceed the renewal fee for the license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 867 (H.B. [588](#)), Sec. 4, eff. September 1, 2013.

Acts 2017, 85<sup>th</sup> Leg., R. S., ch. 535 (S.B. 317) Sec. 2.19, eff. Sept. 1, 2017.

**Sec. 453.254. CONTINUING COMPETENCE.**

(a) The board by rule shall:

(1) adopt requirements for continuing competence for license holders in subjects pertaining to the practice of physical therapy;

(2) establish a minimum number of continuing competence units required to renew a license; and

(3) develop a process to approve continuing competence activities.

(b) The board may require license holders to complete continuing competence activities specified by the board. The board shall adopt a procedure to assess a license holder's participation and performance in continuing competence activities.

(c) The board may identify the key factors for the competent performance by a license holder of the license holder's professional duties.

(d) In developing a process under Subsection (a) for the approval of continuing competence activities, the board may authorize

appropriate organizations to approve the activities.

(e) The board by rule shall establish a process for selecting an appropriate organization to approve continuing competence activities under Subsection (d). The selection process must include a request for proposal and bidding process. If the board authorizes an organization to approve continuing competence activities under Subsection (d), the board shall request bids and proposals from that organization and other organizations at least once every four years.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.210(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1021 (H.B. [4281](#)), Sec. 1, eff. June 19, 2009.

Acts 2017, 85<sup>th</sup> Leg., R.S., Ch. 535 (S.B. 317), Sec. 2.20, eff. Sept. 1, 2017.

**Sec. 453.255. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE RENEWAL.**

(a) An applicant renewing a license issued under this chapter shall submit a complete and legible set of fingerprints for purposes of performing a criminal history record information check of the applicant as provided by Section 453.215.

(b) The board may administratively suspend or refuse to renew the license of a person who does not comply with the requirement of Subsection (a).

(c) A license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:

(1) Section 453.215 for the initial issuance of the license;

or

(2) this section as part of a prior license renewal.

Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.21, eff. Sept. 1, 2017.

#### **SUBCHAPTER G. PRACTICE BY LICENSE HOLDER**

##### **Sec. 453.301. PRACTICE BY PHYSICAL THERAPIST.**

(a) A physical therapist may treat a patient for an injury or condition in a manner described by Section 453.005 without a referral if the physical therapist:

(1) has been licensed to practice physical therapy for at least one year;

(2) is covered by professional liability insurance in the minimum amount required by board rule; and

(3) either:

(A) possesses a doctoral degree in physical therapy

from:

(i) a program that is accredited by the Commission on Accreditation in Physical Therapy Education; or

(ii) an institution that is accredited by an agency or association recognized by the United States secretary of education; or

(B) has completed at least 30 hours of continuing competence activities in the area of differential diagnosis.

(a-1) Except as provided by Subsection (a-2), a physical therapist may treat a patient under Subsection (a) for not more than 10 consecutive business days.

(a-2) A physical therapist who possesses a doctoral degree described by Subsection (a) (3) (A) and has completed a residency or fellowship may treat a patient under Subsection (a) for not more than 15 consecutive business days.

(b) The physical therapist must obtain a referral from a referring practitioner before the physical therapist may continue treatment that exceeds treatment authorized under Subsection (a-1) or (a-2) as applicable.

(c) A physical therapist who treats a patient without a referral shall obtain from the patient a signed disclosure on a form prescribed by the board in which the patient acknowledges that:

(1) physical therapy is not a substitute for a medical diagnosis by a physician;

(2) physical therapy is not based on radiological

imaging;

(3) a physical therapist cannot diagnose an illness or disease; and

(4) the patient's health insurance may not include coverage for the physical therapist's services.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2019, 86<sup>th</sup> Leg., (H.B. 29), eff. Sept. 1, 2019.

**Sec. 453.302. TREATING PATIENT WITHOUT REFERRAL.**

(a) In this section:

(1) "Emergency circumstance" means an instance in which emergency medical care is necessary.

(2) "Emergency medical care" means a bona fide emergency service provided after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

(A) serious jeopardy to the patient's health;

(B) serious dysfunction of any bodily organ or part; or

(C) serious impairment to bodily functions.

(b) In an emergency circumstance, including a minor emergency, a physical therapist may provide emergency medical care to a person to the best of the therapist's ability without a referral from a

referring practitioner.

(c) A physical therapist may provide physical assessments or instructions to an asymptomatic person without a referral from a referring practitioner.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.303. PROHIBITED USE OF CERTAIN PROCEDURES.** In practicing physical therapy, a person may not use:

(1) roentgen rays or radium for a diagnostic or therapeutic purpose; or

(2) electricity for a surgical purpose, including cauterization.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.304. PROHIBITED PRACTICE.** It is a violation of this chapter for an individual licensed by the board to violate Section 102.001.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. A mended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.826, eff. Sept. 1, 2001.

