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State Board of Physical Therapy Examiners Law

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45:9-37.11. Short title

This act shall be known and may be cited as the "Physical Therapist Licensing Act of 1983."

L.1983, c. 296, s. 1.

45:9-37.12. Legislative findings and declarations

The Legislature finds and declares that the public interest requires the regulation of the practice of physical therapy and the establishment of clear licensure standards for physical therapists; and that the health and welfare of the citizens of this State will be protected by identifying to the public those individuals who are qualified and legally authorized to practice physical therapy.

L.1983, c. 296, s. 2.

45:9-37.13. Definitions

As used in P.L.1983, c.296 (C.45:9-37.11 et seq.):

"Board" means the State Board of Physical Therapy Examiners established pursuant to section 5 of P.L.1983, c.296 (C.45:9-37.15).

"Direct supervision" means the presence of the supervising physical therapist on site, available to respond to any consequence occurring during any treatment procedure.

"General supervision" means supervision by a physical therapist in which: the physical therapist shall be available at all times by telecommunications but is not required to be on-site for direction and supervision; and the supervising physical therapist assesses on an ongoing basis the ability of the physical therapist assistant to perform the selected interventions as directed.

"Physical therapist" means a natural person who holds a current, valid license to practice physical therapy pursuant to the provisions of P.L.1983, c.296 (C.45:9-37.11 et seq.) and in accordance with regulations of the board.

"Physical therapist assistant" means a natural person who is licensed pursuant to the provisions of P.L.1983, c.296 (C.45:9-37.11 et seq.) and who assists a licensed physical therapist under his direct or general supervision in accordance with P.L.1983, c.296 (C.45:9-37.11 et seq.) and regulations of the board.

"Physical therapy" and "physical therapy practice" mean the identification of physical impairment, movement-related functional limitation, or balance disorder that occurs as a result of injury or congenital or acquired disability, or other physical dysfunction through examination, evaluation and diagnosis of the physical impairment or movement-related functional limitation and the establishment of a prognosis for the resolution or amelioration thereof, and treatment of the physical impairment or movement-related functional limitation, which shall include, but is not limited to, the alleviation of pain, physical impairment and movement-related functional limitation by therapeutic intervention, including treatment by means of manual therapy techniques and massage, electro-therapeutic modalities, wound debridement and care, the use of physical agents, mechanical modalities, hydrotherapy, therapeutic exercises with or without assistive devices, neurodevelopmental procedures, joint mobilization, movement-related functional training in self-care, providing assistance in community and work integration or reintegration, providing training in techniques for the prevention of injury, impairment, movement-related functional limitation, or dysfunction, providing consultative, educational, other advisory services, and collaboration with other health care providers in connection with patient care, and such other treatments and functions as may be further defined by the board by regulation.

"Physical therapy" and "physical therapy practice" also include the screening, examination, evaluation, and application of interventions for the promotion, improvement, and maintenance of fitness, health, wellness, and prevention services in populations of all ages exclusively related to physical therapy practice.

"Wound debridement and care" means the removal of loosely adhered necrotic and nonviable tissue, by a physical therapist, to promote healing, done in conjunction with a physician or podiatric physician.

L.1983, c.296, s.3; amended 2003, c.18, s.1; 2017, c.121, s.1.

45:9-37.14. Practice not to authorize other practices.

a. (Deleted by amendment, P.L.2003, c.18).

b. Nothing in P.L.1983, c.296 (C.45:9-37.11 et seq.), shall be construed to authorize the interpretation of data for the purpose of diagnosing disease, organic condition or the practice of medicine and surgery, chiropractic, podiatry, occupational therapy, or prosthetics by any person not licensed to do so pursuant to Title 45 of the Revised Statutes.

c. Nothing in P.L.1983, c.296 (C.45:9-37.11 et seq.), shall authorize the practice of dentistry by any person not licensed to do so pursuant to chapter 6 of Title 45 of the Revised Statutes.

L.1983,c.296,s.4; amended 2003, c.18, s.2.

