

1 H.77

2 Introduced by Representative Ode of Burlington

3 Referred to Committee on

4 Date:

5 Subject: Professions and occupations; Office of Professional Regulation;  
6 physical therapists; interstate compact

7 Statement of purpose of bill as introduced: This bill proposes to adopt the  
8 Physical Therapy Licensure Compact in Vermont.

9 An act relating to Vermont's adoption of the Physical Therapy Licensure  
10 Compact

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

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

13 Subchapter 5. Physical Therapy Licensure Compact

14 § 2131. PHYSICAL THERAPY LICENSURE COMPACT; ADOPTION

15 This subchapter is the Vermont adoption of the Physical Therapy Licensure  
16 Compact. The form, format, and text of the Compact have been conformed to  
17 the conventions of the Vermont Statutes Annotated. It is the intent of the  
18 General Assembly that this subchapter be interpreted as substantively the same  
19 as the Physical Therapy Licensure Compact that is enacted by other Compact  
20 party states.

1     § 2132. PURPOSE

2           (a) The purpose of this Compact is to facilitate interstate practice of  
3     physical therapy with the goal of improving public access to physical therapy  
4     services. The practice of physical therapy occurs in the state where the  
5     patient/client is located at the time of the patient/client encounter. The  
6     Compact preserves the regulatory authority of states to protect public health  
7     and safety through the current system of state licensure.

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

9           (1) Increase public access to physical therapy services by providing for  
10     the mutual recognition of other member state licenses;

11           (2) Enhance the states' ability to protect the public's health and safety;

12           (3) Encourage the cooperation of member states in regulating multi-  
13     state physical therapy practice;

14           (4) Support spouses of relocating military members;

15           (5) Enhance the exchange of licensure, investigative, and disciplinary  
16     information between member states; and

17           (6) Allow a remote state to hold a provider of services with a compact  
18     privilege in that state accountable to that state's practice standards.

19     § 2133. DEFINITIONS

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

(1) “Active Duty Military” means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. § *chapters* 1209 and 1211.

1           (2) “Adverse Action” means disciplinary action taken by a physical  
2 therapy licensing board based upon misconduct or unacceptable performance,  
3 or a combination of both.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19           § 2134. STATE PARTICIPATION IN THE COMPACT

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

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

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

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

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

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

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

16          (7) have continuing competence requirements as a condition for license  
17          renewal.

18          (b) Upon adoption of this statute, the member state shall have the authority  
19          to obtain biometric-based information from each physical therapy licensure  
20          applicant and submit this information to the Federal Bureau of Investigation

1 for a criminal background check in accordance with 28 U.S.C. § 534 and  
2 42 U.S.C. § 14616.

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

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

7 § 2135. COMPACT PRIVILEGE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

9            (2) all fines have been paid; and

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

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

14        § 2136. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

17            (1) home of record;

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

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

1     § 2137. ADVERSE ACTIONS

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

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

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

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

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

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

1           (2) Issue subpoenas for both hearings and investigations that require the  
2           attendance and testimony of witnesses, and the production of evidence.  
3           Subpoenas issued by a physical therapy licensing board in a party state for the  
4           attendance and testimony of witnesses, and/or the production of evidence from  
5           another party state, shall be enforced in the latter state by any court of  
6           competent jurisdiction, according to the practice and procedure of that court  
7           applicable to subpoenas issued in proceedings pending before it. The issuing  
8           authority shall pay any witness fees, travel expenses, mileage, and other fees  
9           required by the service statutes of the state where the witnesses and/or  
10           evidence are located.

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

14           (f) Joint Investigations.

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

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

1     § 2138. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT  
2             COMMISSION.

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

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

6                 (2) Venue is proper and judicial proceedings by or against the  
7     Commission shall be brought solely and exclusively in a court of competent  
8     jurisdiction where the principal office of the Commission is located. The  
9     Commission may waive venue and jurisdictional defenses to the extent it  
10    adopts or consents to participate in alternative dispute resolution proceedings.

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

13             (b) Membership, voting, and meetings.

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

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

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

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

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

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

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

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

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

13           (2) Establish bylaws.

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

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

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

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

4           (7) Purchase and maintain insurance and bonds.

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

7           (9) Hire employees, elect or appoint officers, fix compensation, define  
8           duties, grant such individuals appropriate authority to carry out the purposes of  
9           the Compact, and to establish the Commission's personnel policies and  
10           programs relating to conflicts of interest, qualifications of personnel, and other  
11           related personnel matters.

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

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

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

1           (13) Establish a budget and make expenditures.

2           (14) Borrow money.

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

7           (16) Provide and receive information from, and cooperate with, law  
8 enforcement agencies.

9           (17) Establish and elect an Executive Board.

