

AN ACT

relating to the continuation and functions of the Executive Council of Physical Therapy and Occupational Therapy Examiners, the Texas Board of Physical Therapy Examiners, and the Texas Board of Occupational Therapy Examiners; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EXAMINERS

SECTION 1.01. Section 452.002, Occupations Code, is amended to read as follows:

Sec. 452.002. APPLICATION OF SUNSET ACT. The Executive Council of Physical Therapy and Occupational Therapy Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the executive council is abolished and the following laws expire September 1, 2029 [~~2017~~]:

- (1) this chapter;
- (2) Chapter 453; and
- (3) Chapter 454.

SECTION 1.02. Section 452.053, Occupations Code, is amended to read as follows:

Sec. 452.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.
(a) In this section, "Texas trade association" means a [~~nonprofit~~] cooperative[~~7~~] and voluntarily joined statewide

1 association of business or professional competitors in this state
2 designed to assist its members and its industry or profession in
3 dealing with mutual business or professional problems and in
4 promoting their common interest.

5 (b) A person [~~An officer, employee, or paid consultant of a~~
6 ~~Texas trade association in the field of health care~~] may not be a
7 member of the executive council and may not be an employee of the
8 executive council employed in a "bona fide executive,
9 administrative, or professional capacity," as that phrase is used
10 for purposes of establishing an exemption to the overtime
11 provisions of the federal Fair Labor Standards Act of 1938 (29
12 U.S.C. Section 201 et seq.), if:

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

16 (2) the person's [~~who is exempt from the state's~~
17 ~~position classification plan or is compensated at or above the~~
18 ~~amount prescribed by the General Appropriations Act for step 1,~~
19 ~~salary group A17, of the position classification salary schedule.~~

20 [~~(c) A person who is the~~] spouse is [~~of~~] an officer,
21 manager, or paid consultant of a Texas trade association in the
22 field of health care [~~may not be a member of the executive council~~
23 ~~and may not be an employee of the executive council who is exempt~~
24 ~~from the state's position classification plan or is compensated at~~
25 ~~or above the amount prescribed by the General Appropriations Act~~
26 ~~for step 1, salary group A17, of the position classification salary~~
27 ~~schedule].~~

1 (c) [~~(d)~~] A person may not serve as a member of the
2 executive council or act as the general counsel to the executive
3 council if the person is required to register as a lobbyist under
4 Chapter 305, Government Code, because of the person's activities
5 for compensation on behalf of a profession related to the operation
6 of the executive council, the occupational therapy board, or the
7 physical therapy board.

8 SECTION 1.03. Sections 452.056(a) and (c), Occupations
9 Code, are amended to read as follows:

10 (a) It is a ground for removal from the executive council
11 that a member:

12 (1) does not have at the time of taking office
13 [~~appointment~~] the qualifications required by Section 452.051;

14 (2) does not maintain during service on the executive
15 council the qualifications required by Section 452.051;

16 (3) is ineligible for membership under [~~violates a~~
17 ~~prohibition established by~~] Section 452.052 or 452.053;

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

21 (5) is absent from more than half of the regularly
22 scheduled executive council meetings that the member is eligible to
23 attend during a calendar year without an excuse approved [~~unless~~
24 ~~the absence is excused~~] by a majority vote of the executive council.

25 (c) If the director has knowledge that a potential ground
26 for removal exists, the director shall notify the presiding officer
27 of the executive council of the potential ground. The presiding

1 officer shall then notify the governor and the attorney general
2 ~~[authority that appointed the member]~~ that a potential ground for
3 removal exists. If the potential ground for removal involves the
4 presiding officer, the director shall notify the next highest
5 ranking officer of the executive council, who shall then notify the
6 governor and the attorney general that a potential ground for
7 removal exists.

8 SECTION 1.04. Subchapter B, Chapter 452, Occupations Code,
9 is amended by adding Section 452.059 to read as follows:

10 Sec. 452.059. TRAINING. (a) A person who is appointed to
11 and qualifies for office as a member of the executive council may
12 not vote, deliberate, or be counted as a member in attendance at a
13 meeting of the executive council until the person completes a
14 training program that complies with this section.

15 (b) The training program required under this section must
16 provide the person with information regarding:

17 (1) the law governing the operations of the executive
18 council, physical therapy board, and occupational therapy board;

19 (2) the programs, functions, rules, and budgets of the
20 executive council, physical therapy board, and occupational
21 therapy board;

22 (3) the scope of and limitations on the rulemaking
23 authority of the executive council, physical therapy board, and
24 occupational therapy board;

25 (4) the types of executive council, physical therapy
26 board, and occupational therapy board rules, interpretations, and
27 enforcement actions that may implicate federal antitrust law by

1 limiting competition or impacting prices charged by persons engaged
2 in a profession or business regulated by the executive council,
3 physical therapy board, or occupational therapy board, including
4 rules, interpretations, and enforcement actions that:

5 (A) regulate the scope of practice of persons
6 engaged in a profession or business regulated by the executive
7 council, physical therapy board, or occupational therapy board;

8 (B) restrict advertising by persons engaged in a
9 profession or business regulated by the executive council, physical
10 therapy board, or occupational therapy board;

11 (C) affect the price of goods or services
12 provided by persons engaged in a profession or business regulated
13 by the executive council, physical therapy board, or occupational
14 therapy board; or

15 (D) restrict participation in a profession or
16 business regulated by the executive council, physical therapy
17 board, or occupational therapy board;

18 (5) the results of the most recent formal audit of the
19 executive council, physical therapy board, and occupational
20 therapy board;

21 (6) the requirements of:

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

25 (B) other laws applicable to members of the
26 executive council, physical therapy board, and occupational
27 therapy board in performing their duties; and

1 (7) any applicable ethics policies adopted by the
2 executive council or the Texas Ethics Commission.

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

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

15 SECTION 1.05. Section 452.102, Occupations Code, is amended
16 to read as follows:

17 Sec. 452.102. DIVISION OF RESPONSIBILITIES. The executive
18 council shall develop and implement policies that clearly separate
19 ~~[define]~~ the polycymaking ~~[respective]~~ responsibilities of the
20 executive council and the management responsibilities of the
21 director and the staff of the executive council.

22 SECTION 1.06. Section 452.152(b), Occupations Code, is
23 amended to read as follows:

24 (b) The executive council shall perform the administrative
25 functions relating to issuing and renewing licenses, including~~[-~~

26 ~~[(1) the administration of written examinations and~~
27 ~~collection of fees, and~~

1 ~~[(2)]~~ the ministerial functions of preparing and
2 delivering licenses, obtaining material and information in
3 connection with the renewal of a license, and receiving and
4 forwarding complaints to the appropriate board.

5 SECTION 1.07. Subchapter D, Chapter 452, Occupations Code,
6 is amended by adding Section 452.160 to read as follows:

7 Sec. 452.160. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
8 RESOLUTION. (a) The executive council shall develop a policy to
9 encourage the use of:

10 (1) negotiated rulemaking under Chapter 2008,
11 Government Code, for the adoption of rules by the executive council
12 or the occupational therapy or physical therapy boards; and

13 (2) appropriate alternative dispute resolution
14 procedures under Chapter 2009, Government Code, to assist in the
15 resolution of internal and external disputes under the executive
16 council's jurisdiction.

17 (b) The executive council's procedures relating to
18 alternative dispute resolution must conform, to the extent
19 possible, to any model guidelines issued by the State Office of
20 Administrative Hearings for the use of alternative dispute
21 resolution by state agencies.

22 (c) The executive council shall:

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

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

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

3 SECTION 1.08. Section 452.153(b), Occupations Code, is
4 repealed.

5 SECTION 1.09. As soon as practicable after the effective
6 date of this article:

7 (1) the director of the Executive Council of Physical
8 Therapy and Occupational Therapy Examiners shall create the
9 training manual required by Section 452.059(d), Occupations Code,
10 as added by this article; and

11 (2) the executive council shall:

12 (A) develop and implement the policies required
13 by Section 452.102, Occupations Code, as amended by this article;
14 and

15 (B) develop the policy required by Section
16 452.160, Occupations Code, as added by this article.

17 SECTION 1.10. Notwithstanding Section 452.059(a),
18 Occupations Code, as added by this article, a member of the
19 Executive Council of Physical Therapy and Occupational Therapy
20 Examiners who has not completed the training required by Section
21 452.059, Occupations Code, as added by this article, may vote,
22 deliberate, and be counted as a member in attendance at a meeting of
23 the Executive Council of Physical Therapy and Occupational Therapy
24 Examiners until December 1, 2017.

25 ARTICLE 2. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

26 SECTION 2.01. Section 453.002, Occupations Code, is amended
27 to read as follows:

1 Sec. 453.002. APPLICATION OF SUNSET ACT. The Texas Board of
2 Physical Therapy Examiners is subject to Chapter 325, Government
3 Code (Texas Sunset Act). Unless continued in existence as provided
4 by that chapter, the board is abolished and this chapter expires
5 September 1, 2029 [~~2017~~].

6 SECTION 2.02. Section 453.054, Occupations Code, is amended
7 to read as follows:

8 Sec. 453.054. MEMBERSHIP RESTRICTIONS. (a) In this
9 section, "Texas trade association" means a [~~nonprofit,~~
10 cooperative~~[-]~~] and voluntarily joined statewide association of
11 business or professional competitors in this state designed to
12 assist its members and its industry or profession in dealing with
13 mutual business or professional problems and in promoting their
14 common interest.

15 (b) A person [~~An officer, employee, or paid consultant of a~~
16 ~~Texas trade association in the field of health care~~] may not be a
17 member of the board if:

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

21 (2) the person's [~~-~~

22 [~~(c) A person who is the~~] spouse is [~~of~~] an officer,
23 manager, or paid consultant of a Texas trade association in the
24 field of health care [~~may not be a member of the board~~].

25 (c) [~~(d)~~] A person may not be [~~serve as~~] a member of the
26 board if the person is required to register as a lobbyist under
27 Chapter 305, Government Code, because of the person's activities

1 for compensation on behalf of a profession related to the operation
2 of the board.

