

2018

STATE OF NEBRASKA

**STATUTES RELATING TO
PHYSICAL THERAPY PRACTICE ACT**



Department of Health and Human Services
Division of Public Health
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- 38-4001 Physical Therapy Licensure Compact

- 71-1,362. Transferred to section 38-2901.
- 71-1,363. Transferred to section 38-2902.
- 71-1,364. Transferred to section 38-2903.
- 71-1,365. Transferred to section 38-2904.
- 71-1,366. Transferred to section 38-2905.
- 71-1,367. Repealed. Laws 2007, LB 463, § 1319.
- 71-1,368. Transferred to section 38-2906.
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71-1,386. Transferred to section 38-2928.
71-1,387 Transferred to section 38-2929.
71-1,388. Transferred to section 38-2926.
71-1,389 Repealed. Laws 2007, LB 463, § 1319.

71-2801 and 71-2802. Repealed. Laws 2006, LB 994, s. 162.
71-2803. Transferred to section 71-1,383.
71-2803.01. Repealed. Laws 2006, LB 994, s. 162.
71-2804. Transferred to section 71-1,388.
71-2805. Repealed. Laws 2006, LB 994, s. 162.
71-2806. Repealed. Laws 1988, LB 1100, §185.
71-2807. Transferred to section 71-1,389.
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71-2810. Transferred to section 71-1,385.
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71-2814 to 71-2817. Repealed. Laws 2006, LB 994, s. 162.
71-2818. Repealed. Laws 1988, LB 1100, §185.
71-2819 to 71-2823. Repealed. Laws 2006, LB 994, s. 162.

STATUTES PERTAINING TO THE PHYSICAL THERAPY PRACTICE ACT

38-2901. Act, how cited.

Sections 38-2901 to 38-2929 shall be known and may be cited as the Physical Therapy Practice Act.

Source: Laws 2006, LB 994, § 118; R.S.Supp.,2006, § 71-1,362; Laws 2007, LB463, § 994.

38-2902. Purpose of act.

The purpose of the Physical Therapy Practice Act is to update and recodify statutes relating to the practice of physical therapy. Nothing in the act shall be construed to expand the scope of practice of physical therapy as it existed prior to July 14, 2006.

Source: Laws 2006, LB 994, § 119; R.S.Supp.,2006, § 71-1,363; Laws 2007, LB463, § 995.

38-2903. Definitions, where found.

For purposes of the Physical Therapy Practice Act, the definitions found in sections 38-2904 to 38-2918 apply.

Source: Laws 2006, LB 994, § 120; R.S.Supp.,2006, § 71-1,364; Laws 2007, LB463, § 996.

38-2904. Approved educational program, defined.

Approved educational program means a program for the education and training of physical therapists and physical therapist assistants approved by the board pursuant to section 38-2926.

Source: Laws 2006, LB 994, § 121; R.S.Supp.,2006, § 71-1,365; Laws 2007, LB463, § 997.

38-2905. Board, defined.

Board means the Board of Physical Therapy.

Source: Laws 2006, LB 994, § 122; R.S.Supp.,2006, § 71-1,366; Laws 2007, LB463, § 998.

38-2906. Direct supervision, defined.

Direct supervision means supervision in which the supervising practitioner is physically present and immediately available and does not include supervision provided by means of telecommunication.

Source: Laws 2006, LB 994, § 124; R.S.Supp.,2006, § 71-1,368; Laws 2007, LB463, § 999.

38-2907. Evaluation, defined.

Evaluation means the process of making clinical judgments based on data gathered from examination of a patient.

Source: Laws 2006, LB 994, § 125; R.S.Supp.,2006, § 71-1,369; Laws 2007, LB463, § 1000.

38-2908. General supervision, defined.

General supervision means supervision either onsite or by means of telecommunication.

Source: Laws 2006, LB 994, § 126; R.S.Supp.,2006, § 71-1,370; Laws 2007, LB463, § 1001.

38-2909. Jurisdiction of the United States, defined.

Jurisdiction of the United States means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any American territory.

Source: Laws 2006, LB 994, § 127; R.S.Supp.,2006, § 71-1,371; Laws 2007, LB463, § 1002.