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

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

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

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

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

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

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

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

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

6           (5) The Executive Board shall have the following Duties and  
7           responsibilities:

8                   (A) recommend to the entire Commission changes to the rules or  
9                   bylaws, changes to this Compact legislation, fees paid by Compact member  
10                  states such as annual dues, and any commission Compact fee charged to  
11                  licensees for the compact privilege;

12                  (B) ensure Compact administration services are appropriately  
13                  provided, contractual or otherwise;

14                  (C) prepare and recommend the budget;

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

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

18                  (F) establish additional committees as necessary; and

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

20           (e) Meetings of the Commission.



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

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

7                 (A) noncompliance of a member state with its obligations under the  
8 Compact;

9                 (B) the employment, compensation, discipline or other matters,  
10 practices or procedures related to specific employees, or other matters related  
11 to the Commission's internal personnel practices and procedures;

12                 (C) current, threatened, or reasonably anticipated litigation;

13                 (D) negotiation of contracts for the purchase, lease, or sale of goods,  
14 services, or real estate;

15                 (E) accusing any person of a crime or formally censuring any person;

16                 (F) disclosure of trade secrets or commercial or financial information  
17 that is privileged or confidential;

18                 (G) disclosure of information of a personal nature where disclosure  
19 would constitute a clearly unwarranted invasion of personal privacy;

20                 (H) disclosure of investigative records compiled for law enforcement  
21 purposes;

1           (I) disclosure of information related to any investigative reports  
2           prepared by or on behalf of or for use of the Commission or other committee  
3           charged with responsibility of investigation or determination of compliance  
4           issues pursuant to the Compact; or

5           (J) matters specifically exempted from disclosure by federal or  
6           member state statute.

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

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

17          (f) Financing of the Commission.

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

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

4           (3) The Commission may levy on and collect an annual assessment from  
5           each member state or impose fees on other parties to cover the cost of the  
6           operations and activities of the Commission and its staff, which must be in a  
7           total amount sufficient to cover its annual budget as approved each year for  
8           which revenue is not provided by other sources. The aggregate annual  
9           assessment amount shall be allocated based upon a formula to be determined  
10          by the Commission, which shall promulgate a rule binding upon all member  
11          states.

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

16          (5) The Commission shall keep accurate accounts of all receipts and  
17          disbursements. The receipts and disbursements of the Commission shall be  
18          subject to the audit and accounting procedures established under its bylaws.  
19          However, all receipts and disbursements of funds handled by the Commission  
20          shall be audited yearly by a certified or licensed public accountant, and the

1 report of the audit shall be included in and become part of the annual report of  
2 the Commission.

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

4 (1) The members, officers, executive director, employees, and  
5 representatives of the Commission shall be immune from suit and liability,  
6 either personally or in their official capacity, for any claim for damage to or  
7 loss of property or personal injury or other civil liability caused by or arising  
8 out of any actual or alleged act, error or omission that occurred, or that the  
9 person against whom the claim is made had a reasonable basis for believing  
10 occurred within the scope of Commission employment, duties, or  
11 responsibilities, provided that nothing in this subdivision shall be construed to  
12 protect any such person from suit and/or liability for any damage, loss, injury,  
13 or liability caused by the intentional or willful or wanton misconduct of that  
14 person.

15 (2) The Commission shall defend any member, officer, executive  
16 director, employee, or representative of the Commission in any civil action  
17 seeking to impose liability arising out of any actual or alleged act, error, or  
18 omission that occurred within the scope of Commission employment, duties,  
19 or responsibilities, or that the person against whom the claim is made had a  
20 reasonable basis for believing occurred within the scope of Commission  
21 employment, duties, or responsibilities, provided that nothing herein shall be

1 construed to prohibit that person from retaining the person's own counsel, and  
2 provided further, that the actual or alleged act, error, or omission did not result  
3 from that person's intentional or willful or wanton misconduct.

4 (3) The Commission shall indemnify and hold harmless any member,  
5 officer, executive director, employee, or representative of the Commission for  
6 the amount of any settlement or judgment obtained against that person arising  
7 out of any actual or alleged act, error, or omission that occurred within the  
8 scope of Commission employment, duties, or responsibilities, or that such  
9 person had a reasonable basis for believing occurred within the scope of  
10 Commission employment, duties, or responsibilities, provided that the actual  
11 or alleged act, error, or omission did not result from the intentional or willful  
12 or wanton misconduct of that person.

13 § 2139. DATA SYSTEM

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

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

1           (1) identifying information;

2           (2) licensure data;

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

4           (4) nonconfidential information related to alternative program

5 participation;

6           (5) any denial of application for licensure, and the reason(s) for such

7 denial; and

8           (6) Other information that may facilitate the administration of this

9 Compact, as determined by the rules of the Commission.

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

12           (d) The Commission shall promptly notify all member states of any  
13 adverse action taken against a licensee or an individual applying for a license.

14 Adverse action information pertaining to a licensee in any member state will  
15 be available to any other member state.

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

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

1     § 2140. RULEMAKING

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

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

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

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

16                 (1) on the website of the Commission or other publicly accessible  
17                 platform; and

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

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

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

3           (2) the text of the proposed rule or amendment and the reason for the  
4 proposed rule;

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

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

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

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

15           (1) at least 25 persons;

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

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

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



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

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

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

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

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

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

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

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

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

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

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

12              (4) protect public health and safety.

13       (m) The Commission or an authorized committee of the Commission may  
14       direct revisions to a previously adopted rule or amendment for purposes of  
15       correcting typographical errors, errors in format, errors in consistency, or  
16       grammatical errors. Public notice of any revisions shall be posted on the  
17       website of the Commission. The revision shall be subject to challenge by any  
18       person for a period of 30 days after posting. The revision may be challenged  
19       only on grounds that the revision results in a material change to a rule. A  
20       challenge shall be made in writing and delivered to the chair of the  
21       Commission prior to the end of the notice period. If no challenge is made, the

1 revision will take effect without further action. If the revision is challenged,  
2 the revision may not take effect without the approval of the Commission.

3 § 2141. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

4 (a) Oversight.

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

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

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

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

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

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

7                   (B) provide remedial training and specific technical assistance  
8                   regarding the default.

9           (2) If a state in default fails to cure the default, the defaulting state may  
10           be terminated from the Compact upon an affirmative vote of a majority of the  
11           member states, and all rights, privileges, and benefits conferred by this  
12           Compact may be terminated on the effective date of termination. A cure of the  
13           default does not relieve the offending state of obligations or liabilities incurred  
14           during the period of default.

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

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

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

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

12          (c) Dispute resolution.

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

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

18          (d) Enforcement.

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

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

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

12          § 2142. DATE OF IMPLEMENTATION OF THE INTERSTATE

13                   COMMISSION FOR PHYSICAL THERAPY PRACTICE AND  
14                   ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

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

1       **(b) Any state that joins the Compact subsequent to the Commission's**  
2       **initial adoption of the rules shall be subject to the rules as they exist on the**  
3       **date on which the Compact becomes law in that state. Any rule that has been**  
4       **previously adopted by the Commission shall have the full force and effect of**  
5       **law on the day the Compact becomes law in that state.**

6       **(c) Any member state may withdraw from this Compact by enacting a**  
7       **statute repealing the same.**

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

10              **(2) Withdrawal shall not affect the continuing requirement of the**  
11       **withdrawing state's physical therapy licensing board to comply with the**  
12       **investigative and adverse action reporting requirements of this act prior to the**  
13       **effective date of withdrawal.**

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

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

1     § 2143. CONSTRUCTION AND SEVERABILITY

2             This Compact shall be liberally construed so as to effectuate the purposes  
3     thereof. The provisions of this Compact shall be severable and if any phrase,  
4     clause, sentence or provision of this Compact is declared to be contrary to the  
5     constitution of any party state or of the United States or the applicability  
6     thereof to any government, agency, person or circumstance is held invalid, the  
7     validity of the remainder of this Compact and the applicability thereof to any  
8     government, agency, person or circumstance shall not be affected thereby. If  
9     this Compact shall be held contrary to the constitution of any party state, the  
10    Compact shall remain in full force and effect as to the remaining party states  
11    and in full force and effect as to the party state affected as to all severable  
12    matters.

§ 2144. STATE ADMINISTRATION OF THE COMPACT

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

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

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



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

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

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

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

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

*(E) physical therapists licensed under 26 V.S.A. chapter 38.*

~~Sec. 2. Sec. 3. EFFECTIVE DATE~~

~~This act shall take effect on January 1, 2024.~~

~~Sec. 3. EFFECTIVE DATES~~

~~This section and Sec. 2 (3 V.S.A. § 122(j)(1)) shall take effect on July 1,~~

~~2025. Sec. 1 (physical therapists) shall take effect on July 1, 2024.~~

*Sec. 3. 3 V.S.A. § 125 is amended to read:*

*§ 125. FEES*

\* \* \*

*(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:*

*\* \* \**

*(4) Biennial renewal, \$240.00, except biennial renewal for:*

*\* \* \**

*(C) Physical therapists and assistants, \$150.00, except that a licensee of a remote state under the Physical Therapy Licensure Compact established in 26 V.S.A. chapter 38, subchapter 5 shall pay a biennial \$50.00 privilege to practice fee.*

*\* \* \**

*Sec. 4. EFFECTIVE DATES*

*This act shall take effect on July 1, 2023, except that Sec. 1 (physical therapist licensure compact) and Sec. 3 (fees) shall take effect on July 1, 2024.*