3 SECTION 2.03. Sections 453.056(a) and (c), Occupations
4 Code, are amended to read as follows:

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

6 (1) does not have at the time of taking office
7 ~~[appointment]~~ the qualifications required by Section 453.051(a);

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

10 (3) is ineligible for membership under ~~[violates a~~
11 ~~prohibition established by]~~ Section 453.053 or 453.054;

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

15 (5) is absent from more than half of the regularly
16 scheduled board meetings that the member is eligible to attend
17 during a calendar year without an excuse approved ~~[unless the~~
18 ~~absence is excused]~~ by a majority vote of the board.

19 (c) If the coordinator of physical therapy programs has
20 knowledge that a potential ground for removal exists, the
21 coordinator shall notify the presiding officer of the board of the
22 potential ground. The presiding officer shall then notify the
23 governor and the attorney general that a potential ground for
24 removal exists. If the potential ground for removal involves the
25 presiding officer, the coordinator shall notify the next highest
26 ranking officer of the board, who shall then notify the governor and
27 the attorney general that a potential ground for removal exists.

1 SECTION 2.04. Section 453.058, Occupations Code, is amended
2 to read as follows:

3 Sec. 453.058. OFFICERS. (a) The governor shall designate
4 a member of the board as the presiding officer of the board to serve
5 in that capacity at the pleasure of the governor.

6 (b) After the appointment of members every two years, the
7 members of the board shall elect from among its members a [presiding
8 officer,] secretary[,] and other officers required to conduct the
9 business of the board.

10 SECTION 2.05. Section 453.060, Occupations Code, is amended
11 to read as follows:

12 Sec. 453.060. TRAINING. (a) A person who is appointed to
13 and qualifies for office as [Before] a member of the board may not
14 vote, deliberate, or be counted as a member in attendance at a
15 meeting of [assume the member's duties, the member must complete at
16 least a course of the training program established by] the board
17 until the person completes a training program that complies with
18 [under] this section.

19 (b) The [A] training program must [shall] provide the person
20 with information [to a participant] regarding:

21 (1) the law governing board and executive council
22 operations [this chapter];

23 (2) the programs, functions, rules, and budgets of
24 [operated by] the board and executive council;

25 (3) the scope of and limitations on the rulemaking
26 authority [the role and functions] of the board and executive
27 council;

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

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

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

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

14 (D) restrict participation in a profession or
15 business regulated by the board [~~the rules of the board, with an~~
16 ~~emphasis on the rules that relate to disciplinary and investigatory~~
17 ~~authority];~~

18 (5) [~~the current budget for the board,~~
19 [~~6~~] the results of the most recent formal audit of
20 the board and executive council;

21 (6) [~~7~~] the requirements of:
22 (A) laws relating to open meetings, public
23 information, administrative procedure, and disclosure of conflicts
24 [~~Chapters 551, 552, 2001, and 2002, Government Code,~~

25 [~~8~~ the requirements of the conflict] of interest;
26 and

27 (B) [~~laws and~~] other laws applicable to members

1 of the board in performing their duties [~~relating to public~~
2 ~~officials~~]; and

3 (7) [~~(9)~~] any applicable ethics policies adopted by
4 the board or the Texas Ethics Commission.

5 (c) A person appointed to the board is entitled to
6 reimbursement, as provided by the General Appropriations Act, for
7 the travel expenses incurred in attending the training program
8 regardless of whether the person's attendance at the program occurs
9 before or after the person qualifies for office [~~In developing the~~
10 ~~training requirements provided for by this section, the board shall~~
11 ~~consult with the governor's office, the attorney general's office,~~
12 ~~and the Texas Ethics Commission~~].

13 (d) The director of the executive council shall create a
14 training manual that includes the information required by
15 Subsection (b). The director shall distribute a copy of the
16 training manual annually to each board member. On receipt of the
17 training manual, each board member shall sign and submit to the
18 director a statement acknowledging receipt of the training manual
19 [~~If another state agency or entity is given the authority to~~
20 ~~establish the training requirements, the board shall allow that~~
21 ~~training instead of developing its own program~~].

22 SECTION 2.06. Section 453.105(b), Occupations Code, is
23 amended to read as follows:

24 (b) The board shall develop and implement policies that
25 clearly separate [~~define~~] the policymaking [~~respective~~]
26 responsibilities of the board and the management responsibilities
27 of the director and [~~the~~] staff of the executive council.

1 SECTION 2.07. Subchapter C, Chapter 453, Occupations Code,
2 is amended by adding Sections 453.1061 and 453.109 to read as
3 follows:

4 Sec. 453.1061. PLACE OF EMPLOYMENT. The board may require
5 that a license holder provide current information in a readily
6 accessible and usable format regarding the license holder's place
7 of employment as a physical therapist or physical therapist
8 assistant.

9 Sec. 453.109. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
10 RESOLUTION. (a) The board shall develop a policy to encourage the
11 use of:

12 (1) negotiated rulemaking under Chapter 2008,
13 Government Code, for the adoption of board rules; and

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

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

22 (c) The board shall:

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

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

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

3 SECTION 2.08. Section 453.151(c), Occupations Code, is
4 amended to read as follows:

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

15 SECTION 2.09. Section 453.154(e), Occupations Code, is
16 amended to read as follows:

17 (e) The staff of the executive council [~~coordinator of~~
18 ~~physical therapy programs~~] shall notify the board of a complaint
19 that is unresolved after the time prescribed by the board for
20 resolving the complaint so that the board may take necessary action
21 on the complaint.

22 SECTION 2.10. The heading to Subchapter E, Chapter 453,
23 Occupations Code, is amended to read as follows:

24 SUBCHAPTER E. LICENSE REQUIREMENTS [~~, REGISTRATION OF FACILITIES~~]

25 SECTION 2.11. Section 453.202(b), Occupations Code, is
26 amended to read as follows:

27 (b) The application must be accompanied by[+]

1 ~~[(1) an examination fee prescribed by the board, and~~
2 ~~[(2)]~~ a nonrefundable application fee prescribed by
3 the executive council ~~[board]~~.

4 SECTION 2.12. Section 453.203, Occupations Code, is amended
5 to read as follows:

6 Sec. 453.203. QUALIFICATIONS FOR PHYSICAL THERAPIST OR
7 PHYSICAL THERAPIST ASSISTANT LICENSE. (a) An applicant for a
8 physical therapist license must, in addition to other requirements
9 and qualifications established by the board, present:

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

13 (2) official documentation from an educational
14 credentials review agency approved by the board certifying that the
15 applicant has completed~~+~~

16 ~~[(A)]~~ a program equivalent to a Commission on
17 Accreditation in ~~[of]~~ Physical Therapy Education accredited
18 program~~, and~~

19 ~~[(B) at least 60 academic semester credits or the~~
20 ~~equivalent from an accredited institution of higher education]~~.

21 (b) An applicant for a physical therapist assistant license
22 must, in addition to other requirements and qualifications
23 established by the board, present evidence satisfactory to the
24 board that the applicant has completed an accredited physical
25 therapist assistant program or an accredited physical therapy
26 educational program~~, including courses in the anatomical,~~
27 ~~biological, and physical sciences, and clinical procedures~~

1 ~~prescribed and approved by the board].~~

2 (c) A physical therapy educational program or physical
3 therapist assistant program is an accredited program if the program
4 is[+]

5 [~~(1)~~] accredited by the Commission on Accreditation in
6 Physical Therapy Education[~~, and~~

7 [~~(2)~~ associated with an institution of higher
8 education].

9 SECTION 2.13. Section 453.204(b), Occupations Code, is
10 amended to read as follows:

11 (b) Before allowing a foreign-trained applicant to take the
12 examination, the board shall require the applicant to furnish proof
13 of[+]

14 [~~(1)~~ good moral character, and

15 [~~(2)~~] completion of requirements substantially equal
16 to those under Section 453.203.

17 SECTION 2.14. Section 453.205, Occupations Code, is amended
18 to read as follows:

19 Sec. 453.205. LICENSE EXAMINATION. (a) The board by rule
20 shall recognize a national testing entity to administer the
21 examination required to obtain a physical therapist or physical
22 therapist assistant license [~~shall examine applicants for licenses~~
23 ~~at least once each year at a reasonable place and time designated by~~
24 ~~the board].~~

25 (b) The physical therapist examination is a national
26 examination that tests entry-level competence related to [~~must~~
27 ~~cover the subjects generally taught by an accredited]~~ physical

1 therapy theory, examination [~~educational program or an accredited~~
2 ~~physical therapist assistant program and may include clinical~~
3 ~~decision-making~~] and evaluation, prognosis, treatment
4 intervention, prevention [~~program planning and implementation, and~~
5 ~~administration, education~~], and consultation[, ~~and research in~~
6 ~~physical therapy~~].

7 (c) The physical therapist assistant examination is a
8 national examination that tests for required knowledge and skills
9 in the technical application of physical therapy services [~~board by~~
10 ~~rule may establish a procedure for administering the examination,~~
11 ~~including the conditions under which and the number of times an~~
12 ~~applicant may retake an examination~~].

13 (d) An applicant for a license must agree to comply with the
14 security and copyright provisions of the national examination. If
15 the board has knowledge of a violation of the security or copyright
16 provisions or a compromise or attempted compromise of the
17 provisions, the board shall report the matter to the testing entity
18 [~~The board shall have any written portion of the examination~~
19 ~~validated by an independent testing entity~~].

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

26 (f) If the board enters into a contract with a national
27 testing entity under Subsection (a), the contract must include a

1 provision requiring the national testing entity to provide to the
2 board an examination score report for each applicant for a license
3 under this chapter who took the examination.