38-2910. Mobilization or manual therapy, defined.

Mobilization or manual therapy means a group of techniques comprising a continuum of skilled passive movements to the joints or related soft tissues, or both, throughout the normal physiological range of motion that are applied at varying speeds and amplitudes, without limitation.

Source: Laws 2006, LB 994, § 128; R.S.Supp.,2006, § 71-1,372; Laws 2007, LB463, § 1003.

38-2911. Non-treatment-related tasks, defined.

Non-treatment-related tasks means clerical, housekeeping, facility maintenance, or patient transportation services related to the practice of physical therapy.

Source: Laws 2006, LB 994, § 129; R.S.Supp.,2006, § 71-1,373; Laws 2007, LB463, § 1004.

38-2912. Physical therapist, defined.

Physical therapist means a person licensed to practice physical therapy under the Physical Therapy Practice Act.

Source: Laws 2006, LB 994, § 130; R.S.Supp.,2006, § 71-1,374; Laws 2007, LB463, § 1005.

38-2913. Physical therapist assistant, defined.

Physical therapist assistant means a person certified as a physical therapist assistant under the Physical Therapy Practice Act.

Source: Laws 2006, LB 994, § 131; R.S.Supp.,2006, § 71-1,375; Laws 2007, LB463, § 1006.

38-2914. Physical therapy or physiotherapy, defined.

Physical therapy or physiotherapy means:

(1) Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations, and disabilities or other conditions related to health and movement and, through analysis of the evaluative process, developing a plan of therapeutic intervention and prognosis while assessing the ongoing effects of the intervention;

(2) Alleviating impairment, functional limitation, or disabilities by designing, implementing, or modifying therapeutic interventions which may include any of the following: Therapeutic exercise; functional training in home, community, or work integration or reintegration related to physical movement and mobility; therapeutic massage; mobilization or manual therapy; recommendation, application, and fabrication of assistive, adaptive, protective, and supportive devices and equipment; airway clearance techniques; integumentary protection techniques; nonsurgical debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction; but which does not include the making of a medical diagnosis;

(3) Purchasing, storing, and administering topical and aerosol medication in compliance with applicable rules and regulations of the Board of Pharmacy regarding the storage of such medication

(4) Reducing the risk of injury, impairment, functional limitation, or disability, including the promotion and maintenance of fitness, health, and wellness; and

(5) Engaging in administration, consultation, education, and research.

Source: Laws 2006, LB 994, § 132; R.S.Supp.,2006, § 71-1,376; Laws 2007, LB463, § 1007.

38-2915. Physical therapy aide, defined.

Physical therapy aide means a person who is trained under the direction of a physical therapist and who performs treatment-related and non-treatment-related tasks.

Source: Laws 2006, LB 994, § 133; R.S.Supp.,2006, § 71-1,377; Laws 2007, LB463, § 1008.

38-2916. Student, defined.

Student means a person enrolled in an approved educational program.

Source: Laws 2006, LB 994, § 134; R.S.Supp.,2006, § 71-1,378; Laws 2007, LB463, § 1009.

38-2917. Testing, defined.

Testing means standard methods and techniques used to gather data about a patient. Testing includes surface electromyography and, subject to approval of the board, fine wire electromyography. Testing excludes diagnostic needle electromyography.

Source: Laws 2006, LB 994, § 135; R.S.Supp.,2006, § 71-1,379; Laws 2007, LB463, § 1010.

38-2918. Treatment-related tasks, defined.

Treatment-related tasks means activities related to the practice of physical therapy that do not require the clinical decisionmaking of a physical therapist or the clinical problem solving of a physical therapist assistant.

Source: Laws 2006, LB 994, § 136; R.S.Supp.,2006, § 71-1,380; Laws 2007, LB463, § 1011.

38-2919. License or certificate required.

(1) No person may practice physical therapy, hold oneself out as a physical therapist or physiotherapist, or use the abbreviation PT in this state without being licensed by the department. No person may practice as a physical therapist assistant, hold oneself out as a physical therapist assistant, or use the abbreviation PTA in this state without being certified by the department.