45:9-37.15. State Board of Physical Therapy Examiners

There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the State Board of Physical Therapy Examiners. The board shall consist of 11 members who are residents of the State, two of whom shall be public members and one of whom shall be a State executive department member appointed pursuant to the provisions of P.L.1971, c.60 (C.45:1-2.1 et seq.). Of the remaining eight members six shall be licensed physical therapists who have been actively engaged in the practice of physical therapy in this State for at least five years immediately preceding their appointment, one shall be a licensed physical therapist assistant who has been actively engaged in practice as a physical therapist assistant for at least five years immediately preceding his appointment, and one shall be a physician licensed to practice medicine and surgery pursuant to chapter 9 of Title 45 of the Revised Statutes.

The Governor shall appoint members to the board with the advice and consent of the Senate. The Governor shall appoint each member for a term of three years, except that of the physical therapist members first appointed, two shall serve for terms of three years, two shall serve for terms of two years and two shall serve for a term of one year. Each member shall hold office until the member's successor has been qualified. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for the original appointment. No member of the board may serve more than two successive terms in addition to any unexpired term to which the member has been appointed. Upon a vacancy in the membership of the board, any professional association of physical therapists and physical therapist assistants, or individual, may submit recommendations to the Governor for his consideration. The Governor may remove any member of the board for cause, which may include, but shall not be limited to, professional misconduct and repeated failure to attend board meetings.

L.1983,c.296,s.5; amended 2003, c.18, s.3.

45:9-37.16. Compensation and reimbursement of expenses

Members of the board shall be compensated and reimbursed for expenses and provided with office and meeting facilities pursuant to section 2 of P.L.1977, c. 285 (C. 45:1-2.5).

L.1983, c. 296, s. 6.

45:9-37.17. Officers; meetings

The board shall annually elect from among its members a chairman, vice-chairman and a secretary. The board shall meet twice per year and may hold additional meetings as necessary to discharge its duties.

L.1983, c. 296, s. 7.

45:9-37.18. Duties of board

a. The board shall:

- (1) Administer and enforce the provisions of P.L.1983, c.296 (C.45:9-37.11 et seq.) and P.L.2003, c.18 (C.45:9-37.34b et al.);
- (2) Establish procedures for application for licensure;
- (3) Establish standards for, and adopt and administer examinations for licensure;
- (4) Review and pass upon the qualifications of applicants for licensure;
- (5) Insure the proper conduct and standards of examinations;
- (6) Issue and renew licenses to physical therapists and physical therapist assistants pursuant to P.L.1983, c.296 (C.45:9-37.11 et seq.);
- (7) Establish disciplinary measures, including but not limited to, suspending, revoking, or refusing to renew the license of a physical therapist or physical therapist assistant pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);
- (8) Maintain a record of every physical therapist and physical therapist assistant licensed in this State, his place of business, his place of residence, and the date and number of his license;
- (9) Conduct hearings into allegations of misconduct by licensees;
- (10) Establish requirements and standards for continuing professional education and competency and approve courses that are eligible to meet these requirements and standards, as provided in section 25 of P.L.2003, c.18 (C.45:9-37.34f);
- (11) Conduct hearings pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except that the board shall have the right to administer oaths to witnesses, and shall have the power to issue subpoenas for the compulsory attendance of witnesses and the production of pertinent books, papers or records;
- (12) Conduct proceedings before any board, agency or court of competent jurisdiction for the enforcement of the provisions of P.L.1983, c.296 (C.45:9-37.11 et seq.) and P.L.2003, c.18 (C.45:9-37.34b et al.);

(13) Conduct investigations as necessary and have the enforcement powers provided pursuant to P.L.1978, c.73 (C.45:1-14 et seq.);

(14) Within 180 days of the effective date of P.L.2003, c.18, establish standards in accordance with the provisions of section 22 of P.L.2003, c.18 (C.45:9-37.34c), in collaboration with the State Board of Medical Examiners and other appropriate professional licensing boards established pursuant to Title 45 of the Revised Statutes, setting forth the conditions under which a physical therapist is required to refer an individual being treated by a physical therapist to or consult with a practitioner licensed to practice dentistry, podiatry or medicine and surgery in this State, or other appropriate licensed health care professional. Pending adoption of the standards: (a) a physical therapist shall refer any individual who has failed to demonstrate reasonable progress within 30 days of the date of initial treatment to a licensed health care professional; and (b) a physical therapist, not more than 30 days from the date of initial treatment of functional limitation or pain, shall consult with the individual's licensed health care professional of record as to the appropriateness of the treatment, or, in the event that there is no identified licensed health care professional of record, recommend that the individual consult with a licensed health care professional of the individual's choice;