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

7 SECTION 2.15. Section 453.207, Occupations Code, is amended
8 to read as follows:

9 Sec. 453.207. REEXAMINATION. (a) An applicant who fails
10 to pass an [~~a one-part~~] examination under Section 453.205 may
11 retake the examination under the policies of the national testing
12 entity [~~or a part of a divided examination may take another one-part~~
13 ~~examination or the part of the divided examination that the~~
14 ~~applicant failed on payment of an additional examination fee)].~~

15 (b) [~~If an applicant fails to pass a second or subsequent~~
16 ~~examination, the board shall require the applicant to complete an~~
17 ~~additional course of study designated by the board.] Before
18 retaking an [~~taking a subsequent~~] examination, the applicant must:~~

19 (1) submit [~~present~~] to the board a reexamination
20 application prescribed by the board [~~satisfactory evidence that the~~
21 ~~applicant has completed the required course of study]; and~~

22 (2) pay a nonrefundable application [~~an additional~~]
23 fee prescribed by the executive council [~~equal to the amount of the~~
24 ~~fee required for filing the original application)].~~

25 SECTION 2.16. Subchapter E, Chapter 453, Occupations Code,
26 is amended by adding Sections 453.214 and 453.215 to read as
27 follows:

1 Sec. 453.214. LICENSE BY ENDORSEMENT. (a) The board shall
2 issue a physical therapist license or a physical therapist
3 assistant license, as applicable, to an applicant who holds a
4 current, unrestricted license in another jurisdiction that
5 maintains licensing requirements that are substantially equivalent
6 to the requirements under this chapter. An applicant for a license
7 under this section must:

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

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

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

16 (4) meet the qualifications required by Section
17 453.203 or 453.204, as applicable;

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

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

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

24 (b) The board shall adopt rules for issuing a provisional
25 license under Section 453.209 to an applicant for a license by
26 endorsement who encounters a delay that is outside the applicant's
27 control in submitting to the board the documentation required by

1 this section.

2 Sec. 453.215. CRIMINAL HISTORY RECORD INFORMATION FOR
3 LICENSE ISSUANCE. (a) The board shall require that an applicant
4 for a license submit a complete and legible set of fingerprints, on
5 a form prescribed by the board, to the board or to the Department of
6 Public Safety for the purpose of obtaining criminal history record
7 information from the Department of Public Safety and the Federal
8 Bureau of Investigation.

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

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

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

15 (2) made available to the board by the Department of
16 Public Safety, the Federal Bureau of Investigation, and any other
17 criminal justice agency under Chapter 411, Government Code.

18 (d) The board may:

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

22 (2) authorize the Department of Public Safety to
23 collect from each applicant the costs incurred by the Department of
24 Public Safety in conducting the criminal history record information
25 check.

26 SECTION 2.17. Section 453.251(a), Occupations Code, is
27 amended to read as follows:

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

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

5 (2) another date determined by the board.

6 SECTION 2.18. Section 453.252(b), Occupations Code, is
7 amended to read as follows:

8 (b) A person whose license has been expired for 90 days or
9 less may renew the license by paying to the executive council the
10 renewal fee and a late fee set by the executive council in an amount
11 that does not exceed one-half of the amount charged for renewal of
12 ~~[examination for]~~ the license. If a person's license has been
13 expired for more than 90 days but less than one year, the person may
14 renew the license by paying to the executive council all unpaid
15 renewal fees and a late fee set by the executive council in an
16 amount that does not exceed the amount charged for renewal of
17 ~~[examination for]~~ the license.

18 SECTION 2.19. Section 453.253(b), Occupations Code, is
19 amended to read as follows:

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

23 SECTION 2.20. Section 453.254, Occupations Code, is amended
24 by adding Subsection (e) to read as follows:

25 (e) The board by rule shall establish a process for
26 selecting an appropriate organization to approve continuing
27 competence activities under Subsection (d). The selection process

1 must include a request for proposal and bidding process. If the
2 board authorizes an organization to approve continuing competence
3 activities under Subsection (d), the board shall request bids and
4 proposals from that organization and other organizations at least
5 once every four years.

6 SECTION 2.21. Subchapter F, Chapter 453, Occupations Code,
7 is amended by adding Section 453.255 to read as follows:

8 Sec. 453.255. CRIMINAL HISTORY RECORD INFORMATION
9 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a
10 license issued under this chapter shall submit a complete and
11 legible set of fingerprints for purposes of performing a criminal
12 history record information check of the applicant as provided by
13 Section 453.215.

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

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

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

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

23 SECTION 2.22. Subchapter H, Chapter 453, Occupations Code,
24 is amended by adding Sections 453.3525 and 453.357 to read as
25 follows:

26 Sec. 453.3525. SCHEDULE OF SANCTIONS. (a) The board by
27 rule shall adopt a schedule of administrative penalties and other

1 sanctions that the board may impose under this chapter. In adopting
2 the schedule of sanctions, the board shall ensure that the amount of
3 the penalty or severity of the sanction imposed is appropriate to
4 the type of violation or conduct that is the basis for disciplinary
5 action. In determining the appropriate disciplinary action,
6 including the amount of any administrative penalty to assess, the
7 board shall consider:

8 (1) the seriousness of the violation, including:

9 (A) the nature, circumstances, extent, and
10 gravity of the violation; and

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

13 (2) the history of previous violations;

14 (3) the amount necessary to deter future violations;

15 (4) efforts to correct the violation;

16 (5) the economic harm to the public interest or public
17 confidence caused by the violation;

18 (6) whether the violation was intentional; and

19 (7) any other matter that justice may require.

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

22 Sec. 453.357. RECORD OF DISCIPLINARY ACTION; EXPUNGEMENT.

23 (a) The board by rule shall establish a process to expunge any
24 record of disciplinary action taken against a license holder before
25 September 1, 2019, for practicing in a facility that failed to meet
26 the registration requirements of Section 453.213, as that section
27 existed on January 1, 2019. The rules must provide that the board

1 may not expunge a record under this section after September 1, 2021.

2 (b) This section expires September 1, 2021.

3 SECTION 2.23. Section 453.401, Occupations Code, is amended
4 to read as follows:

5 Sec. 453.401. IMPOSITION OF PENALTY. The board may impose
6 an administrative penalty on a person licensed or regulated under
7 this chapter [~~or a facility registered under this chapter~~] who
8 violates this chapter or a rule or order adopted under this chapter.

9 SECTION 2.24. Section 453.402(b), Occupations Code, is
10 amended to read as follows:

11 (b) The amount of the penalty shall be determined according
12 to the sanctions schedule adopted under Section 453.3525 [~~based on:~~

13 [~~(1) the seriousness of the violation, including:~~

14 [~~(A) the nature, circumstances, extent, and~~
15 ~~gravity of a prohibited act, and~~

16 [~~(B) the hazard or potential hazard created to~~
17 ~~the health, safety, or economic welfare of the public,~~

18 [~~(2) the history of previous violations,~~

19 [~~(3) the amount necessary to deter future violations,~~

20 [~~(4) efforts to correct the violation, and~~

21 [~~(5) any other matter that justice may require~~].

22 SECTION 2.25. Section 453.403(a), Occupations Code, is
23 amended to read as follows:

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

1 SECTION 2.26. The following provisions of the Occupations
2 Code are repealed:

- 3 (1) Section 453.001(8);
- 4 (2) Section 453.202(c);
- 5 (3) Section 453.206; and
- 6 (4) Section 453.213.

7 SECTION 2.27. (a) Except as provided by Subsection (b) of
8 this section, Section 453.060, Occupations Code, as amended by this
9 article, applies to a member of the Texas Board of Physical Therapy
10 Examiners appointed before, on, or after the effective date of this
11 article.

12 (b) A member of the Texas Board of Physical Therapy
13 Examiners who, before the effective date of this article, completed
14 the training program required by Section 453.060, Occupations Code,
15 as that law existed before the effective date of this article, is
16 required to complete additional training only on subjects added to
17 the training program required by Section 453.060, Occupations Code,
18 as amended by this article. A board member described by this
19 subsection may not vote, deliberate, or be counted as a member in
20 attendance at a meeting of the Texas Board of Physical Therapy
21 Examiners held on or after December 1, 2017, until the member
22 completes the additional training.

23 SECTION 2.28. As soon as practicable after the effective
24 date of this article, the director of the Executive Council of
25 Physical Therapy and Occupational Therapy Examiners shall create
26 the training manual required by Section 453.060(d), Occupations
27 Code, as amended by this article.

1 SECTION 2.29. As soon as practicable after the effective
2 date of this article, the Texas Board of Physical Therapy Examiners
3 shall:

4 (1) develop and implement the policies required by:

5 (A) Section 453.105(b), Occupations Code, as
6 amended by this article; and

7 (B) Section 453.109, Occupations Code, as added
8 by this article; and

9 (2) adopt any rules necessary to implement Chapter
10 453, Occupations Code, as amended by this article.

11 SECTION 2.30. Not later than September 1, 2018, the Texas
12 Board of Physical Therapy Examiners shall establish the request for
13 proposal and bidding process required by Section 453.254(e),
14 Occupations Code, as added by this article.

15 SECTION 2.31. Sections 453.203, 453.204, 453.205, 453.207,
16 453.252, and 453.253, Occupations Code, as amended by this article,
17 and Sections 453.215 and 453.255, Occupations Code, as added by
18 this article, apply only to an application for the issuance or
19 renewal of a physical therapist or physical therapist assistant
20 license submitted to the Texas Board of Physical Therapy Examiners
21 on or after the effective date of this article. An application
22 submitted before that date is governed by the law in effect on the
23 date the application was submitted, and the former law is continued
24 in effect for that purpose.

25 SECTION 2.32. A person who holds a physical therapist or
26 physical therapist assistant license issued before the effective
27 date of this article may continue to renew that license without

1 complying with the changes in law made by this article to Section
2 [453.203](#), Occupations Code.

3 SECTION 2.33. (a) The Texas Board of Physical Therapy
4 Examiners shall dismiss the portion of any complaint, penalty,
5 disciplinary action, or contested case pending on September 1,
6 2019, that is based on a violation of rules adopted under Section
7 [453.213](#), Occupations Code, as repealed by this article.

8 (b) Section [453.357](#), Occupations Code, as added by this
9 article, applies only to records of disciplinary action for conduct
10 that occurred before September 1, 2019.

11 SECTION 2.34. Section [453.3525](#), Occupations Code, as added
12 by this article, and Section [453.402\(b\)](#), Occupations Code, as
13 amended by this article, apply only to conduct that occurs on or
14 after the date that rules adopted under Section [453.3525](#) take
15 effect. Conduct that occurs before that date is governed by the law
16 in effect before the effective date of this article, and the former
17 law is continued in effect for that purpose.