(2) A physical therapist may use the title physical therapist or physiotherapist and the abbreviation PT in connection with his or her name or place of business. A physical therapist assistant may use the title physical therapist assistant and the abbreviation PTA in connection with his or her name.

(3) No person who offers or provides services to another or bills another for services shall characterize such services as physical therapy or physiotherapy unless such services are provided by a physical therapist or a physical therapist assistant acting under the general supervision of a physical therapist.

Source: Laws 2006, LB 994, § 137; R.S.Supp.,2006, § 71-1,381; Laws 2007, LB463, § 1012.

38-2920. Exemptions.

The following classes of persons shall not be construed to be engaged in the unauthorized practice of physical therapy:

- (1) A member of another profession who is credentialed by the department and who is acting within the scope of practice of his or her profession;
- (2) A student in an approved educational program who is performing physical therapy or related services within the scope of such program and under the direct supervision of a physical therapist;
- (3) A person practicing physical therapy or as a physical therapist assistant in this state who serves in the armed forces of the United States or the United States Public Health Service or who is employed by the United States Department of Veterans Affairs or other federal agencies, if their practice is limited to that service or employment;
- (4) A person credentialed to practice physical therapy or as a physical therapist assistant in another jurisdiction of the United States or in another country who is teaching physical therapy or demonstrating or providing physical therapy or related services in connection with an educational program in this state;
- (5) A person credentialed to practice physical therapy in another jurisdiction of the United States or in another country who, by contract or employment, is providing physical therapy or related services in this state to individuals affiliated with established athletic teams, athletic organizations, or performing arts companies while such teams, organizations, or companies are present and temporarily practicing, competing, or performing in this state; or
- (6) A person employed by a school district, educational service unit, or other public or private educational institution or entity serving prekindergarten through twelfth grade students who is providing personal assistance services, including mobility and transfer activities, such as assisting with ambulation with and without aids; positioning in adaptive equipment; application of braces; encouraging active range-of-motion exercises; assisting with passive range-of-motion exercises; assisting with transfers with or without mechanical devices; and such other personal assistance services based on individual needs as are suitable to providing an appropriate educational program.

Source: Laws 2006, LB 994, § 138; R.S.Supp.,2006, § 71-1,382; Laws 2007, LB463, § 1013.

38-2921. Physical therapy; license; qualifications.

Every applicant for a license to practice physical therapy shall:

- (1) Present proof of completion of an approved educational program;
- (2) In the case of an applicant who has been trained as a physical therapist in a foreign country, (a) present documentation of completion of a course of professional instruction substantially equivalent to an approved program accredited by the Commission on Accreditation in Physical Therapy Education or by an equivalent accrediting agency as determined by the board and (b) present proof of proficiency in the English language; and
- (3) Successfully complete an examination approved by the department, with the recommendation of the board.

Source: Laws 1957, c. 298, § 3, p. 1075; Laws 1988, LB 1100, § 140; Laws 1990, LB 1064, § 16; Laws 1999, LB 828, § 169; R.S.1943, (2003), § 71-2803; Laws 2006, LB 994, § 139; R.S.Supp.,2006, § 71-1,383; Laws 2007, LB463, § 1014.

38-2922. Physical therapist assistant; certificate; qualifications.

Every applicant for a certificate to practice as a physical therapist assistant shall:

- (1) Present proof of completion of an approved educational program; and
- (2) Successfully complete an examination approved by the department, with the recommendation of the board.

Source: Laws 2006, LB 994, § 140; R.S.Supp.,2006, § 71-1,384; Laws 2007, LB463, § 1015.

38-2923. Applicant; continuing competency requirements.

An applicant for licensure to practice as a physical therapist who has met the education and examination requirements in section 38-2921 or to practice as a physical therapist assistant who has met the education and examination requirements in section 38-2922, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 38-145.

Source: Laws 2007, LB463, § 1016.

38-2924. Applicant; reciprocity; continuing competency requirements; military spouse; temporary license.

(1) An applicant for licensure to practice as a physical therapist or to practice as a physical therapist assistant who has met the standards set by the board pursuant to section 38-126 for a license based on licensure in another jurisdiction but is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 38-145.

(2) An applicant who is a military spouse may apply for a temporary license as provided in section 38-129.01.