(15) Establish mechanisms to assure that the public has access to physical therapists' services, and report back to the Senate Health, Human Services and Senior Citizens and Assembly Regulated Professions Committees, or their successors, regarding this access; and

(16) Promulgate rules and regulations necessary for the performance of its duties and the implementation of P.L.1983, c.296 (C.45:9-37.11 et seq.).

b. In addition to the provisions of subsection a. of this section, the board may establish standards of professional behavior.

L.1983, c.296, s.8; amended 2003, c.18, s.4; 2017, c.121, s.2.

45:9-37.19. License required to practice, assist at physical therapy; exceptions

No person shall practice physical therapy or act as a physical therapist or physical therapist assistant, whether or not compensation is received or expected, unless the person holds a valid license to practice in this State; however, nothing in this section shall be construed to:

a. Prohibit any student enrolled in a school or post-graduate course of physical therapy or in a course of study for training as a physical therapist assistant that is approved or recognized by the board from performing physical therapy or acting as a physical therapist assistant, as appropriate, which is necessary to his course of study;

b. Prohibit any person licensed to practice in this State under any other law from engaging in the practice for which the person is licensed, provided that: the procedures or duties performed by that person are within the scope of that person's practice as established by law and the accepted standards of practice of the profession for which the person is licensed; and the person does not represent himself as a physical therapist or physical therapist assistant;

c. Prohibit any person employed by an agency, bureau or division of the federal government from practicing physical therapy within the scope of his official duties;

d. With the exception of the provisions of section 20 of P.L.1983, c.296 (C.45:9-37.30), prohibit any person licensed to practice in this State under any other law from engaging in the practice for which

the person is licensed, provided that: the procedures or duties performed by that person are within the scope of that person's practice as established by law and the accepted standards of practice of the profession for which the person is licensed; and the person does not represent himself as a physical therapist, or physical therapist assistant;

e. Prohibit any student enrolled in a school or post-graduate course of physical therapy or in a course of study for training as a physical therapist assistant that is approved or recognized by the board from performing physical therapy or acting as a physical therapist assistant, as appropriate, which is necessary to his course of study or as part of a pro bono community-based service project under the supervision of a physical therapist licensed by the board;

f. Prohibit an individual who is licensed as a physical therapist in another jurisdiction of the United States or credentialed to practice physical therapy in another country, from teaching, demonstrating or providing physical therapy services in connection with teaching or participating in an educational seminar for no more than 30 days in a calendar year;

g. Prohibit an individual who is licensed as a physical therapist in a jurisdiction of the United States or credentialed in another country from performing physical therapy or acting as a physical therapist assistant, if that individual by contract or employment is providing physical therapy to patients affiliated with or employed by established athletic teams, athletic organizations or performing arts companies temporarily practicing, competing or performing in the State for no more than 30 days in a calendar year;

h. Prohibit an individual who is licensed as a physical therapist in another jurisdiction of the United States from entering this State to provide physical therapy during a declared local, State or national disaster or emergency, including a public health emergency declared by the Governor pursuant to the "Emergency Health Powers Act, P.L.2005, c.222 (C.26:13-1 et seq.). This exemption applies for no longer than 30 days following the declaration of the emergency. In order to be eligible for this exemption the physical therapist shall notify the board of his intent to practice;

i. Prohibit an individual who is licensed as a physical therapist in another jurisdiction of the United States who is forced to leave his residence or place of employment due to a declared local, State or national disaster or emergency and due to such displacement seeks to practice physical therapy. This exemption applies for no more than 30 days following the declaration of the emergency. In order to be eligible for this exemption the physical therapist shall notify the board of his intent to practice; or

j. Prohibit an individual who is licensed or certified as a physical therapist assistant in a jurisdiction of the United States and is assisting a licensed physical therapist engaged specifically in activities related to subsections d., e., f., g. and h. of this section.

k. Nothing in this section shall be construed to prohibit an individual who is licensed to practice medicine and surgery in this State from rendering a utilization management decision that limits, restricts or curtails a course of physical therapy care.