18 ARTICLE 3. PHYSICAL THERAPY LICENSURE COMPACT

19 SECTION 3.01. Chapter [453](#), Occupations Code, is amended by
20 adding Subchapter K to read as follows:

21 SUBCHAPTER K. PHYSICAL THERAPY LICENSURE COMPACT

22 Sec. 453.501. PHYSICAL THERAPY LICENSURE COMPACT. The
23 Physical Therapy Licensure Compact is enacted and entered into with
24 all other jurisdictions that legally join in the compact, which
25 reads as follows:

26 SECTION 1. PURPOSE

27 The purpose of this Compact is to facilitate interstate

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

7 This Compact is designed to achieve the following objectives:

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

21 SECTION 2. DEFINITIONS

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

- 24 1. "Active Duty Military" means full-time duty status
25 in the active uniformed service of the United
26 States, including members of the National Guard and
27 Reserve on active duty orders pursuant to 10 U.S.C.

1 Section 1209 and 1211.

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

6 3. "Alternative Program" means a non-disciplinary
7 monitoring or practice remediation process
8 approved by a physical therapy licensing board.
9 This includes, but is not limited to, substance
10 abuse issues.

11 4. "Compact privilege" means the authorization
12 granted by a remote state to allow a licensee from
13 another member state to practice as a physical
14 therapist or work as a physical therapist assistant
15 in the remote state under its laws and rules. The
16 practice of physical therapy occurs in the member
17 state where the patient/client is located at the
18 time of the patient/client encounter.

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

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

- 1 7. "Encumbered license" means a license that a
2 physical therapy licensing board has limited in any
3 way.
- 4 8. "Executive Board" means a group of directors
5 elected or appointed to act on behalf of, and
6 within the powers granted to them by, the
7 Commission.
- 8 9. "Home state" means the member state that is the
9 licensee's primary state of residence.
- 10 10. "Investigative information" means information,
11 records, and documents received or generated by a
12 physical therapy licensing board pursuant to an
13 investigation.
- 14 11. "Jurisprudence Requirement" means the assessment
15 of an individual's knowledge of the laws and rules
16 governing the practice of physical therapy in a
17 state.
- 18 12. "Licensee" means an individual who currently holds
19 an authorization from the state to practice as a
20 physical therapist or to work as a physical
21 therapist assistant.
- 22 13. "Member state" means a state that has enacted the
23 Compact.
- 24 14. "Party state" means any member state in which a
25 licensee holds a current license or compact
26 privilege or is applying for a license or compact
27 privilege.

- 1 15. "Physical therapist" means an individual who is
2 licensed by a state to practice physical therapy.
- 3 16. "Physical therapist assistant" means an individual
4 who is licensed/certified by a state and who
5 assists the physical therapist in selected
6 components of physical therapy.
- 7 17. "Physical therapy," "physical therapy practice,"
8 and "the practice of physical therapy" mean the
9 care and services provided by or under the
10 direction and supervision of a licensed physical
11 therapist.
- 12 18. "Physical Therapy Compact Commission" or
13 "Commission" means the national administrative
14 body whose membership consists of all states that
15 have enacted the Compact.
- 16 19. "Physical therapy licensing board" or "licensing
17 board" means the agency of a state that is
18 responsible for the licensing and regulation of
19 physical therapists and physical therapist
20 assistants.
- 21 20. "Remote State" means a member state other than the
22 home state, where a licensee is exercising or
23 seeking to exercise the compact privilege.
- 24 21. "Rule" means a regulation, principle, or directive
25 promulgated by the Commission that has the force of
26 law.
- 27 22. "State" means any state, commonwealth, district, or

1 territory of the United States of America that
2 regulates the practice of physical therapy.

3 SECTION 3. STATE PARTICIPATION IN THE COMPACT

4 A. To participate in the Compact, a state must:

- 5 1. Participate fully in the Commission's data system,
6 including using the Commission's unique identifier
7 as defined in rules;
- 8 2. Have a mechanism in place for receiving and
9 investigating complaints about licensees;
- 10 3. Notify the Commission, in compliance with the terms
11 of the Compact and rules, of any adverse action or
12 the availability of investigative information
13 regarding a licensee;
- 14 4. Fully implement a criminal background check
15 requirement, within a time frame established by
16 rule, by receiving the results of the Federal
17 Bureau of Investigation record search on criminal
18 background checks and use the results in making
19 licensure decisions in accordance with Section
20 3.B.;
- 21 5. Comply with the rules of the Commission;
- 22 6. Utilize a recognized national examination as a
23 requirement for licensure pursuant to the rules of
24 the Commission; and
- 25 7. Have continuing competence requirements as a
26 condition for license renewal.

27 B. Upon adoption of this statute, the member state shall

1 have the authority to obtain biometric-based information from each
2 physical therapy licensure applicant and submit this information to
3 the Federal Bureau of Investigation for a criminal background check
4 in accordance with 28 U.S.C. Section 534 and 42 U.S.C. Section
5 14616.

6 C. A member state shall grant the compact privilege to a
7 licensee holding a valid unencumbered license in another member
8 state in accordance with the terms of the Compact and rules.

9 D. Member states may charge a fee for granting a compact
10 privilege.

11 SECTION 4. COMPACT PRIVILEGE

12 A. To exercise the compact privilege under the terms and
13 provisions of the Compact, the licensee shall:

- 14 1. Hold a license in the home state;
- 15 2. Have no encumbrance on any state license;
- 16 3. Be eligible for a compact privilege in any member
17 state in accordance with Section 4D, G and H;
- 18 4. Have not had any adverse action against any license
19 or compact privilege within the previous 2 years;
- 20 5. Notify the Commission that the licensee is seeking
21 the compact privilege within a remote state(s);
- 22 6. Pay any applicable fees, including any state fee,
23 for the compact privilege;
- 24 7. Meet any jurisprudence requirements established by
25 the remote state(s) in which the licensee is
26 seeking a compact privilege; and
- 27 8. Report to the Commission adverse action taken by

1 any non-member state within 30 days from the date
2 the adverse action is taken.

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

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

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

18 E. If a home state license is encumbered, the licensee shall
19 lose the compact privilege in any remote state until the following
20 occur:

- 21 1. The home state license is no longer encumbered; and
- 22 2. Two years have elapsed from the date of the adverse
23 action.

24 F. Once an encumbered license in the home state is restored
25 to good standing, the licensee must meet the requirements of
26 Section 4A to obtain a compact privilege in any remote state.

27 G. If a licensee's compact privilege in any remote state is

1 removed, the individual shall lose the compact privilege in any
2 remote state until the following occur:

- 3 1. The specific period of time for which the compact
4 privilege was removed has ended;
- 5 2. All fines have been paid; and
- 6 3. Two years have elapsed from the date of the adverse
7 action.

8 H. Once the requirements of Section 4G have been met, the
9 license must meet the requirements in Section 4A to obtain a compact
10 privilege in a remote state.

11 SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

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

19 SECTION 6. ADVERSE ACTIONS

20 A. A home state shall have exclusive power to impose adverse
21 action against a license issued by the home state.

22 B. A home state may take adverse action based on the
23 investigative information of a remote state, so long as the home
24 state follows its own procedures for imposing adverse action.

25 C. Nothing in this Compact shall override a member state's
26 decision that participation in an alternative program may be used
27 in lieu of adverse action and that such participation shall remain

1 non-public if required by the member state's laws. Member states
2 must require licensees who enter any alternative programs in lieu
3 of discipline to agree not to practice in any other member state
4 during the term of the alternative program without prior
5 authorization from such other member state.

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

11 E. A remote state shall have the authority to:

- 12 1. Take adverse actions as set forth in Section 4.D.
13 against a licensee's compact privilege in the
14 state;
- 15 2. Issue subpoenas for both hearings and
16 investigations that require the attendance and
17 testimony of witnesses, and the production of
18 evidence. Subpoenas issued by a physical therapy
19 licensing board in a party state for the attendance
20 and testimony of witnesses, and/or the production
21 of evidence from another party state, shall be
22 enforced in the latter state by any court of
23 competent jurisdiction, according to the practice
24 and procedure of that court applicable to subpoenas
25 issued in proceedings pending before it. The
26 issuing authority shall pay any witness fees,
27 travel expenses, mileage, and other fees required

1 by the service statutes of the state where the
2 witnesses and/or evidence are located; and

3 3. If otherwise permitted by state law, recover from
4 the licensee the costs of investigations and
5 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
9 state by its respective physical therapy practice
10 act or other applicable state law, a member state
11 may participate with other member states in joint
12 investigations of licensees.

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

17 SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT
18 COMMISSION

19 A. The Compact member states hereby create and establish a
20 joint public agency known as the Physical Therapy Compact
21 Commission:

22 1. The Commission is an instrumentality of the Compact
23 states.

24 2. Venue is proper and judicial proceedings by or
25 against the Commission shall be brought solely and
26 exclusively in a court of competent jurisdiction
27 where the principal office of the Commission is

1 located. The Commission may waive venue and
2 jurisdictional defenses to the extent it adopts or
3 consents to participate in alternative dispute
4 resolution proceedings.

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

7 B. Membership, Voting, and Meetings

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

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

15 3. Any delegate may be removed or suspended from
16 office as provided by the law of the state from
17 which the delegate is appointed.

18 4. The member state board shall fill any vacancy
19 occurring in the Commission.

20 5. Each delegate shall be entitled to one (1) vote with
21 regard to the promulgation of rules and creation of
22 bylaws and shall otherwise have an opportunity to
23 participate in the business and affairs of the
24 Commission.

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

1 telephone or other means of communication.