Source: Laws 2007, LB463, § 1017; Laws 2017, LB88, § 87.

Operative Date: April 26, 2017

38-2925. Fees.

The department shall establish and collect fees for credentialing activities as provided in sections 38-151 to 38-157.

Source: Laws 2007, LB463, § 1018.

38-2926. Approved program for education and training.

The board may approve programs for physical therapy or physical therapist assistant education and training. Such approval may be based on the program's accreditation by the Commission on Accreditation in Physical Therapy Education or equivalent standards established by the board.

Source: Laws 1957, c. 298, § 4, p. 1076; Laws 1988, LB 1100, § 142; Laws 1999, LB 828, § 170; Laws 2001, LB 209, § 28; R.S.1943, (2003), § 71-2804; Laws 2006, LB 994, § 144; R.S.Supp.,2006, § 71-1,388; Laws 2007, LB463, § 1019.

38-2927. Physical therapist assistant; perform physical therapy services; when; limitations; supervising physical therapist; powers and duties.

(1) A physical therapist assistant may perform physical therapy services under the general supervision of a physical therapist, except that no physical therapist assistant shall perform the following:

- (a) Interpretation of physician referrals;
- (b) Development of a plan of care;
- (c) Initial evaluations or reevaluation of patients;
- (d) Readjustment of a plan of care without consultation with the supervising physical therapist; or
- (e) Discharge planning for patients.

(2) A physical therapist may provide general supervision for no more than two physical therapist assistants. A physical therapist shall not establish a satellite office at which a physical therapist assistant provides care without the general supervision of the physical therapist.

(3) A physical therapist shall reevaluate or reexamine on a regular basis each patient receiving physical therapy services from a physical therapist assistant under the general supervision of the physical therapist.

(4) A supervising physical therapist and the physical therapist assistant under general supervision shall review the plan of care on a regular basis for each patient receiving physical therapy services from the physical therapist assistant.

(5) A physical therapist assistant may document physical therapy services provided by the physical therapist assistant without the signature of the supervising physical therapist.

(6) A physical therapist assistant may act as a clinical instructor for physical therapist assistant students in an approved educational program.

Source: Laws 1979, LB 355, § 3; R.S.1943, (2003), § 71-2810; Laws 2006, LB 994, § 141; R.S.Supp.,2006, § 71-1,385; Laws 2007, LB463, § 1020.

38-2928. Physical therapist; duties.

(1) For each patient under his or her care, a physical therapist shall:

- (a) Be responsible for managing all aspects of physical therapy services provided to the patient and assume legal liability for physical therapy and related services provided under his or her supervision;
- (b) Provide an initial evaluation and documentation of the evaluation;
- (c) Provide periodic reevaluation and documentation of the reevaluation;
- (d) Provide documentation for discharge, including the patient's response to therapeutic intervention at the time of discharge; and
- (e) Be responsible for accurate documentation and billing for services provided.

(2) For each patient under his or her care on each date physical therapy services are provided to such patient, a physical therapist shall:

- (a) Provide all therapeutic interventions that require the expertise of a physical therapist; and
- (b) Determine the appropriate use of physical therapist assistants or physical therapy aides.

Source: Laws 2006, LB 994, § 142; R.S.Supp.,2006, § 71-1,386; Laws 2007, LB463, § 1021.

38-2929. Physical therapy aide; authorized activities.

A physical therapy aide may perform treatment-related and non-treatment-related tasks under the supervision of a physical therapist or a physical therapist assistant.

Source: Laws 2006, LB 994, § 143; R.S.Supp.,2006, § 71-1,387; Laws 2007, LB463, § 1022.

Physical Therapy Licensure Compact

38-4001. Physical Therapy Licensure Compact.

The State of Nebraska adopts the Physical Therapy Licensure Compact in the form substantially as follows:

ARTICLE I

PURPOSE

a. The purpose of the Physical Therapy Licensure Compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient or client is located at the time of the patient or client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

b. This Compact is designed to achieve the following objectives:

- 1. Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;
- 2. Enhance the states' ability to protect the public's health and safety;
- 3. Encourage the cooperation of member states in regulating multistate physical therapy practice;
- 4. Support spouses of relocating military members;
- 5. Enhance the exchange of licensure, investigative, and disciplinary information between member states; and
- 6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.