L.1983, c.296, s.9; amended 2003, c.18, s.5; 2017, c.121, s.3.

45:9-37.20. Supervision of physical therapist assistants; guidelines

a. No physical therapist shall supervise more physical therapist assistants at any one time than in the opinion of the board can be adequately supervised. Under usual circumstances the maximum number of physical therapist assistants that may be supervised by a physical therapist shall be two, except

that, upon application, the board may permit the supervision of a greater number of physical therapist assistants if it feels there would be adequate supervision and the public health and safety would be served.

b. A licensed physical therapist assistant may initiate patient physical therapy treatment consistent with the role of a physical therapist assistant, as defined by the board or otherwise provided in P.L.1983, c.296 (C.45:9-37.11 et seq.) or P.L.2003, c.18 (C.45:9-37.34b et al.), only at the discretion of, and under the direct or general supervision of, a licensed physical therapist, as specified in P.L.2017, c.121 (C.45:9-37.34g et al.). A licensed physical therapist shall make an onsite visit and actively participate in the treatment of the patient at least every six patient visits or every 14 days, whichever occurs first.

c. When supervising a physical therapist assistant in any off-site setting, the following requirements shall be observed:

(1) A physical therapist shall be accessible by telecommunications to the physical therapist assistant at all times while the physical therapist assistant is treating patients.

(2) There shall be regularly scheduled and documented conferences or communications between the physical therapist and the physical therapist assistant regarding patients, the frequency of which is determined by the needs of the patient and the needs of the physical therapist assistant.

(3) In those situations in which a physical therapist assistant is involved in the care of a patient, a supervisory visit by the physical therapist is to be made: upon the physical therapist assistant's request for a reexamination; when a change in the plan of care is needed; prior to any planned discharge; and in response to a change in the patient's medical status.

d. Within 180 days following the enactment of P.L.2017, c.121 (C.45:9-37.34g et al.), the board shall establish guidelines concerning the general supervision of physical therapist assistants, including, but not limited to:

(1) On-site review of the plan of care with appropriate revision or termination, completed during a regular physical therapist visit; and

(2) Evaluation of the need for, and a recommendation regarding, utilization of outside resources.

L.1983, c.296, s.10; amended 2003, c.18, s.6; 2017, c.121, s.4.

45:9-37.21. Division of fees, payments for referrals

No physical therapist or physical therapist assistant shall engage directly or indirectly in the division, transferring, assigning, rebating or refunding of fees received for professional services or pay or accept fees or commissions for referrals for professional services; however, nothing in this section shall be construed to prohibit physical therapists who are members of a professional association or other business entity, properly organized pursuant to law, from making a division of fees among themselves as determined by contract to be necessary to defray joint operating costs or pay salaries, benefits, or other compensation to employees.

L.1983,c.296,s.11; amended 2003, c.18, s.7.

45:9-37.22 Requirements for licensure as physical therapist

To be eligible for licensure as a physical therapist, an applicant shall:

- a. Have completed a program in physical therapy from an accredited college or university which has been approved by the board;
- b. Successfully complete a written examination approved by the board;
- c. Possess at least a master's degree from an accredited college or university, except for an applicant who prior to January 1, 2003, possessed a minimum of a bachelor's degree from an accredited college or university;
- d. Have experience satisfactory to the board, in accordance with regulations of the board;
- e. Be at least 18 years of age;
- f. Be of good moral character; and
- g. Meet such other requirements as may be established by the board by regulation.

L.1983,c.296,s.12; amended 2003, c.18, s.8.