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

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

7 1. Establish the fiscal year of the Commission;

8 2. Establish bylaws;

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

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

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

18 6. Bring and prosecute legal proceedings or actions in
19 the name of the Commission, provided that the
20 standing of any state physical therapy licensing
21 board to sue or be sued under applicable law shall
22 not be affected;

23 7. Purchase and maintain insurance and bonds;

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

27 9. Hire employees, elect or appoint officers, fix

- 1 compensation, define duties, grant such
2 individuals appropriate authority to carry out the
3 purposes of the Compact, and to establish the
4 Commission's personnel policies and programs
5 relating to conflicts of interest, qualifications
6 of personnel, and other related personnel matters;
- 7 10. Accept any and all appropriate donations and grants
8 of money, equipment, supplies, materials and
9 services, and to receive, utilize and dispose of
10 the same; provided that at all times the Commission
11 shall avoid any appearance of impropriety and/or
12 conflict of interest;
- 13 11. Lease, purchase, accept appropriate gifts or
14 donations of, or otherwise to own, hold, improve or
15 use, any property, real, personal or mixed;
16 provided that at all times the Commission shall
17 avoid any appearance of impropriety;
- 18 12. Sell convey, mortgage, pledge, lease, exchange,
19 abandon, or otherwise dispose of any property real,
20 personal, or mixed;
- 21 13. Establish a budget and make expenditures;
- 22 14. Borrow money;
- 23 15. Appoint committees, including standing committees
24 composed of members, state regulators, state
25 legislators or their representatives, and consumer
26 representatives, and such other interested persons
27 as may be designated in this Compact and the

1 bylaws;

2 16. Provide and receive information from, and cooperate
3 with, law enforcement agencies;

4 17. Establish and elect an Executive Board; and

5 18. Perform such other functions as may be necessary or
6 appropriate to achieve the purposes of this Compact
7 consistent with the state regulation of physical
8 therapy licensure and practice.

9 D. The Executive Board

10 The Executive Board shall have the power to act on behalf of
11 the Commission according to the terms of this Compact.

12 1. The Executive Board shall be composed of nine
13 members:

14 a. Seven voting members who are elected by the
15 Commission from the current membership of the
16 Commission;

17 b. One ex-officio, nonvoting member from the
18 recognized national physical therapy
19 professional association; and

20 c. One ex-officio, nonvoting member from the
21 recognized membership organization of the
22 physical therapy licensing boards.

23 2. The ex-officio members will be selected by their
24 respective organizations.

25 3. The Commission may remove any member of the
26 Executive Board as provided in bylaws.

27 4. The Executive Board shall meet at least annually.

1 5. The Executive Board shall have the following Duties
2 and responsibilities:

3 a. Recommend to the entire Commission changes to
4 the rules or bylaws, changes to this Compact
5 legislation, fees paid by Compact member
6 states such as annual dues, and any
7 commission Compact fee charged to licensees
8 for the compact privilege;

9 b. Ensure Compact administration services are
10 appropriately provided, contractual or
11 otherwise;

12 c. Prepare and recommend the budget;

13 d. Maintain financial records on behalf of the
14 Commission;

15 e. Monitor Compact compliance of member states
16 and provide compliance reports to the
17 Commission;

18 f. Establish additional committees as necessary;
19 and

20 g. Other duties as provided in rules or bylaws.

21 E. Meetings of the Commission

22 1. All meetings shall be open to the public, and public
23 notice of meetings shall be given in the same
24 manner as required under the rulemaking provisions
25 in Section 9.

26 2. The Commission or the Executive Board or other
27 committees of the Commission may convene in a

1 closed, non-public meeting if the Commission or
2 Executive Board or other committees of the
3 Commission must discuss:

4 a. Non-compliance of a member state with its
5 obligations under the Compact;

6 b. The employment, compensation, discipline or
7 other matters, practices or procedures
8 related to specific employees or other
9 matters related to the Commission's internal
10 personnel practices and procedures;

11 c. Current, threatened, or reasonably
12 anticipated litigation;

13 d. Negotiation of contracts for the purchase,
14 lease, or sale of goods, services, or real
15 estate;

16 e. Accusing any person of a crime or formally
17 censuring any person;

18 f. Disclosure of trade secrets or commercial or
19 financial information that is privileged or
20 confidential;

21 g. Disclosure of information of a personal nature
22 where disclosure would constitute a clearly
23 unwarranted invasion of personal privacy;

24 h. Disclosure of investigative records compiled
25 for law enforcement purposes;

26 i. Disclosure of information related to any
27 investigative reports prepared by or on

1 behalf of or for use of the Commission or
2 other committee charged with responsibility
3 of investigation or determination of
4 compliance issues pursuant to the Compact; or
5 j. Matters specifically exempted from disclosure
6 by federal or member state statute.

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

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

23 F. Financing of the Commission

24 1. The Commission shall pay, or provide for the
25 payment of, the reasonable expenses of its
26 establishment, organization, and ongoing
27 activities.

- 1 2. The Commission may accept any and all appropriate
2 revenue sources, donations, and grants of money,
3 equipment, supplies, materials, and services.
- 4 3. The Commission may levy on and collect an annual
5 assessment from each member state or impose fees on
6 other parties to cover the cost of the operations
7 and activities of the Commission and its staff,
8 which must be in a total amount sufficient to cover
9 its annual budget as approved each year for which
10 revenue is not provided by other sources. The
11 aggregate annual assessment amount shall be
12 allocated based upon a formula to be determined by
13 the Commission, which shall promulgate a rule
14 binding upon all member states.
- 15 4. The Commission shall not incur obligations of any
16 kind prior to securing the funds adequate to meet
17 the same; nor shall the Commission pledge the
18 credit of any of the member states, except by and
19 with the authority of the member state.
- 20 5. The Commission shall keep accurate accounts of all
21 receipts and disbursements. The receipts and
22 disbursements of the Commission shall be subject to
23 the audit and accounting procedures established
24 under its bylaws. However, all receipts and
25 disbursements of funds handled by the Commission
26 shall be audited yearly by a certified or licensed
27 public accountant, and the report of the audit

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

3 G. Qualified Immunity, Defense, and Indemnification

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

20 2. The Commission shall defend any member, officer,
21 executive director, employee or representative of
22 the Commission in any civil action seeking to
23 impose liability arising out of any actual or
24 alleged act, error, or omission that occurred
25 within the scope of Commission employment, duties,
26 or responsibilities, or that the person against
27 whom the claim is made had a reasonable basis for

1 believing occurred within the scope of Commission
2 employment, duties, or responsibilities; provided
3 that nothing herein shall be construed to prohibit
4 that person from retaining his or her own counsel;
5 and provided further, that the actual or alleged
6 act, error, or omission did not result from that
7 person's intentional or willful or wanton
8 misconduct.

9 3. The Commission shall indemnify and hold harmless
10 any member, officer, executive director, employee,
11 or representative of the Commission for the amount
12 of any settlement or judgment obtained against that
13 person arising out of any actual or alleged act,
14 error or omission that occurred within the scope of
15 Commission employment, duties, or
16 responsibilities, or that such person had a
17 reasonable basis for believing occurred within the
18 scope of Commission employment, duties, or
19 responsibilities, provided that the actual or
20 alleged act, error, or omission did not result from
21 the intentional or willful or wanton misconduct of
22 that person.

23 SECTION 8. DATA SYSTEM

24 A. The Commission shall provide for the development,
25 maintenance, and utilization of a coordinated database and
26 reporting system containing licensure, adverse action, and
27 investigative information on all licensed individuals in member

1 states.

2 B. Notwithstanding any other provision of state law to the
3 contrary, a member state shall submit a uniform data set to the data
4 system on all individuals to whom this Compact is applicable as
5 required by the rules of the Commission, including:

- 6 1. Identifying information;
- 7 2. Licensure data;
- 8 3. Adverse actions against a license or compact
9 privilege;
- 10 4. Non-confidential information related to
11 alternative program participation;
- 12 5. Any denial of application for licensure, and the
13 reason(s) for such denial; and
- 14 6. Other information that may facilitate the
15 administration of this Compact, as determined by
16 the rules of the Commission.

17 C. Investigative information pertaining to a licensee in
18 any member state will only be available to other party states.

19 D. The Commission shall promptly notify all member states of
20 any adverse action taken against a licensee or an individual
21 applying for a license. Adverse action information pertaining to a
22 licensee in any member state will be available to any other member
23 state.

24 E. Member states contributing information to the data
25 system may designate information that may not be shared with the
26 public without the express permission of the contributing state.

27 F. Any information submitted to the data system that is

1 subsequently required to be expunged by the laws of the member state
2 contributing the information shall be removed from the data system.

3 SECTION 9. RULEMAKING

4 A. The Commission shall exercise its rulemaking powers
5 pursuant to the criteria set forth in this Section and the rules
6 adopted thereunder. Rules and amendments shall become binding as of
7 the date specified in each rule or amendment.

8 B. If a majority of the legislatures of the member states
9 rejects a rule, by enactment of a statute or resolution in the same
10 manner used to adopt the Compact within 4 years of the date of
11 adoption of the rule, then such rule shall have no further force and
12 effect in any member state.

13 C. Rules or amendments to the rules shall be adopted at a
14 regular or special meeting of the Commission.

15 D. Prior to promulgation and adoption of a final rule or
16 rules by the Commission, and at least thirty (30) days in advance of
17 the meeting at which the rule will be considered and voted upon, the
18 Commission shall file a Notice of Proposed Rulemaking:

- 19 1. On the website of the Commission or other publicly
20 accessible platform; and
21 2. On the website of each member state physical
22 therapy licensing board or other publicly
23 accessible platform or the publication in which
24 each state would otherwise publish proposed rules.

25 E. The Notice of Proposed Rulemaking shall include:

- 26 1. The proposed time, date, and location of the
27 meeting in which the rule will be considered and

1 voted upon;

2 2. The text of the proposed rule or amendment and the
3 reason for the proposed rule;

4 3. A request for comments on the proposed rule from any
5 interested person; and

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

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

12 G. The Commission shall grant an opportunity for a public
13 hearing before it adopts a rule or amendment if a hearing is
14 requested by:

15 1. At least twenty-five (25) persons;

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

18 3. An association having at least twenty-five (25)
19 members.

20 H. If a hearing is held on the proposed rule or amendment,
21 the Commission shall publish the place, time, and date of the
22 scheduled public hearing. If the hearing is held via electronic
23 means, the Commission shall publish the mechanism for access to the
24 electronic hearing.

25 1. All persons wishing to be heard at the hearing shall
26 notify the executive director of the Commission or
27 other designated member in writing of their desire

1 to appear and testify at the hearing not less than
2 five (5) business days before the scheduled date of
3 the hearing.

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

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

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

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

18 J. If no written notice of intent to attend the public
19 hearing by interested parties is received, the Commission may
20 proceed with promulgation of the proposed rule without a public
21 hearing.