ARTICLE II

DEFINITIONS

As used in the Physical Therapy Licensure 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. 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 nondisciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes, but is not limited to, substance abuse issues.
- 4. Commission means the Physical Therapy Compact Commission which is the national administrative body whose membership consists of all states that have enacted the Compact.
- 5. Compact privilege means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient or client is located at the time of the patient or client encounter.
- 6. Continuing competence means a requirement, as a condition of license renewal, to provide evidence of participation in, or completion of, educational and professional activities relevant to practice or area of work.

7. Data system means a repository of information about licensees, including examination, licensure, investigative, compact privilege, and adverse action.
8. Encumbered license means a license that a physical therapy licensing board has limited in any way.
9. 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.
10. Home state means the member state that is the licensee's primary state of residence.
11. Investigative information means information, records, and documents received or generated by a physical therapy licensing board pursuant to an investigation.
12. Jurisprudence requirement means the assessment of an individual's knowledge of the laws and rules governing the practice of physical therapy in a state.
13. 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.
14. Member state means a state that has enacted the Compact.
15. 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.
16. Physical therapist means an individual who is licensed by a state to practice physical therapy.
17. Physical therapist assistant means an individual who is licensed or certified by a state and who assists the physical therapist in selected components of physical therapy.
18. 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.
19. Physical therapy 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 that regulates the practice of physical therapy.

ARTICLE III

STATE PARTICIPATION IN THE COMPACT

a. To participate in the Physical Therapy Licensure 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 timeframe 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 this Article;
 5. Comply with the rules of the Commission;
 6. Utilize a recognized national examination as a requirement for licensure pursuant to the rules of the Commission; and
 7. Have continuing competence requirements as a condition for license renewal.
- b. Upon adoption of this statute, the member state shall have the authority to obtain biometric-based information from each physical therapy licensure applicant and submit this information to the Federal Bureau of Investigation for a criminal background check in accordance with 28 U.S.C. 534 and 34 U.S.C. 40316.
- c. A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the Compact and rules.
- d. Member states may charge a fee for granting a compact privilege.

ARTICLE IV

COMPACT PRIVILEGE

a. To exercise the compact privilege under the terms and provisions of the Physical Therapy Licensure 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 paragraphs d, g, and h of this Article;
4. Have not had any adverse action against any license or compact privilege within the previous two years;

5. Notify the Commission that the licensee is seeking the compact privilege within a remote state;
 6. Pay any applicable fees, including any state fee, for the compact privilege;
 7. Meet any jurisprudence requirements established by the remote state in which the licensee is seeking a compact privilege; and
 8. Report to the Commission adverse action taken by any nonmember state within thirty 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 paragraph a of this Article 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, 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 paragraph a of this Article 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 paragraph g of this Article have been met, the licensee must meet the requirements in paragraph a of this Article to obtain a compact privilege in a remote state.

ARTICLE V

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.

ARTICLE VI

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 the Physical Therapy Licensure 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 nonpublic 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 paragraph d of Article IV 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, 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 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.

ARTICLE VII

ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

a. The 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 the Physical Therapy Licensure Compact shall be construed to be a waiver of sovereign immunity.

b. Membership, Voting, and Meetings

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

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

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 physical therapy licensing board shall fill any vacancy occurring in the Commission.

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

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

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

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

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

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

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

5. Promulgate uniform rules to facilitate and coordinate implementation and administration of the 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 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 the 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 the 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 the 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 the Compact, 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 Article IX.

2. The Commission or the executive board or other committees of the Commission may convene in a closed, nonpublic meeting if the Commission or executive board or other committees of the Commission must discuss:

A. Noncompliance 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 Article, 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 have no greater 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, than a state employee would have under the same or similar circumstances; provided that nothing in this paragraph shall be construed to protect any such person from suit 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 in this paragraph 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.

ARTICLE VIII

DATA SYSTEM

a. The Commission shall provide for the development, maintenance, and utilization of a coordinated data base 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 the Physical Therapy Licensure 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. Nonconfidential information related to alternative program participation;
5. Any denial of application for licensure, and the reason for such denial; and
6. Other information that may facilitate the administration of the 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.

ARTICLE IX RULEMAKING

a. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article 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 Physical Therapy Licensure Compact within four 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 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 web site of the Commission or other publicly accessible platform; and

2. On the web site 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 persons;

2. A state or federal governmental subdivision or agency; or

3. An association having at least twenty-five 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 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 Article.

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 days after the effective date of the rule. For the purposes of this paragraph, 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 web site of the Commission. The revision shall be subject to challenge by any person for a period of thirty 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.

ARTICLE X

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

a. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce the Physical Therapy Licensure Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of the Compact and the rules promulgated under the Compact 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 the 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, the 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 the 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, 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 the 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 or the Speaker if no such leaders exist, 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 United States 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 nonmember 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 the 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 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 in this Article shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

ARTICLE XI

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

- a. The Physical Therapy Licensure Compact shall come into effect on the date on which the Compact 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 the Compact by enacting a statute repealing the same.
 1. A member state's withdrawal shall not take effect until six 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 the Compact prior to the effective date of withdrawal.
- d. Nothing contained in the Compact shall be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the Compact.
- e. The Compact may be amended by the member states. No amendment to the Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

ARTICLE XII

CONSTRUCTION AND SEVERABILITY

The Physical Therapy Licensure Compact shall be liberally construed so as to effectuate the purposes of the Compact. The provisions of the Compact shall be severable and if any phrase, clause, sentence, or provision of the 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 the Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If the 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.

Source: Laws 2018, LB731, § 101.

Operative Date: July 19, 2018

- 71-1,362. Transferred to section 38-2901.**
- 71-1,363. Transferred to section 38-2902.**
- 71-1,364. Transferred to section 38-2903.**
- 71-1,365. Transferred to section 38-2904.**
- 71-1,366. Transferred to section 38-2905.**
- 71-1,367. Repealed. Laws 2007, LB 463, § 1319.**
- 71-1,368. Transferred to section 38-2906.**
- 71-1,369. Transferred to section 38-2907.**
- 71-1,370. Transferred to section 38-2908.**
- 71-1,371. Transferred to section 38-2909.**
- 71-1,372. Transferred to section 38-2910.**
- 71-1,373. Transferred to section 38-2911.**
- 71-1,374. Transferred to section 38-2912.**
- 71-1,375. Transferred to section 38-2913.**
- 71-1,376. Transferred to section 38-2914.**
- 71-1,377. Transferred to section 38-2915.**
- 71-1,378. Transferred to section 38-2916.**
- 71-1,379. Transferred to section 38-2917.**
- 71-1,380. Transferred to section 38-2918.**
- 71-1,381. Transferred to section 38-2919.**
- 71-1,382. Transferred to section 38-2920.**
- 71-1,383. Transferred to section 38-2921.**
- 71-1,384. Transferred to section 38-2922.**

71-1,385. Transferred to section 38-2927.
71-1,386. Transferred to section 38-2928.
71-1,387. Transferred to section 38-2929.
71-1,388. Transferred to section 38-2926.
71-1,389. Repealed. Laws 2007, LB 463, § 1319.

71-2801 and 71-2802. Repealed. Laws 2006, LB 994, s. 162.
71-2803. Transferred to section 71-1,383.
71-2803.01. Repealed. Laws 2006, LB 994, s. 162.
71-2804. Transferred to section 71-1,388.
71-2805. Repealed. Laws 2006, LB 994, s. 162.
71-2806. Repealed. Laws 1988, LB 1100, §185.
71-2807. Transferred to section 71-1,389.
71-2808 and 71-2809. Repealed. Laws 2006, LB 994, s. 162.
71-2810. Transferred to section 71-1,385.
71-2811 and 71-2812. Repealed. Laws 2006, LB 994, s. 162.
71-2813. Repealed. Laws 1988, LB 1100, §185.
71-2814 to 71-2817. Repealed. Laws 2006, LB 994, s. 162.
71-2818. Repealed. Laws 1988, LB 1100, §185.
71-2819 to 71-2823. Repealed. Laws 2006, LB 994, s. 162.