45:9-37.23. Licensing of graduate of foreign school

An applicant for licensure who is a graduate of a foreign school of physical therapy shall furnish evidence satisfactory to the board that the applicant:

- a. Has completed a course of study in physical therapy which is substantially equivalent to that provided in an accredited program approved by the board;
- b. Has successfully completed a written examination approved by the board; and
- c. Is a graduate of a recognized college or university.

L.1983,c.296,s.13; amended 2003, c.18, s.9.

45:9-37.24. Application, renewal, reinstatement fees.

a. A fee established by the board by regulation shall accompany each application for licensure. Licenses shall expire biennially at a time established by the board and may be renewed upon submission of a renewal application to the board. If the renewal fee is not paid by the designated date, the license shall automatically expire, but may be reinstated by the board within two years of its expiration date upon payment of a reinstatement fee. The license fee payable to the board for a new or reinstated license may be pro-rated at the discretion of the board. Reinstatement of a license may include a requirement that renewal of a lapsed license be renewed under the procedures established for initial licensure.

b. Fees shall be established, prescribed or changed by the board for examinations, licensure and other services performed pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2).

c. All fees and any fines imposed by the board shall be paid to the board and shall be forwarded to the State Treasurer and be part of the General Fund.

L.1983,c.296,s.14; amended 2003, c.18, s.10.

45:9-37.25 Written examinations

The written examination provided for in sections 12 and 13 of P.L.1983, c.296 (C.45:9-37.22 and C.45:9-37.23) and section 21 of P.L.2003, c.18 (C.45:9-37.34b) shall test the applicant's knowledge of basic and clinical sciences as they relate to physical therapy and physical therapy theory and procedures and any other subjects the board may deem useful to test the applicant's fitness to practice physical therapy or act as a physical therapist assistant. Examinations shall be held within the State at a time and place to be determined by the board. The board shall give adequate written notice of the examination to applicants for licensure and examination.

If an applicant fails his first examination, the applicant may take a second examination no more than two years from the date of the initial examination. Additional examinations may be given at the discretion of the board.

The board shall allow a student enrolled in an accredited physical therapist or physical therapist assistant education program and who has completed all the required didactic coursework, to take the National Physical Therapy Examination prior to graduation, provided the student submits with the application a letter on the official letterhead of the accredited educational institution where the applicant is completing an accredited educational program that includes the signature of the program director, the department chairperson or a similarly authorized person of the university or college that states:

- a. The applicant is a candidate for a degree as a physical therapist or physical therapist assistant at the next scheduled graduation date;
- b. The date the national examination for licensure is to be taken by the applicant is the one nearest to and before the applicant's expected graduation date and is not more than 120 days before the date of the applicant's expected graduation date; and
- c. The applicant meets any other established requirements of the accredited educational program, if applicable.

L.1983, c.296, s.15; amended 2003, c.18, s.11; 2017, c.121, s.5.

45:9-37.26. Assistants; alternate standards for examination

The board may establish alternate standards for the examination of an applicant as a physical therapist assistant.

L.1983, c. 296, s. 16.

45:9-37.27. Issuance of license

The board shall issue a license to each applicant for licensure as a physical therapist or physical therapist assistant who, in the judgment of the board, qualifies for licensure pursuant to P.L.1983, c.296 (C.45:9-37.11 et seq.) and P.L.2003, c.18 (C.45:9-37.34b et al.).

Every licensee shall ensure the following notices are conspicuously displayed in a public area in all offices and health care facilities at which the licensee practices physical therapy:

- a. "Physical therapists and physical therapist assistants are licensed by the State Board of Physical Therapy Examiners, an agency of the Division of Consumer Affairs. Any member of the public may notify the board of any complaint relative to the practice conducted by a physical therapist or physical therapist assistant." The notice shall include the current address and phone number for the New Jersey Division of Consumer Affairs, State Board of Physical Examiners.

- b. "INFORMATION ON PROFESSIONAL FEES IS AVAILABLE TO YOU ON REQUEST."

The licensee shall not be required to publicly post his biennial registration, but an original biennial registration shall be maintained on site and all licensees shall be required to provide their name, professional designation and license number to any patient upon request.

L.1983, c.296, s.17; amended 2003, c.18, s.12; 2017, c.121, s.6.