22 K. The Commission shall, by majority vote of all members,
23 take final action on the proposed rule and shall determine the
24 effective date of the rule, if any, based on the rulemaking record
25 and the full text of the rule.

26 L. Upon determination that an emergency exists, the
27 Commission may consider and adopt an emergency rule without prior

1 notice, opportunity for comment, or hearing, provided that the
2 usual rulemaking procedures provided in the Compact and in this
3 section shall be retroactively applied to the rule as soon as
4 reasonably possible, in no event later than ninety (90) days after
5 the effective date of the rule. For the purposes of this provision,
6 an emergency rule is one that must be adopted immediately in order
7 to:

- 8 1. Meet an imminent threat to public health, safety,
9 or welfare;
- 10 2. Prevent a loss of Commission or member state funds;
- 11 3. Meet a deadline for the promulgation of an
12 administrative rule that is established by federal
13 law or rule; or
- 14 4. Protect public health and safety.

15 M. The Commission or an authorized committee of the
16 Commission may direct revisions to a previously adopted rule or
17 amendment for purposes of correcting typographical errors, errors
18 in format, errors in consistency, or grammatical errors. Public
19 notice of any revisions shall be posted on the website of the
20 Commission. The revision shall be subject to challenge by any
21 person for a period of thirty (30) days after posting. The revision
22 may be challenged only on grounds that the revision results in a
23 material change to a rule. A challenge shall be made in writing, and
24 delivered to the chair of the Commission prior to the end of the
25 notice period. If no challenge is made, the revision will take
26 effect without further action. If the revision is challenged, the
27 revision may not take effect without the approval of the

1 Commission.

2 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

3 A. Oversight

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

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

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

24 B. Default, Technical Assistance, and Termination

25 1. If the Commission determines that a member state
26 has defaulted in the performance of its obligations
27 or responsibilities under this Compact or the

1 promulgated rules, the Commission shall:

- 2 a. Provide written notice to the defaulting state
3 and other member states of the nature of the
4 default, the proposed means of curing the
5 default and/or any other action to be taken by
6 the Commission; and
7 b. Provide remedial training and specific
8 technical assistance regarding the default.

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

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

25 4. A state that has been terminated is responsible for
26 all assessments, obligations, and liabilities
27 incurred through the effective date of

1 termination, including obligations that extend
2 beyond the effective date of termination.

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

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

15 C. Dispute Resolution

16 1. Upon request by a member state, the Commission
17 shall attempt to resolve disputes related to the
18 Compact that arise among member states and between
19 member and non-member states.

20 2. The Commission shall promulgate a rule providing
21 for both mediation and binding dispute resolution
22 for disputes as appropriate.

23 D. Enforcement

24 1. The Commission, in the reasonable exercise of its
25 discretion, shall enforce the provisions and rules
26 of this Compact.

27 2. By majority vote, the Commission may initiate legal

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

11 3. The remedies herein shall not be the exclusive
12 remedies of the Commission. The Commission may
13 pursue any other remedies available under federal or
14 state law.

15 SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE
16 COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES,
17 WITHDRAWAL, AND AMENDMENT

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

25 B. Any state that joins the Compact subsequent to the
26 Commission's initial adoption of the rules shall be subject to the
27 rules as they exist on the date on which the Compact becomes law in

1 that state. Any rule that has been previously adopted by the
2 Commission shall have the full force and effect of law on the day
3 the Compact becomes law in that state.

4 C. Any member state may withdraw from this Compact by
5 enacting a statute repealing the same.

6 1. A member state's withdrawal shall not take effect
7 until six (6) months after enactment of the
8 repealing statute.

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

15 D. Nothing contained in this Compact shall be construed to
16 invalidate or prevent any physical therapy licensure agreement or
17 other cooperative arrangement between a member state and a
18 non-member state that does not conflict with the provisions of this
19 Compact.

20 E. This Compact may be amended by the member states. No
21 amendment to this Compact shall become effective and binding upon
22 any member state until it is enacted into the laws of all member
23 states.

24 SECTION 12. CONSTRUCTION AND SEVERABILITY

25 This Compact shall be liberally construed so as to effectuate
26 the purposes thereof. The provisions of this Compact shall be
27 severable and if any phrase, clause, sentence or provision of this

1 Compact is declared to be contrary to the constitution of any party
2 state or of the United States or the applicability thereof to any
3 government, agency, person or circumstance is held invalid, the
4 validity of the remainder of this Compact and the applicability
5 thereof to any government, agency, person or circumstance shall not
6 be affected thereby. If this Compact shall be held contrary to the
7 constitution of any party state, the Compact shall remain in full
8 force and effect as to the remaining party states and in full force
9 and effect as to the party state affected as to all severable
10 matters.

11 Sec. 453.502. ADMINISTRATION OF COMPACT. The board is the
12 Physical Therapy Licensure Compact administrator for this state.

13 Sec. 453.503. RULES. The board may adopt rules necessary to
14 implement this subchapter.

15 Sec. 453.504. PHYSICAL THERAPY LICENSURE COMPACT;
16 DISCLOSURE OF PERSONAL INFORMATION. (a) In reporting information
17 to the coordinated database and reporting system under Section 8 of
18 the Physical Therapy Licensure Compact, the board may disclose
19 personally identifiable information about a physical therapist or a
20 physical therapist assistant, including the person's social
21 security number.

22 (b) The coordinated database and reporting system may not
23 share personally identifiable information with a state that is not
24 a party to the compact unless the state agrees to not disclose that
25 information to any other person.

26 ARTICLE 4. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

27 SECTION 4.01. Section 454.003, Occupations Code, is amended

1 to read as follows:

2 Sec. 454.003. APPLICATION OF SUNSET ACT. The Texas Board of
3 Occupational Therapy Examiners is subject to Chapter 325,
4 Government Code (Texas Sunset Act). Unless continued in existence
5 as provided by that chapter, the board is abolished and this chapter
6 expires September 1, 2029 [~~2017~~].

7 SECTION 4.02. Section 454.005(b), Occupations Code, is
8 amended to read as follows:

9 (b) The licensing provisions of this chapter do not apply
10 to:

11 (1) an occupational therapy aide assisting a license
12 holder under this chapter;

13 (2) a person engaged in a course of study leading to a
14 degree or certificate in occupational therapy at an accredited or
15 approved educational program if:

16 (A) the activities and services constitute a part
17 of a supervised course of study; and

18 (B) the person is designated by a title that
19 clearly indicates the person's status as a student or trainee;

20 (3) a person fulfilling the supervised field work
21 experience requirements of Section 454.203, if those activities and
22 services constitute a part of the experience necessary to meet the
23 requirement of that section;

24 (4) an occupational therapist performing a special
25 project in patient care while working toward an advanced degree
26 from an accredited college or university;

27 (5) an occupational therapist or occupational therapy

1 assistant who does not live in this state and who:

2 (A) is licensed by another state or who meets the
3 requirements for certification established by the National Board
4 for Certification in Occupational Therapy [~~American Occupational~~
5 ~~Therapy Association~~] as an occupational therapist registered (OTR)
6 or a certified occupational therapy assistant (COTA); and

7 (B) comes into this state for not more than four
8 consecutive months to:

9 (i) provide or attend an educational
10 activity;

11 (ii) assist in a case of medical emergency;
12 or

13 (iii) engage in a special occupational
14 therapy project; or

15 (6) a qualified and properly trained person acting
16 under a physician's supervision under Section 157.001.

17 SECTION 4.03. Section 454.053, Occupations Code, is amended
18 to read as follows:

19 Sec. 454.053. MEMBERSHIP RESTRICTIONS. (a) In this
20 section, "Texas trade association" means a [~~nonprofit,~~
21 cooperative~~7~~] and voluntarily joined statewide association of
22 business or professional competitors in this state designed to
23 assist its members and its industry or profession in dealing with
24 mutual business or professional problems and in promoting their
25 common interest.

26 (b) A person [~~An officer, employee, or paid consultant of a~~
27 ~~Texas trade association in the field of health care~~] may not be a

1 member of the board if:

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

5 (2) the person's~~[-~~

6 ~~[(c) A person who is the]~~ spouse is ~~[of]~~ an officer,
7 manager, or paid consultant of a Texas trade association in the
8 field of health care ~~[may not be a member of the board]~~.

9 (c) ~~[(d)]~~ A person may not be ~~[serve as]~~ a member of the
10 board if the person is required to register as a lobbyist under
11 Chapter 305, Government Code, because of the person's activities
12 for compensation on behalf of a profession related to the operation
13 of the executive council or the board.

14 SECTION 4.04. Sections 454.055(a) and (c), Occupations
15 Code, are amended to read as follows:

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

17 (1) does not have at the time of taking office
18 ~~[appointment]~~ the qualifications required by Section 454.051(a);

19 (2) does not maintain during service on the board the
20 qualifications required by Section 454.051(a);

21 (3) is ineligible for membership under ~~[violates a~~
22 ~~prohibition established by]~~ Section 454.052 or 454.053;

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

26 (5) is absent from more than half of the regularly
27 scheduled board meetings that the member is eligible to attend

1 during a calendar year without an excuse approved [~~unless the~~
2 ~~absence is excused~~] by a majority vote of the board.

3 (c) If the coordinator of occupational therapy programs has
4 knowledge that a potential ground for removal exists, the
5 coordinator shall notify the presiding officer of the board of the
6 potential ground. The presiding officer shall then notify the
7 governor and the attorney general that a potential ground for
8 removal exists. If the potential ground for removal involves the
9 presiding officer, the coordinator shall notify the next highest
10 ranking officer of the board, who shall then notify the governor and
11 the attorney general that a potential ground for removal exists.

12 SECTION 4.05. Section 454.057, Occupations Code, is amended
13 to read as follows:

14 Sec. 454.057. OFFICERS. (a) The governor shall designate
15 a member of the board as the presiding officer of the board to serve
16 in that capacity at the pleasure of the governor.

17 (b) After the appointment of members every two years, the
18 members of the board shall elect from among its members [~~a presiding~~
19 ~~officer,~~] a secretary[~~7~~] and other officers required to conduct the
20 business of the board.