## SUBCHAPTER H. DISCIPLINARY ACTION AND PROCEDURE

### Sec. 453.351. GROUNDS FOR DENIAL OF LICENSE OR DISCIPLINE OF LICENSE HOLDER.

(a) The board may deny a license or suspend or revoke a license, place a license holder on probation, reprimand a license holder, impose an administrative penalty, or otherwise discipline a license holder if the applicant or license holder has:

(1) except as provided by Section 453.302, provided care to a person outside the scope of the physical therapist's practice;

(2) used drugs or intoxicating liquors to an extent that affects the license holder's or applicant's professional competence;

(3) been convicted of a felony, including a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere, in this state or in any other state or nation;

(4) obtained or attempted to obtain a license by fraud or deception;

(5) been grossly negligent in the practice of physical therapy or in acting as a physical therapist assistant;

(6) been found to be mentally incompetent by a court;

(7) practiced physical therapy in a manner detrimental to the public health and welfare;

(8) had a license to practice physical therapy revoked or suspended or had other disciplinary action taken against the license holder or applicant;

(9) had the license holder's or applicant's application for a license refused, revoked, or suspended by the proper licensing authority of another state or nation; or

(10) in the case of a physical therapist assistant, treated a person other than under the direction of a physical therapist.

(b) The board shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of this chapter or a rule adopted by the board.

(c) If a license suspension is probated, the board may require the license holder to:

(1) report regularly to the board on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the board; or

(3) continue or review continuing professional education until the license holder attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2019, 86<sup>th</sup> Leg., (H.B. 29), eff. Sept. 1, 2019.

**Sec. 453.352. PROCEDURE FOR LICENSE DENIAL OR DISCIPLINARY ACTION;  
SCHEDULE OF SANCTIONS.**

(a) A person whose application for a license is denied is entitled to a hearing before the State Office of Administrative Hearings if the applicant submits a written request for a hearing to the board.

(b) A proceeding to take action under Section 453.351 or an appeal from the proceeding is a contested case for the purposes of Chapter 2001, Government Code.

(c) The State Office of Administrative Hearings shall use the schedule of sanctions adopted by the board by rule for a sanction imposed as the result of a hearing conducted by the office.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.3525. SCHEDULE OF SANCTIONS.**

(a) The board by rule shall adopt a schedule of administrative penalties and other sanctions that the board may impose under this chapter. In adopting the schedule of sanctions, the board shall ensure that the amount of the penalty or severity of the sanction imposed is appropriate to the type of violation or conduct that is the basis for disciplinary action. In determining the appropriate disciplinary action, including the amount of any administrative penalty to assess, the board shall consider:

(1) the seriousness of the violation, including:

(A) the nature, circumstances, extent, and gravity of

the violation; and

(B) the hazard of potential hazard created to the health, safety, or economic welfare of the public;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts to correct the violation;

(5) the economic harm to the public interest of public confidence caused by the violation;

(6) whether the violation was intentional; and

(7) any other matter that justice may require.

(b) The board shall make the schedule of sanctions adopted under Subsection (a) available to the public on request.

Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.22, eff. Sept. 1, 2017.

**Sec. 453.353. SUBPOENAS.**

(a) The board may request or compel by subpoena:

(1) the attendance of a witness for examination under oath;

and

(2) the production for inspection or copying of evidence relevant to an investigation of an alleged violation of this chapter.

(b) If a person fails to comply with the subpoena, the board, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in

which a hearing conducted by the board may be held.

(c) If the court determines that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may punish for contempt a person who fails to obey the court order.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.354. TEMPORARY LICENSE SUSPENSION.**

(a) The board may temporarily suspend a license issued under this chapter on an emergency basis if the board, by at least a two-thirds vote, determines from the evidence or information presented to the board that the continued practice by the license holder constitutes a continuing or imminent threat to the public health or welfare.

(b) The board may suspend a license under this section without notice or a hearing if, at the time the suspension is ordered, a hearing on whether to institute disciplinary proceedings against the license holder is scheduled to be held not later than the 14th day after the date of the temporary suspension.

(c) The board shall hold a second hearing on the license suspension not later than the 60th day after the date the temporary suspension was ordered. If the second hearing is not held within the required time, the suspended license is automatically reinstated.

(d) The board shall adopt rules that establish procedures and standards for the temporary suspension of a license under this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.355. REISSUANCE OF LICENSE; ISSUANCE OF LICENSE AFTER DENIAL.**

(a) On application by the person, the board may reissue a license to a person whose license has been revoked.

(b) An application to reinstate a revoked license:

(1) may not be made before the 180th day after the date the revocation order became final; and

(2) must be made in the manner and form the board requires.