45:9-37.28. Issuance of license to holder of out-of-State license.

Upon payment to the board of a fee and the submission of a written application on forms provided by it, the board shall issue without examination to a physical therapist or physical therapist assistant who holds a valid license issued by another state or possession of the United States or the District of Columbia which, in the judgment of the board, has education and experience requirements substantially equivalent to the requirements of this act and P.L.2003, c.18 (C.45:9-37.34b et al.).

L.1983,c.296,s.18; amended 2003, c.18, s.13.

45:9-37.29. Issuance of temporary license.

- a. (Deleted by amendment, P.L.2003, c.18).

b. Upon payment to the board of a fee and the submission of a written application on forms provided by it, the board may issue without examination a temporary license to practice physical therapy or act as a physical therapist assistant in this State to a person who is qualified, in the judgment of the board, to practice as a physical therapist or physical therapist assistant, and who provides evidence that he is in the State on a temporary basis to assist in a medical emergency or to engage in a special project, teaching assignment or other activity approved by the board relating to physical therapy practice. A temporary license shall expire one year from its date of issue, however, it may be renewed by the board for an additional one-year period. A temporary license shall be surrendered to the board upon its expiration.

L.1983,c.296,s.19; amended 2003, c.18, s.14.

45:9-37.30. Use of certain titles, designations restricted.

No person, business entity or its employees, agents or representatives shall place an advertisement that uses or otherwise use the titles "physical therapist," "physiotherapist," "registered physical therapist," "licensed physical therapist," "physical therapist assistant," "registered physical therapist assistant," "licensed physical therapist assistant," "student physical therapist," "physical therapy assistant," "student physical therapist assistant," or the abbreviations "PT," "DPT," "RPT," "LPT," "PTA," "RPTA," "LPTA," "SPT," "SPTA," or the terms "physical therapy," or "physiotherapy," or any other title, designation, words, letters, abbreviations, or insignia indicating the practice of physical therapy unless licensed to practice as a physical therapist or physical therapist assistant under the provision of P.L.1983, c.296 (C.45:9-37.11 et seq.).

L.1983, c.296, s.20; amended 2003, c.18, s.15; 2017, c.121, s.7.

45:9-37.31. Titles, abbreviations for licensees.

Any person who holds a license as a physical therapist pursuant to this act may use the title "physical therapist," or "licensed physical therapist," or the abbreviations "PT" or "LPT." Any person who holds a license as a physical therapist assistant pursuant to this act may use the title "physical therapist assistant," "licensed physical therapist assistant," or the abbreviations "PTA" or "LPTA."

L.1983,c.296,s.21; amended 2003, c.18, s.16.

45:9-37.32. Registered physical therapists and assistants; continuance of practice and issuance of license; fee

Any person who is registered in this State as a physical therapist or a physical therapist assistant on the effective date of this act may continue to practice physical therapy under his current registration until its expiration, and to obtain a license under this act without examination upon payment of a fee.

L.1983, c. 296, s. 22.

45:9-37.33. Orders, rules and regulations of state board of medical examiners; continuance

This act shall not affect the orders, rules and regulations regarding physical therapists or physical therapist assistants made or promulgated by the New Jersey State Board of Medical Examiners consistent with the purposes and provisions of this act which shall continue with full force and effect until amended, modified or repealed by the board established pursuant to this act.

L.1983, c. 296, s. 23.

45:9-37.34. Application of P.L.1978, c. 73 and P.L.1974, c. 46

The provisions of P.L.1978, c. 73 (C. 45:1-14 et seq.) and P.L.1974, c. 46 (C.45:1-3.1 et seq.) shall apply to this act.

L.1983, c. 296, s. 24.

45:9-37.34a. Administration of physical modalities by employees of physical therapists.

a. A licensed physical therapist shall not permit an employee to administer physical modalities to patients unless that employee is a licensed physical therapist, licensed physical therapist assistant, or other health care provider licensed in this State to administer those modalities.

As used in this subsection, physical modalities mean ultraviolet (B and C bands) and electromagnetic rays, including, but not limited to, deep heating agents, microwave diathermy, shortwave diathermy, and ultrasound or any other treatment proscribed by the board.

b. Nothing in this section shall be construed to prohibit any person licensed to practice in this State under any other law from engaging in any activity which is within the scope of his practice.