21 SECTION 4.06. Section 454.059, Occupations Code, is amended
22 to read as follows:

23 Sec. 454.059. TRAINING. (a) A person who is appointed to
24 and qualifies for office as [~~Before~~] a member of the board may not
25 vote, deliberate, or be counted as a member in attendance at a
26 meeting of the board until the person completes [~~assume the~~
27 ~~member's duties, the member must complete at least~~] a [~~course of~~

1 ~~the~~] training program that complies with [~~established by the board~~
2 ~~under~~] this section.

3 (b) The training program must [~~shall~~] provide the person
4 with information [~~to a participant~~] regarding:

5 (1) the law governing board and executive council
6 operations [~~this chapter~~];

7 (2) the programs, functions, rules, and budgets of
8 [~~operated by~~] the board and executive council;

9 (3) the scope of and limitations on the rulemaking
10 authority [~~role and functions~~] of the board and executive council;

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

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

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

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

24 (D) restrict participation in a profession or
25 business regulated by the board [~~the rules of the board, with an~~
26 ~~emphasis on the rules that relate to disciplinary and investigatory~~
27 ~~authority~~];

1 (5) ~~[the current budget for the board,~~
2 ~~[(6)]~~ the results of the most recent formal audit of
3 the board and executive council;

4 (6) ~~[(7)]~~ the requirements of:

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

8 (B) other laws applicable to members of the board
9 in performing their duties ~~[Chapters 551, 552, 2001, and 2002,~~
10 ~~Government Code,~~

11 ~~[(8) the requirements of the conflict of interest laws~~
12 ~~and other laws relating to public officials]; and~~

13 (7) ~~[(9)]~~ any applicable ethics policies adopted by
14 the board or the Texas Ethics Commission.

15 (c) A person appointed to the board is entitled to
16 reimbursement, as provided by the General Appropriations Act, for
17 the travel expenses incurred in attending the training program
18 regardless of whether the person's attendance at the program occurs
19 before or after the person qualifies for office ~~[In developing the~~
20 ~~training requirements provided for by this section, the board shall~~
21 ~~consult with the governor's office, the attorney general's office,~~
22 ~~and the Texas Ethics Commission].~~

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

1 director a statement acknowledging receipt of the training manual
2 ~~[If another state agency or entity is given the authority to~~
3 ~~establish the training requirements, the board shall allow that~~
4 ~~training instead of developing its own program].~~

5 SECTION 4.07. Section 454.105(b), Occupations Code, is
6 amended to read as follows:

7 (b) The board shall develop and implement policies that
8 clearly separate ~~[define]~~ the policymaking ~~[respective]~~
9 responsibilities of the board and the management responsibilities
10 of the director and ~~[the]~~ staff of the executive council.

11 SECTION 4.08. Subchapter C, Chapter 454, Occupations Code,
12 is amended by adding Sections 454.1061 and 454.108 to read as
13 follows:

14 Sec. 454.1061. PLACE OF EMPLOYMENT. The board may require
15 that a license holder provide current information in a readily
16 accessible and usable format regarding the license holder's current
17 place of employment as an occupational therapist or occupational
18 therapy assistant.

19 Sec. 454.108. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
20 RESOLUTION. (a) The board shall develop a policy to encourage the
21 use of:

22 (1) negotiated rulemaking under Chapter 2008,
23 Government Code, for the adoption of board rules; and

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

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

5 (c) The board shall:

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

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

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

13 SECTION 4.09. Section 454.153(e), Occupations Code, is
14 amended to read as follows:

15 (e) The staff of the executive council [~~coordinator of~~
16 ~~occupational therapy programs~~] shall notify the board of a
17 complaint that extends beyond the time prescribed by the board for
18 resolving the complaint so that the board may take necessary action
19 on the complaint.

20 SECTION 4.10. The heading to Subchapter E, Chapter 454,
21 Occupations Code, is amended to read as follows:

22 SUBCHAPTER E. LICENSE REQUIREMENTS [~~, REGISTRATION OF FACILITIES~~]

23 SECTION 4.11. Section 454.203, Occupations Code, is amended
24 to read as follows:

25 Sec. 454.203. QUALIFICATIONS FOR OCCUPATIONAL THERAPIST OR
26 OCCUPATIONAL THERAPY ASSISTANT LICENSE. [~~(a)~~] An applicant for an
27 occupational therapist license or an occupational therapy

1 assistant license must present evidence satisfactory to the board
2 that the applicant has:

3 (1) successfully completed the academic and
4 supervised field work experience requirements of an educational
5 program in occupational therapy recognized by the board, as
6 provided by Section 454.204; and

7 (2) [~~successfully completed a period of supervised~~
8 ~~field work experience arranged by the recognized educational~~
9 ~~institution at which the applicant met the academic requirements;~~
10 ~~and~~

11 [~~3~~] passed an examination as provided by Section
12 454.207.

13 [~~(b) To satisfy the supervised field work experience~~
14 ~~required by Subsection (a)(2):~~

15 [~~(1) an occupational therapist must have completed a~~
16 ~~period of at least six months; and~~

17 [~~(2) an occupational therapy assistant must have~~
18 ~~completed a period of at least two months.]~~

19 SECTION 4.12. Section 454.204, Occupations Code, is amended
20 to read as follows:

21 Sec. 454.204. EDUCATIONAL REQUIREMENTS. To satisfy Section
22 454.203(1) [~~454.203(a)(1)~~]:

23 (1) an applicant applying for an occupational
24 therapist license must have, from an educational [~~a~~] program
25 approved by the Accreditation Council for Occupational Therapy
26 Education, its predecessor organization, or another national
27 credentialing agency approved by the board:

1 (A) an entry-level degree in occupational
2 therapy, or a degree that exceeds the requirements for an
3 entry-level degree in occupational therapy, from an educational
4 program that prepares a person for entry into the field as an
5 occupational therapist [~~a baccalaureate degree in occupational~~
6 ~~therapy, if the applicant graduated before January 1, 2007~~]; or

7 (B) a certificate evidencing successful
8 completion of required undergraduate occupational therapy course
9 work awarded to persons with a baccalaureate degree that is not in
10 occupational therapy, if the applicant graduated before January 1,
11 2007; [~~or~~

12 [~~(C) a postbaccalaureate degree in occupational~~
13 ~~therapy,~~] and

14 (2) an applicant applying for an occupational therapy
15 assistant license must have, from an educational program approved
16 by the Accreditation Council for Occupational Therapy Education,
17 its predecessor organization, or another national credentialing
18 agency approved by the board:

19 (A) an entry-level degree in occupational
20 therapy, or a degree that exceeds the requirements for an
21 entry-level degree in occupational therapy, from an educational
22 program that prepares a person for entry into the field as an
23 [~~associate degree in~~] occupational therapy assistant; or

24 (B) an entry-level certificate in occupational
25 therapy, or a certificate that exceeds the requirements for an
26 entry-level certificate in occupational therapy, from an
27 educational program that prepares a person for entry into the field

1 as an occupational therapy assistant [~~certificate~~].

2 SECTION 4.13. Section 454.205(a), Occupations Code, is
3 amended to read as follows:

4 (a) To obtain a license under this chapter, an applicant who
5 is foreign-trained must satisfy the examination requirements and
6 complete academic and supervised field work requirements
7 substantially equivalent to those under [~~of~~] Section 454.203
8 [~~454.203(a)(3)~~].

9 SECTION 4.14. Section 454.207, Occupations Code, is amended
10 to read as follows:

11 Sec. 454.207. LICENSE EXAMINATION. (a) The board by rule
12 shall recognize a national testing entity to administer the
13 examinations required to obtain an occupational therapist or
14 occupational therapy assistant license.

15 (b) The [~~examine each applicant for a license by written~~]
16 examination must [~~to~~] test the applicant's knowledge of the basic
17 and clinical sciences relating to occupational therapy,
18 occupational therapy techniques and methods, and other subjects the
19 board may require to determine the applicant's fitness to practice.

20 [~~(b) The board shall examine applicants for licenses at~~
21 ~~least twice each year at the board's regular meetings and under the~~
22 ~~supervision required by the board.~~]

23 (c) If the board enters into a contract with a national
24 testing entity under Subsection (a), the contract must include a
25 provision requiring that the national testing entity be responsible
26 for overseeing the examination process, including responsibility
27 for:

1 (1) specifying application requirements for the
2 examination;

3 (2) specifying reexamination requirements for the
4 examination;

5 (3) verifying that an applicant meets the educational
6 and supervised field work experience requirements established by
7 the board; and

8 (4) notifying an applicant and the board of the
9 applicant's examination results [~~The board shall:~~

10 ~~[(1) approve an examination for:~~

11 ~~[(A) occupational therapists; and~~

12 ~~[(B) occupational therapy assistants;~~

13 ~~[(2) establish standards for acceptable performance;~~

14 ~~and~~

15 ~~[(3) have the written portion of the examination~~
16 ~~validated by an independent testing entity].~~

17 (d) The rules adopted under this section may require that an
18 applicant authorize the national testing entity to directly provide
19 to the board the applicant's examination results [~~board shall give~~
20 ~~reasonable public notice of the examination in accordance with its~~
21 ~~rules].~~

22 (e) The board may require an applicant for an occupational
23 therapist or occupational therapy assistant license to pass a
24 jurisprudence examination.

25 SECTION 4.15. Subchapter E, Chapter 454, Occupations Code,
26 is amended by adding Sections 454.216 and 454.217 to read as
27 follows:

1 Sec. 454.216. LICENSE BY ENDORSEMENT. (a) The board shall
2 issue an occupational therapist license or an occupational therapy
3 assistant license, as applicable, to an applicant who holds a
4 current, unrestricted license in another jurisdiction that
5 maintains licensing requirements that are substantially equivalent
6 to the requirements under this chapter. An applicant for a license
7 under this section must:

8 (1) present proof to the board that the applicant is
9 licensed in good standing as an occupational therapist or
10 occupational therapy assistant in that jurisdiction;

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

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

16 (4) meet the qualifications required by Section
17 454.203 or 454.205, as applicable;

18 (5) not have committed an act that is grounds for
19 denial of a license under Section 454.301;

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

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

24 (b) The board shall adopt rules for issuing a provisional
25 license under Section 454.210 to an applicant for a license by
26 endorsement who encounters a delay that is outside the applicant's
27 control in submitting to the board the documentation required by

1 this section.