(c) On application by the person, the board may issue a license to a person whose license application has been denied. The application may not be made before the first anniversary of the date of the denial.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.356. INFORMAL PROCEEDINGS.**

(a) The board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) informal proceedings held in compliance with Section

2001.054, Government Code.

(b) A rule adopted under this section must:

(1) provide the complainant and the license holder an opportunity to be heard; and

(2) require the presence of the board's legal counsel or a representative of the attorney general to advise the board or the board's employees.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

#### **SUBCHAPTER I. ADMINISTRATIVE PENALTY**

**Sec. 453.401. IMPOSITION OF PENALTY.** The board may impose an administrative penalty on a person licensed or regulated under this chapter or a facility registered under this chapter who violates this chapter or a rule or order adopted under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.402. AMOUNT OF PENALTY.**

(a) The amount of an administrative penalty may not exceed \$200 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The amount of the penalty shall be determined according to the sanctions schedule adopted under Section 453.3525.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2017, 85<sup>th</sup> Leg., R.S., ch. 535 (S.B. 317), Sec. 2.24, eff. Sept. 1, 2017.

**Sec. 453.403. ADMINISTRATIVE PROCEDURE.**

(a) The board shall adopt rules that establish procedures for assessing an administrative penalty and that provide for notice and a hearing for a license holder or facility administrator that may be subject to a penalty under this subchapter.

(b) A proceeding under this subchapter is subject to Chapter 2001, Government Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**SUBCHAPTER J. OTHER PENALTIES AND ENFORCEMENT PROCEDURES**

**Sec. 453.451. INJUNCTIVE RELIEF.** The attorney general, a district attorney, a county attorney, or any other person may institute a proceeding to enforce this chapter, including a suit to enjoin or restrain a person from practicing physical therapy without complying with this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.452. MONITORING OF LICENSE HOLDER.** The board by rule shall develop a system for monitoring a license holder's compliance

with this chapter. The rules must include procedures for:

(1) monitoring for compliance a license holder who is ordered by the board to perform a certain act; and

(2) identifying and monitoring each license holder who represents a risk to the public.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.453. CIVIL PENALTY.**

(a) A person found by a court to have violated this chapter is liable to the state for a civil penalty of \$200 for each day the violation continues.

(b) A civil penalty may be recovered in a suit brought by the attorney general, a district attorney, a county attorney, or any other person.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.454. RECOVERY OF COSTS AND FEES.** A person other than the attorney general, a district attorney, or a county attorney who brings an action to enforce this chapter or for injunctive relief may recover the person's court costs and attorney's fees.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 453.455. CRIMINAL OFFENSE.**

(a) A person commits an offense if the person knowingly violates

this chapter.

(b) An offense under this section is a Class A misdemeanor.

(c) Each day of violation constitutes a separate offense.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

## **SUBCHAPTER K. PHYSICAL THERAPY LICENSURE COMPACT**

### **Sec. 453.501. PHYSICAL THERAPY LICENSURE COMPACT**

#### **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/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

multi-state physical 13 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. Section 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, but is not limited to, 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/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/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.

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 98 with 28 U.S.C. §534 and 42 U.S.C. §14616.
- C. A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the Compact and rules.
- D. Member states may charge a fee for granting a compact privilege.

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

- A. To exercise the compact privilege under the terms and provisions of the Compact, the licensee shall:
1. Hold a license in the home state;
  2. Have no encumbrance on any state license;
  3. Be eligible for a compact privilege in any member state in accordance with Section 4D, 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(s);

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

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

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

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

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

D. A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, 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 4A 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 4G have been met, the license must meet the requirements in Section 4A to obtain a compact privilege in a remote state.

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

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

- A. Home of record;

- B. Permanent Change of Station (PCS); or
- C. State of current residence if it is different than the PCS state or home of record.

#### **SECTION 6. ADVERSE ACTIONS**

- A. A home state shall have exclusive power to impose adverse action against a license issued by the home state.
- B. A home state may take adverse action based on the investigative information of a remote state, so long as the home state follows its own procedures for imposing adverse action.
- C. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state's laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.
- D. Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.
- E. A remote state shall have the authority to:
  - 1. Take adverse actions as set forth in Section 4.D. against a

licensee's compact privilege in the state;

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses, 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 (1) 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 (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

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

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

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

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

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

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

5. Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state

physical therapy licensing board to sue or be sued under applicable law shall not be affected;

7. Purchase and maintain insurance and bonds;

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

9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and 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

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;

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.

#### **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.

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.

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.

Acts 2017, 85<sup>th</sup> Leg., R.S. ch. 535 (S.B. 317), Sec. 3.01, eff. Sept. 1, 2017.