L.1990,c.68,s.4; amended 2003, c.18, s.17.

45:9-37.34b. Eligibility for licensure as a physical therapist assistant.

To be eligible for licensure as a physical therapist assistant, an applicant shall:

- a. Possess at least an Associate in Arts degree from an accredited college or university;
- b. Have completed a two-year physical therapist assistant program at an accredited college or university, which has been approved by the board;
- c. Have experience satisfactory to the board, in accordance with regulations of the board;
- d. Have successfully completed a written examination approved by the board;
- e. Be at least 18 years of age;
- f. Be of good moral character; and
- g. Meet such other requirements as may be established by the board by regulation.

L.2003,c.18,s.21.

45:9-37.34c. Failure to refer patient, certain circumstances, unlawful practice.

It shall be considered an unlawful practice of physical therapy if a physical therapist does not immediately refer an individual to a health care professional licensed to practice dentistry, podiatry or medicine and surgery, or other appropriate licensed health care professional, if the physical therapist has reasonable cause to believe that physical therapy is contraindicated or symptoms or conditions are present, including, but not limited to, nonmuscular and nonskeletal symptoms or conditions and conditions of the central nervous system, that require services outside the scope of a physical therapist's practice.

L.2003,c.18,s.22.

45:9-37.34d. Information provided by applicant.

An applicant for licensure or renewal as a physical therapist or a physical therapist assistant shall:

- a. Execute and submit a sworn statement on a form prescribed by the board that neither the license for which renewal is sought nor any similar license or other authority issued by another jurisdiction has been revoked, suspended or not renewed; and
- b. Present satisfactory evidence that any continuing professional education and competency requirements established by P.L.2003, c.18 (C.45:9-37.34b et al.) or the board, have been completed.

L.2003, c.18, s.23; amended 2017, c.121, s.8.

45:9-37.34e. Permitted licensees, natural person; regulations.

No person other than a natural person shall be licensed as, hold itself out to be licensed as, or practice as, a physical therapist or a physical therapist assistant. Every physical therapist or physical therapist assistant employed by a corporation or other business entity shall assume professional responsibility for the practice of physical therapy or acting as a physical therapist assistant that is provided under the auspices of the corporation or other business entity. The board shall establish regulations to effectuate

the provisions of this section, which shall include, but shall not be limited to, a statement of the responsibilities of licensees under this section.

L.2003,c.18,s.24.

45:9-37.34f. Continuing professional education and competency requirements.

The board shall establish continuing professional education and competency requirements for physical therapists and physical therapist assistants, which requirements shall be a condition of retaining licensure. As used in this section, "continuing professional education and competency" means the lifelong process of maintaining and documenting the application of knowledge, skills and behaviors required to function effectively, safely, ethically and legally, through ongoing self-assessment, development, and implementation of a personal learning plan and subsequent reassessment. The board shall:

- a. Approve only such continuing professional education and competency programs as are available to all physical therapists and physical therapist assistants in this State on a nondiscriminatory basis;
- b. Establish standards for continuing professional education and competency programs;
- c. Accredite educational programs offering credits towards the continuing professional education and competency requirements; and
- d. Establish the number of credits of continuing professional education and competency required of each applicant for license renewal. Each credit shall represent or be equivalent to one hour of actual course attendance, or in the case of those electing an alternative method of satisfying the requirements of P.L.2003, c.18 (C.45:9-37.34b et al.), shall be approved by the board and certified pursuant to procedures established for that purpose.

L.2003, c.18, s.25; amended 2017, c.121, s.9.

45:9-37.34g. Unauthorized practice, crime of third degree.

A person is guilty of a crime of the third degree if he knowingly does not possess a license to practice physical therapy, or knowingly has had such license suspended, revoked or otherwise limited by an order entered by the State Board of Physical Therapy, and he:

- a. engages in the practice of physical therapy;
- b. exceeds the scope of practice permitted by the board order;
- c. holds himself out to the public, or any person as being eligible to engage in the practice of physical therapy;
- d. engages in any activity for which a license to practice physical therapy is a necessary prerequisite;
or
- e. practices physical therapy under a false or assumed name or falsely impersonates another person licensed by the board.