2 Sec. 454.217. CRIMINAL HISTORY RECORD INFORMATION FOR
3 LICENSE ISSUANCE. (a) The board shall require that an applicant
4 for a license submit a complete and legible set of fingerprints, on
5 a form prescribed by the board, to the board or to the Department of
6 Public Safety for the purpose of obtaining criminal history record
7 information from the Department of Public Safety and the Federal
8 Bureau of Investigation.

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

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

- 14 (1) provided by the individual under this section; and
15 (2) made available to the board by the Department of
16 Public Safety, the Federal Bureau of Investigation, and any other
17 criminal justice agency under Chapter 411, Government Code.

18 (d) The board may:

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

22 (2) authorize the Department of Public Safety to
23 collect from each applicant the costs incurred by the Department of
24 Public Safety in conducting the criminal history record information
25 check.

26 SECTION 4.16. Section 454.252(b), Occupations Code, is
27 amended to read as follows:

1 (b) A person whose license has been expired for 90 days or
2 less may renew the license by paying to the executive council the
3 renewal fee and a late fee set by the executive council that may not
4 exceed one-half of the renewal [~~examination~~] fee for the license.
5 If a person's license has been expired for more than 90 days but
6 less than one year, the person may renew the license by paying to
7 the executive council all unpaid renewal fees and a late fee set by
8 the executive council that may not exceed the amount of the renewal
9 fee [~~charged for examination for the license~~].

10 SECTION 4.17. Section 454.253(b), Occupations Code, is
11 amended to read as follows:

12 (b) The person must pay to the executive council a renewal
13 fee set by the executive council under this section in an amount
14 that may not exceed the renewal [~~examination~~] fee for the license.

15 SECTION 4.18. Section 454.254, Occupations Code, is amended
16 by adding Subsection (e) to read as follows:

17 (e) The board by rule shall establish a process for
18 selecting a license holder peer organization in this state to
19 evaluate and approve continuing education courses under Subsection
20 (d). The selection process must include a request for proposal and
21 bidding process. If the board authorizes a peer organization to
22 evaluate and approve continuing education courses under Subsection
23 (d), the board shall request bids and proposals from that
24 organization and other organizations at least once every four
25 years.

26 SECTION 4.19. Subchapter F, Chapter 454, Occupations Code,
27 is amended by adding Section 454.255 to read as follows:

1 Sec. 454.255. CRIMINAL HISTORY RECORD INFORMATION
2 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a
3 license issued under this chapter shall submit a complete and
4 legible set of fingerprints for purposes of performing a criminal
5 history record information check of the applicant as provided by
6 Section 454.217.

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

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

13 (1) Section 454.217 for the initial issuance of the
14 license; or

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

16 SECTION 4.20. Subchapter G, Chapter 454, Occupations Code,
17 is amended by adding Sections 454.3025 and 454.307 to read as
18 follows:

19 Sec. 454.3025. SCHEDULE OF SANCTIONS. (a) The board by
20 rule shall adopt a schedule of administrative penalties and other
21 sanctions that the board may impose under this chapter. In adopting
22 the schedule of sanctions, the board shall ensure that the amount of
23 the penalty or severity of the sanction imposed is appropriate to
24 the type of violation or conduct that is the basis for disciplinary
25 action. In determining the appropriate disciplinary action,
26 including the amount of any administrative penalty to assess, the
27 board shall consider:

1 (1) the seriousness of the violation, including:

2 (A) the nature, circumstances, extent, and
3 gravity of the violation; and

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

6 (2) the history of previous violations;

7 (3) the amount necessary to deter future violations;

8 (4) efforts to correct the violation;

9 (5) the economic harm to the public interest or public
10 confidence caused by the violation;

11 (6) whether the violation was intentional; and

12 (7) any other matter that justice requires.

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

15 Sec. 454.307. RECORD OF DISCIPLINARY ACTION; EXPUNGEMENT.

16 (a) The board by rule shall establish a process to expunge any
17 record of disciplinary action taken against a license holder before
18 September 1, 2019, for practicing in a facility that failed to meet
19 the registration requirements of Section 454.215, as that section
20 existed on January 1, 2019. The rules must provide that the board
21 may not expunge a record under this section after September 1, 2021.

22 (b) This section expires September 1, 2021.

23 SECTION 4.21. Sections 454.3521(a) and (b), Occupations
24 Code, are amended to read as follows:

25 (a) The board may impose an administrative penalty against a
26 person licensed [~~or facility registered~~] under this chapter who
27 violates this chapter or a rule or order adopted under this chapter.

1 (b) The penalty may not exceed \$200, and each day a
2 violation continues or occurs is a separate violation for the
3 purpose of imposing a penalty. The amount of the penalty shall be
4 determined according to the sanctions schedule under Section
5 454.3025 ~~[based on:~~

6 ~~[(1) the seriousness of the violation, including the~~
7 ~~nature, circumstances, extent, and gravity of any prohibited acts,~~
8 ~~and the hazard or potential hazard created to the health, safety, or~~
9 ~~economic welfare of the public;~~

10 ~~[(2) the history of previous violations;~~

11 ~~[(3) the amount necessary to deter a future violation;~~

12 ~~[(4) efforts to correct the violation; and~~

13 ~~[(5) any other matter that justice requires].~~

14 SECTION 4.22. The following provisions of the Occupations
15 Code are repealed:

16 (1) Section 454.205(b);

17 (2) Section 454.206;

18 (3) Section 454.208;

19 (4) Section 454.209; and

20 (5) Section 454.215.

21 SECTION 4.23. (a) Except as provided by Subsection (b) of
22 this section, Section 454.059, Occupations Code, as amended by this
23 article, applies to a member of the Texas Board of Occupational
24 Therapy Examiners appointed before, on, or after the effective date
25 of this article.

26 (b) A member of the Texas Board of Occupational Therapy
27 Examiners who, before the effective date of this article, completed

1 the training program required by Section 454.059, Occupations Code,
2 as that law existed before the effective date of this article, is
3 required to complete additional training only on subjects added to
4 the training program required by Section 454.059, Occupations Code,
5 as amended by this article. A board member described by this
6 subsection may not vote, deliberate, or be counted as a member in
7 attendance at a meeting of the Texas Board of Occupational Therapy
8 Examiners held on or after December 1, 2017, until the member
9 completes the additional training.

10 SECTION 4.24. As soon as practicable after the effective
11 date of this article, the director of the Executive Council of
12 Physical Therapy and Occupational Therapy Examiners shall create
13 the training manual required by Section 454.059(d), Occupations
14 Code, as amended by this article.

15 SECTION 4.25. As soon as practicable after the effective
16 date of this article, the Texas Board of Occupational Therapy
17 Examiners shall:

- 18 (1) develop and implement the policies required by:
- 19 (A) Section 454.105(b), Occupations Code, as
20 amended by this article; and
- 21 (B) Section 454.108, Occupations Code, as added
22 by this article; and
- 23 (2) adopt any rules necessary to implement Chapter
24 454, Occupations Code, as amended by this article.

25 SECTION 4.26. Not later than September 1, 2018, the Texas
26 Board of Occupational Therapy Examiners shall establish the request
27 for proposal and bidding process required by Section 454.254(e),

1 Occupations Code, as added by this article.

2 SECTION 4.27. Sections 454.203, 454.205, 454.252, and
3 454.253, Occupations Code, as amended by this article, and Sections
4 454.217 and 454.255, Occupations Code, as added by this article,
5 apply only to an application for the issuance or renewal of an
6 occupational therapist or occupational therapy assistant license
7 submitted to the Texas Board of Occupational Therapy Examiners on
8 or after the effective date of this article. An application
9 submitted before that date is governed by the law in effect on the
10 date the application was submitted, and the former law is continued
11 in effect for that purpose.

12 SECTION 4.28. A person who holds an occupational therapist
13 or occupational therapy assistant license issued before the
14 effective date of this article may continue to renew that license
15 without complying with the changes in law made by this article to
16 Section 454.203, Occupations Code.

17 SECTION 4.29. (a) The Texas Board of Occupational Therapy
18 Examiners shall dismiss the portion of any complaint, penalty,
19 disciplinary action, or contested case pending on September 1,
20 2019, that is based on a violation of rules adopted under Section
21 454.215, Occupations Code, as repealed by this article.

22 (b) Section 454.307, Occupations Code, as added by this
23 article, applies only to records of disciplinary action for conduct
24 that occurred before September 1, 2019.

25 SECTION 4.30. Section 454.3025, Occupations Code, as added
26 by this article, and Section 454.3521(b), Occupations Code, as
27 amended by this article, apply only to conduct that occurs on or

1 after the date that rules adopted under Section 454.3025 take
2 effect. Conduct that occurs before that date is governed by the law
3 in effect before the effective date of this article, and the former
4 law is continued in effect for that purpose.

5 ARTICLE 5. EFFECTIVE DATE

6 SECTION 5.01. (a) Except as provided by Subsection (b) of
7 this section, this Act takes effect September 1, 2017.

8 (b) The following changes in law take effect September 1,
9 2019:

10 (1) the repeal by Article 2 of this Act of Sections
11 453.001(8) and 453.213, Occupations Code;

12 (2) Sections 453.1061 and 453.357, Occupations Code,
13 as added by Article 2 of this Act;

14 (3) Sections 453.151(c), 453.401, and 453.403(a),
15 Occupations Code, as amended by Article 2 of this Act;

16 (4) the heading to Subchapter E, Chapter 453,
17 Occupations Code, as amended by Article 2 of this Act;

18 (5) Sections 454.1061 and 454.307, Occupations Code,
19 as added by Article 4 of this Act;

20 (6) the heading to Subchapter E, Chapter 454,
21 Occupations Code, as amended by Article 4 of this Act;

22 (7) the repeal by Article 4 of this Act of Section
23 454.215, Occupations Code; and

24 (8) Section 454.3521(a), Occupations Code, as amended
25 by Article 4 of this Act.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 317 passed the Senate on April 18, 2017, by the following vote: Yeas 30, Nays 1; and that the Senate concurred in House amendments on May 25, 2017, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 317 passed the House, with amendments, on May 22, 2017, by the following vote: Yeas 143, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor