

1 H.77

2 An act relating to Vermont's adoption of the Physical Therapy Licensure  
3 Compact

4 It is hereby enacted by the General Assembly of the State of Vermont:

5 Sec. 1. 26 V.S.A. chapter 38, subchapter 5 is added to read:

6 Subchapter 5. Physical Therapy Licensure Compact

7 § 2131. PHYSICAL THERAPY LICENSURE COMPACT; ADOPTION

8 This subchapter is the Vermont adoption of the Physical Therapy Licensure  
9 Compact. The form, format, and text of the Compact have been conformed to  
10 the conventions of the Vermont Statutes Annotated. It is the intent of the  
11 General Assembly that this subchapter be interpreted as substantively the same  
12 as the Physical Therapy Licensure Compact that is enacted by other Compact  
13 party states.

14 § 2132. PURPOSE

15 (a) The purpose of this Compact is to facilitate interstate practice of  
16 physical therapy with the goal of improving public access to physical therapy  
17 services. The practice of physical therapy occurs in the state where the  
18 patient/client is located at the time of the patient/client encounter. The  
19 Compact preserves the regulatory authority of states to protect public health  
20 and safety through the current system of state licensure.

21 (b) This Compact is designed to achieve the following objectives:

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

11           § 2133. DEFINITIONS

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

- 14           (1) “Active Duty Military” means full-time duty status in the active  
15           uniformed service of the United States, including members of the National  
16           Guard and Reserve on active duty orders pursuant to 10 U.S.C. chapters 1209  
17           and 1211.
- 18           (2) “Adverse Action” means disciplinary action taken by a physical  
19           therapy licensing board based upon misconduct or unacceptable performance,  
20           or a combination of both.

1           (3) “Alternative Program” means a nondisciplinary monitoring or  
2           practice remediation process approved by a physical therapy licensing board.  
3           This includes, but is not limited to, substance abuse issues.

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

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

12           (6) “Data system” means a repository of information about licensees,  
13           including examination, licensure, investigative, compact privilege, and adverse  
14           action.

15           (7) “Encumbered license” means a license that a physical therapy  
16           licensing board has limited in any way.

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

19           (9) “Home state” means the member state that is the licensee’s primary  
20           state of residence.

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

4           (11) “Jurisprudence Requirement” means the assessment of an  
5           individual’s knowledge of the laws and rules governing the practice of physical  
6           therapy in a state.

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

10          (13) “Member state” means a state that has enacted the Compact.

11          (14) “Party state” means any member state in which a licensee holds a  
12          current license or compact privilege or is applying for a license or compact  
13          privilege.

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

16          (16) “Physical therapist assistant” means an individual who is  
17          licensed/certified by a state and who assists the physical therapist in selected  
18          components of physical therapy.

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

1           (18) “Physical Therapy Compact Commission” or “Commission” means  
2           the national administrative body whose membership consists of all states that  
3           have enacted the Compact.

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

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

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

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

13          § 2134. STATE PARTICIPATION IN THE COMPACT

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

15               (1) participate fully in the Commission’s data system, including using  
16               the Commission’s unique identifier as defined in rules;

17               (2) have a mechanism in place for receiving and investigating  
18               complaints about licensees;

19               (3) notify the Commission, in compliance with the terms of the Compact  
20               and rules, of any adverse action or the availability of investigative information  
21               regarding a licensee;

1           (4) fully implement a criminal background check requirement, within a  
2           time frame established by rule, by receiving the results of the Federal Bureau  
3           of Investigation record search on criminal background checks and use the  
4           results in making licensure decisions in accordance with subsection (b) of this  
5           section;

6           (5) comply with the rules of the Commission;

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

9           (7) have continuing competence requirements as a condition for license  
10          renewal.

11          (b) Upon adoption of this statute, the member state shall have the authority  
12          to obtain biometric-based information from each physical therapy licensure  
13          applicant and submit this information to the Federal Bureau of Investigation  
14          for a criminal background check in accordance with 28 U.S.C. § 534 and  
15          42 U.S.C. § 14616.

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

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

1     § 2135. COMPACT PRIVILEGE

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

4           (1) hold a license in the home state;

5           (2) have no encumbrance on any state license;

6           (3) be eligible for a compact privilege in any member state in  
7     accordance with subsections (d), (g), and (h) of this section;

8           (4) have not had any adverse action against any license or compact  
9     privilege within the previous two years;

10          (5) notify the Commission that the licensee is seeking the compact  
11     privilege within a remote state(s);

12          (6) pay any applicable fees, including any state fee, for the compact  
13     privilege;

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

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

18           (b) The compact privilege is valid until the expiration date of the home  
19     license. The licensee must comply with the requirements of subsection (a) of  
20     this section to maintain the compact privilege in the remote state.

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

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

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

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

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

15       (f) Once an encumbered license in the home state is restored to good  
16       standing, the licensee must meet the requirements of subsection (a) of this  
17       section to obtain a compact privilege in any remote state.

18       (g) If a licensee's compact privilege in any remote state is removed, the  
19       individual shall lose the compact privilege in any remote state until the  
20       following occur:



1           (1) the specific period of time for which the compact privilege was  
2 removed has ended;

3           (2) all fines have been paid; and

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

5           (h) Once the requirements of subsection (g) of this section have been met,  
6 the license must meet the requirements in subsection (a) of this section to  
7 obtain a compact privilege in a remote state.

8           § 2136. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

11           (1) home of record;

12           (2) permanent Change of Station (PCS); or

13           (3) state of current residence if it is different than the PCS state or home  
14 of record.

15           § 2137. ADVERSE ACTIONS

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

18           (b) A home state may take adverse action based on the investigative  
19 information of a remote state, provided the home state follows its own  
20 procedures for imposing adverse action.

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

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

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

13               (1) Take adverse actions as set forth in subsection 2134(d) of this title  
14               against a licensee’s compact privilege in the state.

15               (2) Issue subpoenas for both hearings and investigations that require the  
16               attendance and testimony of witnesses, and the production of evidence.  
17       Subpoenas issued by a physical therapy licensing board in a party state for the  
18       attendance and testimony of witnesses, and/or the production of evidence from  
19       another party state, shall be enforced in the latter state by any court of  
20       competent jurisdiction, according to the practice and procedure of that court  
21       applicable to subpoenas issued in proceedings pending before it. The issuing

1 authority shall pay any witness fees, travel expenses, mileage, and other fees  
2 required by the service statutes of the state where the witnesses and/or  
3 evidence are located.

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

7 (f) Joint Investigations.

8 (1) In addition to the authority granted to a member state by its  
9 respective physical therapy practice act or other applicable state law, a  
10 member state may participate with other member states in joint investigations  
11 of licensees.

12 (2) Member states shall share any investigative, litigation, or compliance  
13 materials in furtherance of any joint or individual investigation initiated under  
14 the Compact.

15 § 2138. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT

16 COMMISSION.

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

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

20 (2) Venue is proper and judicial proceedings by or against the  
21 Commission shall be brought solely and exclusively in a court of competent

1 jurisdiction where the principal office of the Commission is located. The  
2 Commission may waive venue and jurisdictional defenses to the extent it  
3 adopts or consents to participate in alternative dispute resolution proceedings.

4 (3) Nothing in this Compact shall be construed to be a waiver of  
5 sovereign immunity.

6 (b) Membership, voting, and meetings.

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

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

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

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

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

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

1           (7) The Commission shall meet at least once during each calendar year.

2           Additional meetings shall be held as set forth in the bylaws.

3           (c) The Commission shall have the following powers and duties:

4           (1) Establish the fiscal year of the Commission.

5           (2) Establish bylaws.

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

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

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

12          (6) Bring and prosecute legal proceedings or actions in the name of the  
13          Commission, provided that the standing of any state physical therapy licensing  
14          board to sue or be sued under applicable law shall not be affected.

15          (7) Purchase and maintain insurance and bonds.

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

18          (9) Hire employees, elect or appoint officers, fix compensation, define  
19          duties, grant such individuals appropriate authority to carry out the purposes of  
20          the Compact, and to establish the Commission's personnel policies and

1 programs relating to conflicts of interest, qualifications of personnel, and other  
2 related personnel matters.

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

7 (11) Lease, purchase, accept appropriate gifts or donations of, or  
8 otherwise to own, hold, improve or use, any property, real, personal or mixed,  
9 provided that at all times the Commission shall avoid any appearance of  
10 impropriety.

11 (12) Sell convey, mortgage, pledge, lease, exchange, abandon, or  
12 otherwise dispose of any property real, personal, or mixed.

13 (13) Establish a budget and make expenditures.

14 (14) Borrow money.

15 (15) Appoint committees, including standing committees composed of  
16 members, state regulators, state legislators or their representatives, and  
17 consumer representatives, and such other interested persons as may be  
18 designated in this Compact and the bylaws.

19 (16) Provide and receive information from, and cooperate with, law  
20 enforcement agencies.

21 (17) Establish and elect an Executive Board.

1           (18) Perform such other functions as may be necessary or appropriate to  
2           achieve the purposes of this Compact consistent with the state regulation of  
3           physical therapy licensure and practice.

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

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

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

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

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

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

15          (3) The Commission may remove any member of the Executive Board  
16          as provided in bylaws.

17          (4) The Executive Board shall meet at least annually.

18          (5) The Executive Board shall have the following Duties and  
19          responsibilities:

20          (A) recommend to the entire Commission changes to the rules or  
21          bylaws, changes to this Compact legislation, fees paid by Compact member

1 states such as annual dues, and any commission Compact fee charged to  
2 licensees for the compact privilege;

3 (B) ensure Compact administration services are appropriately  
4 provided, contractual or otherwise;

5 (C) prepare and recommend the budget;

6 (D) maintain financial records on behalf of the Commission;

7 (E) monitor Compact compliance of member states and provide  
8 compliance reports to the Commission;

9 (F) establish additional committees as necessary; and

10 (G) other duties as provided in rules or bylaws.

11 (e) Meetings of the Commission.

12 (1) All meetings shall be open to the public, and public notice of  
13 meetings shall be given in the same manner as required under the rulemaking  
14 provisions in section 2139 of this title.

15 (2) The Commission or the Executive Board or other committees of the  
16 Commission may convene in a closed, nonpublic meeting if the Commission  
17 or Executive Board or other committees of the Commission must discuss:

18 (A) noncompliance of a member state with its obligations under the  
19 Compact;



- 1           (B) the employment, compensation, discipline or other matters,  
2           practices or procedures related to specific employees, or other matters related  
3           to the Commission’s internal personnel practices and procedures;
- 4           (C) current, threatened, or reasonably anticipated litigation;
- 5           (D) negotiation of contracts for the purchase, lease, or sale of goods,  
6           services, or real estate;
- 7           (E) accusing any person of a crime or formally censuring any person;
- 8           (F) disclosure of trade secrets or commercial or financial information  
9           that is privileged or confidential;
- 10           (G) disclosure of information of a personal nature where disclosure  
11           would constitute a clearly unwarranted invasion of personal privacy;
- 12           (H) disclosure of investigative records compiled for law enforcement  
13           purposes;
- 14           (I) disclosure of information related to any investigative reports  
15           prepared by or on behalf of or for use of the Commission or other committee  
16           charged with responsibility of investigation or determination of compliance  
17           issues pursuant to the Compact; or
- 18           (J) matters specifically exempted from disclosure by federal or  
19           member state statute.

1           (3) If a meeting, or portion of a meeting, is closed pursuant to this  
2           provision, the Commission's legal counsel or designee shall certify that the  
3           meeting may be closed and shall reference each relevant exempting provision.

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

11          (f) Financing of the Commission.

12           (1) The Commission shall pay, or provide for the payment of, the  
13           reasonable expenses of its establishment, organization, and ongoing activities.

14           (2) The Commission may accept any and all appropriate revenue  
15           sources, donations, and grants of money, equipment, supplies, materials, and  
16           services.

17           (3) The Commission may levy on and collect an annual assessment from  
18           each member state or impose fees on other parties to cover the cost of the  
19           operations and activities of the Commission and its staff, which must be in a  
20           total amount sufficient to cover its annual budget as approved each year for  
21           which revenue is not provided by other sources. The aggregate annual

1 assessment amount shall be allocated based upon a formula to be determined  
2 by the Commission, which shall promulgate a rule binding upon all member  
3 states.

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

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

15 (g) Qualified immunity, defense, and indemnification.

16 (1) The members, officers, executive director, employees, and  
17 representatives of the Commission shall be immune from suit and liability,  
18 either personally or in their official capacity, for any claim for damage to or  
19 loss of property or personal injury or other civil liability caused by or arising  
20 out of any actual or alleged act, error or omission that occurred, or that the  
21 person against whom the claim is made had a reasonable basis for believing

1 occurred within the scope of Commission employment, duties, or  
2 responsibilities, provided that nothing in this subdivision shall be construed to  
3 protect any such person from suit and/or liability for any damage, loss, injury,  
4 or liability caused by the intentional or willful or wanton misconduct of that  
5 person.

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

16 (3) The Commission shall indemnify and hold harmless any member,  
17 officer, executive director, employee, or representative of the Commission for  
18 the amount of any settlement or judgment obtained against that person arising  
19 out of any actual or alleged act, error, or omission that occurred within the  
20 scope of Commission employment, duties, or responsibilities, or that such  
21 person had a reasonable basis for believing occurred within the scope of

1 Commission employment, duties, or responsibilities, provided that the actual  
2 or alleged act, error, or omission did not result from the intentional or willful  
3 or wanton misconduct of that person.

4 § 2139. DATA SYSTEM

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

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

13 (1) identifying information;

14 (2) licensure data;

15 (3) adverse actions against a license or compact privilege;

16 (4) nonconfidential information related to alternative program  
17 participation;

18 (5) any denial of application for licensure, and the reason(s) for such  
19 denial; and

20 (6) Other information that may facilitate the administration of this  
21 Compact, as determined by the rules of the Commission.

1       (c) Investigative information pertaining to a licensee in any member state  
2       will only be available to other party states.

3       (d) The Commission shall promptly notify all member states of any adverse  
4       action taken against a licensee or an individual applying for a license. Adverse  
5       action information pertaining to a licensee in any member state will be  
6       available to any other member state.

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

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

13       § 2140. RULEMAKING

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

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

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

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

7           (1) on the website of the Commission or other publicly accessible  
8       platform; and

9           (2) on the website of each member state physical therapy licensing  
10       board or other publicly accessible platform or the publication in which each  
11       state would otherwise publish proposed rules.

12       (e) The Notice of Proposed Rulemaking shall include:

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

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

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

19           (4) the manner in which interested persons may submit notice to the  
20       Commission of their intention to attend the public hearing and any written  
21       comments.

1       (f) Prior to adoption of a proposed rule, the Commission shall allow  
2       persons to submit written data, facts, opinions, and arguments, which shall be  
3       made available to the public.

4       (g) The Commission shall grant an opportunity for a public hearing before  
5       it adopts a rule or amendment if a hearing is requested by:

6             (1) at least 25 persons;

7             (2) a state or federal governmental subdivision or agency; or

8             (3) an association having at least 25 members.

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

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

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

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



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

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

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

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

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

20                (1) meet an imminent threat to public health, safety, or welfare;

21                (2) prevent a loss of Commission or member state funds;

1           (3) meet a deadline for the promulgation of an administrative rule that is  
2           established by federal law or rule; or

3           (4) protect public health and safety.

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

15           § 2141. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

16           (a) Oversight.

17           (1) The executive, legislative, and judicial branches of state government  
18           in each member state shall enforce this Compact and take all actions necessary  
19           and appropriate to effectuate the Compact's purposes and intent. The  
20           provisions of this Compact and the rules promulgated hereunder shall have  
21           standing as statutory law.

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

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

10           (b) Default, technical assistance, and termination.

11           (1) If the Commission determines that a member state has defaulted in  
12           the performance of its obligations or responsibilities under this Compact or the  
13           promulgated rules, the Commission shall:

14           (A) provide written notice to the defaulting state and other member  
15           states of the nature of the default, the proposed means of curing the default  
16           and/or any other action to be taken by the Commission; and

17           (B) provide remedial training and specific technical assistance  
18           regarding the default.

19           (2) If a state in default fails to cure the default, the defaulting state may  
20           be terminated from the Compact upon an affirmative vote of a majority of the  
21           member states, and all rights, privileges, and benefits conferred by this

1 Compact may be terminated on the effective date of termination. A cure of the  
2 default does not relieve the offending state of obligations or liabilities incurred  
3 during the period of default.

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

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

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

15 (6) The defaulting state may appeal the action of the Commission by  
16 petitioning the U.S. District Court for the District of Columbia or the federal  
17 district where the Commission has its principal offices. The prevailing  
18 member shall be awarded all costs of such litigation, including reasonable  
19 attorney's fees.

20 (c) Dispute resolution.

1           (1) Upon request by a member state, the Commission shall attempt to  
2           resolve disputes related to the Compact that arise among member states and  
3           between member and non-member states.

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

6           (d) Enforcement.

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

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

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

1     § 2142. DATE OF IMPLEMENTATION OF THE INTERSTATE

2             COMMISSION FOR PHYSICAL THERAPY PRACTICE AND

3             ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

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

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

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

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

19            (2) Withdrawal shall not affect the continuing requirement of the  
20            withdrawing state's physical therapy licensing board to comply with the

1 investigative and adverse action reporting requirements of this act prior to the  
2 effective date of withdrawal.

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

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

10 § 2143. CONSTRUCTION AND SEVERABILITY

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

1     § 2144. STATE ADMINISTRATION OF THE COMPACT

2           (a) The Office of Professional Regulation shall have the power to oversee  
3     the administration and enforcement of the Compact within the State of  
4     Vermont subject to the provisions and rules of the Compact.

5           (b) The Director of the Office of Professional Regulation shall designate  
6     the one delegate of the Compact for the State of Vermont pursuant to  
7     subsection 2138(b) of this subchapter.

8     Sec. 2. 3 V.S.A. § 123(j)(1) is amended to read:

9           (j)(1) The Office may inquire into the criminal background histories of  
10     applicants for initial licensure and for license renewal of any Office-issued  
11     credential, including a license, certification, registration, or specialty  
12     designation for the following professions:

13           (A) licensed nursing assistants, licensed practical nurses, registered  
14     nurses, and advanced practice registered nurses licensed under 26 V.S.A.  
15     chapter 28;

16           (B) private investigators, security guards, and other persons licensed  
17     under 26 V.S.A. chapter 59;

18           (C) real estate appraisers and other persons or business entities  
19     licensed under 26 V.S.A. chapter 69; ~~and~~

20           (D) osteopathic physicians licensed under 26 V.S.A. chapter 33; and