The provisions of this section shall not be construed to limit the activities permitted in section 9 of P.L.1983, c.296 (C.45:9-37.19).

L.2017, c.121, s.10.

45:9-37.34h. Physical Therapy Licensure Compact.

The State of New Jersey enacts and enters into the Physical Therapy Licensure Compact with all other jurisdictions that legally join in the compact in the form substantially as follows:

Section 1. Purpose.

The purpose of this compact is to facilitate the 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 is located at the time of the patient 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:

- a. increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;
- b. enhance the states' ability to protect the public's health and safety;
- c. encourage the cooperation of member states in regulating multi-state physical therapy practice;
- d. support spouses of relocating military members;
- e. enhance the exchange of licensure, investigative, and disciplinary information between member states; and
- f. 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, except as otherwise provided, the following definitions shall apply:

"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. ss.1209 and 1211.

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

"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.

"Compact" means the Physical Therapy Licensure Compact.

"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 is located at the time of the patient encounter.

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

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

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

"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.

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

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

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

"Licensee" means an individual licensed by the State Board of Physical Therapy Examiners or an individual who currently holds an authorization from a member state to practice as a physical therapist or to work as a physical therapist assistant.

"Member state" means a state that has enacted and entered into the compact.

"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.

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

"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.

"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.

"Physical Therapy Compact Commission" or "commission" means the national administrative body whose membership consists of all member states.

"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.

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

"Rule" means a regulation, principle, or directive promulgated by the commission that has the force of law.

"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 subsection b. of this section;

(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 enactment of this compact, a 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. s.534 and 42 U.S.C. s.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 subsections d., g., and h. of this section;

(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 a remote state 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 subsection a. of this section 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 subsection a. of this section 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 subsection g. of this section have been met, the licensee must meet the requirements in subsection a. of this section 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; or
- c. state of current residence if it is different than the permanent Change of Station 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.
- 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 the participation shall remain non-public if required by the member state's laws, rules or regulations. 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 that other member state.

- d. Any member state may investigate actual or alleged violations of the laws, rules or regulations 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 subsection d. of section 4 of this compact 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, and 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, and the issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service laws 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. (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 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 member states.
 - (2) The 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 as a waiver of sovereign immunity.
- b. (1) Each member state shall have and be limited to one delegate selected by that member state's licensing board.
- (2) The delegate shall be a current member of the licensing board, who is a physical therapist, physical therapist assistant, public member, or the board administrator.
- (3) Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.
- (4) The member state board shall fill any vacancy occurring in the commission.

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

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

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

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

(1) establish the fiscal year of the commission;

(2) establish bylaws;

(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 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 comprising 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 the compact consistent with the state regulation of physical therapy licensure and practice.
- d. The executive board shall have the power to act on behalf of the commission according to the terms of this compact.
- (1) The executive board shall be comprised 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, 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. (1) All meetings shall be open to the public, and a public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 9 of this compact.

(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 any subparagraph of paragraph (2) of this subsection, 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 therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in the 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. (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. (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 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 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 or reasons for the 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 reject a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then the 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 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 25 persons;
 - (2) a state or federal governmental subdivision or agency; or
 - (3) an association having at least 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 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 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 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. 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. 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. The commission shall be entitled to receive service of process in any judicial or administrative 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. 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:

(1) 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 any other action to be taken by the commission; and

(2) provide remedial training and specific technical assistance regarding the default.

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.

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. 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.

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. 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 litigation, including reasonable attorney's fees.

- c. 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. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.
- d. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact. 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 litigation, including reasonable attorney's fees. 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 Commission 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 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.

L.2017, c.304, s.1.

45:9-37.34i. Intent.

The Physical Therapy Licensure Compact is intended to facilitate the regulation of the practice of physical therapy and no provision of the compact shall be construed as to relieve employers from complying with contractual and statutorily imposed obligations.

L.2017, c.304, s.2.