

CHAPTER 43

AN ACT

HB 2092

Relating to the renaming of the Physical Therapist Licensing Board; creating new provisions; and amending ORS 182.454, 182.460, 182.462, 445.010, 676.150, 676.160, 676.177, 676.410, 676.440, 676.802, 676.850, 676.860, 688.010, 688.015, 688.040, 688.050, 688.055, 688.080, 688.090, 688.100, 688.110, 688.140, 688.145, 688.160, 688.201, 688.230 and 688.240.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 182.454 is amended to read:

182.454. The following semi-independent state agencies are subject to ORS 182.456 to 182.472:

- (1) The Appraiser Certification and Licensure Board.
- (2) The State Board of Architect Examiners.
- (3) The State Board of Examiners for Engineering and Land Surveying.
- (4) The State Board of Geologist Examiners.
- (5) The State Landscape Architect Board.
- (6) The Oregon Board of Optometry.
- (7) The Oregon Patient Safety Commission.
- (8) The Oregon Wine Board.
- (9) The State Board of Massage Therapists.
- (10) The [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy**.
- (11) The State Landscape Contractors Board.
- (12) The Citizens' Initiative Review Commission.

SECTION 2. ORS 182.460 is amended to read:

182.460. (1) Except as provided in subsections (2) and (3) of this section and as otherwise provided by law, the provisions of ORS 283.085 to 283.092 and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to a board. A board is subject to all other statutes governing a state agency that do not conflict with ORS 182.456 to 182.472, including the tort liability provisions of ORS 30.260 to 30.300 and the provisions of ORS chapter 183, and a board's employees are included within the Public Employees Retirement System.

(2) Notwithstanding subsection (1) of this section, the following provisions apply to a board:

- (a) ORS 240.309 (1) to (6) and 240.321;
- (b) ORS 279A.250 to 279A.290;
- (c) ORS 282.210 to 282.230; and
- (d) ORS 293.240.

(3) Notwithstanding subsection (1) of this section, ORS chapter 240 applies to the Oregon Board of Optometry, the State Board of Massage Therapists and the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy**.

(4) In carrying out the duties, functions and powers of a board, the board may contract with any state agency for the performance of duties, functions and powers as the board considers appropriate. A state agency may not charge a board an amount that exceeds the actual cost of those services. ORS 182.456 to 182.472 do not require an agency to pro-

vide services to a board other than pursuant to a voluntary interagency agreement or contract.

(5) A board shall adopt personnel policies and contracting and purchasing procedures. The Oregon Department of Administrative Services shall review those policies and procedures for compliance with applicable state and federal laws and collective bargaining contracts.

(6) Except as otherwise provided by law, directors and employees of a board are eligible to receive the same benefits as state employees and are entitled to retain their State of Oregon hire dates, transfer rights and job bidding rights, all without loss of seniority, and to the direct transfer of all accumulated state agency leaves.

SECTION 3. ORS 182.462 is amended to read:

182.462. (1)(a) A board shall adopt budgets on a biennial basis using classifications of expenditures and revenues required by ORS 291.206 (1), but the budget is not subject to review and approval by the Legislative Assembly or to future modification by the Emergency Board or the Legislative Assembly.

(b) The budget referred to in paragraph (a) of this subsection shall be adopted in accordance with applicable provisions of ORS chapter 183. Except as provided in this paragraph, a board shall adopt or modify a budget only after a public hearing thereon. A board must give notice of the hearing to all holders of licenses issued by the board.

(c) A board shall follow generally accepted accounting principles and keep financial and statistical information as necessary to completely and accurately disclose the financial condition and financial operations of the board as may be required by the Secretary of State.

(d) A board shall prepare an annual financial statement of board revenues and expenses and shall make the statement available for public review. The board shall provide a copy of the statement to the Oregon Department of Administrative Services not later than the 90th day after the end of the state fiscal year.

(e) A board may, by rule, elect to donate all or part of the revenue derived by the board from civil penalties to the General Fund of the State Treasury.

(2) In addition to the reports required by ORS 182.472, the Oregon Board of Optometry, the State Board of Massage Therapists and the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy** shall, on or before February 1 of each odd-numbered year, present the budget adopted by the board under this section to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer.

SECTION 4. ORS 445.010 is amended to read:

445.010. As used in this chapter, unless the context requires otherwise:

- (1) "Ambulance operator" means any person operating an ambulance for hire.
- (2) "Authority" means the Oregon Health Authority.

- (3) "Care" means:
- (a) Treatment in and by a hospital.
 - (b) Professional services of a doctor.
 - (c) Professional services of a nurse.
 - (d) Medicines, substances, articles, appliances or physical therapy supplied on the prescription or order of the doctor in charge of the case.
 - (e) Transportation and services by an ambulance operator.
 - (f) Supplying prosthetic appliances and services.
 - (g) Any combination of any two or more of the services listed in this subsection.
 - (h) Professional services of a licensed physical therapist.
- (4) "Claimant" means a hospital, doctor, nurse, pharmacy, ambulance operator, supplier of prosthetic appliances and services or licensed physical therapist, who supplies care to an indigent patient, and who files a claim for charges therefor pursuant to this chapter. In respect of a hospital, it includes the operator or managing officer thereof. "Claimant" also means an indigent patient, or a personal representative of the patient after the death of the patient, but claims allowed shall be paid directly to those who supply care to the indigent patient; and an indigent claimant, or personal representative of the patient, has no right of appeal under ORS 445.160 (1969 Replacement Part).
- (5) "Doctor" means a person licensed by the appropriate board of this state to practice one or more of the healing arts.
- (6) "Hospital" includes nursing homes and means any institution that has a provider agreement with the authority and which admits and cares for patients suffering from motor vehicle injuries and applies for the benefits of this chapter in the manner provided in ORS 445.110.
- (7) "Indigent patient" means a person who has suffered a motor vehicle injury and who is unable to pay the cost of the care supplied on account of such injury and, except in the case of a claim filed after a claim arising out of the same motor vehicle injury has been allowed by the authority or finally adjudged affirmatively by a court on appeal, whose account therefor remains unpaid at the expiration of 90 days after the termination of the care and who is not entitled to the benefits of the Workers' Compensation Law of this state or any other state or country on account of such injury.
- (8) "Motor vehicle injury" means any personal injury suffered by a human being, and accidentally caused in, by, or as the proximate result of, the movement of a motor vehicle on a public way, street or highway within this state, whether the injured person is the operator of the vehicle, a passenger in the same or another vehicle, a pedestrian or whatever the relationship of the injured person to the movement of the vehicle, and whether or not the vehicle is under the control of a human being at the time of the injury.
- (9) "Nurse" means a person registered or licensed to practice nursing by the Oregon State Board of Nursing.

(10) "Pharmacy" means a place of business licensed by the State Board of Pharmacy, where drugs, medicines, prescriptions, chemicals or poisons are compounded, dispensed or sold at retail.

(11) "Supplier of prosthetic appliances and services" means a place of business or person licensed to manufacture or supply prosthetic appliances and services.

(12) "Licensed physical therapist" means a physical therapist within the State of Oregon licensed by the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy**.

SECTION 5. ORS 676.150, as amended by section 19, chapter 61, Oregon Laws 2018, is amended to read:

676.150. (1) As used in this section:

(a) "Board" means the:

- (A) State Board of Examiners for Speech-Language Pathology and Audiology;
 - (B) State Board of Chiropractic Examiners;
 - (C) State Board of Licensed Social Workers;
 - (D) Oregon Board of Licensed Professional Counselors and Therapists;
 - (E) Oregon Board of Dentistry;
 - (F) Board of Licensed Dietitians;
 - (G) State Board of Massage Therapists;
 - (H) Oregon Board of Naturopathic Medicine;
 - (I) Oregon State Board of Nursing;
 - (J) Long Term Care Administrators Board;
 - (K) Oregon Board of Optometry;
 - (L) State Board of Pharmacy;
 - (M) Oregon Medical Board;
 - (N) Occupational Therapy Licensing Board;
 - (O) [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy**;
 - (P) Oregon Board of Psychology;
 - (Q) Board of Medical Imaging;
 - (R) State Board of Direct Entry Midwifery;
 - (S) State Board of Denture Technology;
 - (T) Respiratory Therapist and Polysomnographic Technologist Licensing Board;
 - (U) Oregon Health Authority, to the extent that the authority licenses emergency medical services providers;
 - (V) Oregon State Veterinary Medical Examining Board; or
 - (W) State Mortuary and Cemetery Board.
- (b) "Licensee" means a health professional licensed or certified by or registered with a board.
- (c) "Prohibited conduct" means conduct by a licensee that:
- (A) Constitutes a criminal act against a patient or client; or
 - (B) Constitutes a criminal act that creates a risk of harm to a patient or client.
- (d) "Unprofessional conduct" means conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the licensee's profession or conduct that endangers the health, safety or welfare of a patient or client.

(2) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has engaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the conduct without undue delay, but in no event later than 10 working days after the reporting licensee learns of the conduct.

(3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime shall report the conviction or arrest to the licensee's board within 10 days after the conviction or arrest.

(4) The board responsible for a licensee who is reported to have engaged in prohibited or unprofessional conduct shall investigate in accordance with the board's rules. If the board has reasonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present the facts to an appropriate law enforcement agency without undue delay, but in no event later than 10 working days after the board finds reasonable cause to believe that the licensee engaged in prohibited conduct.

(5) A licensee who fails to report prohibited or unprofessional conduct as required by subsection (2) of this section or the licensee's conviction or arrest as required by subsection (3) of this section is subject to discipline by the board responsible for the licensee.

(6) A licensee who fails to report prohibited conduct as required by subsection (2) of this section commits a Class A violation.

(7) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this section is confidential under ORS 676.175. A board may disclose a report as provided in ORS 676.177.

(8) Except as part of an application for a license or for renewal of a license and except as provided in subsection (3) of this section, a board may not require a licensee to report the licensee's criminal conduct.

(9) The obligations imposed by this section are in addition to and not in lieu of other obligations to report unprofessional conduct as provided by statute.

(10) A licensee who reports to a board in good faith as required by subsection (2) of this section is immune from civil liability for making the report.

(11) A board and the members, employees and contractors of the board are immune from civil liability for actions taken in good faith as a result of a report received under subsection (2) or (3) of this section.

SECTION 6. ORS 676.160 is amended to read: 676.160. As used in ORS 676.165 to 676.180, "health professional regulatory board" means the:

- (1) State Board of Examiners for Speech-Language Pathology and Audiology;
- (2) State Board of Chiropractic Examiners;
- (3) State Board of Licensed Social Workers;

(4) Oregon Board of Licensed Professional Counselors and Therapists;

(5) Oregon Board of Dentistry;

(6) State Board of Massage Therapists;

(7) State Mortuary and Cemetery Board;

(8) Oregon Board of Naturopathic Medicine;

(9) Oregon State Board of Nursing;

(10) Oregon Board of Optometry;

(11) State Board of Pharmacy;

(12) Oregon Medical Board;

(13) Occupational Therapy Licensing Board;

(14) [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy**;

(15) Oregon Board of Psychology;

(16) Board of Medical Imaging;

(17) Oregon State Veterinary Medical Examining Board; and

(18) Oregon Health Authority, to the extent that the authority licenses emergency medical services providers.

SECTION 7. ORS 676.177 is amended to read:

676.177. (1) Notwithstanding any other provision of ORS 676.165 to 676.180, a health professional regulatory board, upon a determination by the board that it possesses otherwise confidential information that reasonably relates to the regulatory or enforcement function of another public entity, may disclose that information to the other public entity.

(2) Any public entity that receives information pursuant to subsection (1) of this section shall agree to take all reasonable steps to maintain the confidentiality of the information, except that the public entity may use or disclose the information to the extent necessary to carry out the regulatory or enforcement functions of the public entity.

(3) For purposes of this section, "public entity" means:

(a) A board or agency of this state, or a board or agency of another state with regulatory or enforcement functions similar to the functions of a health professional regulatory board of this state;

(b) A district attorney;

(c) The Department of Justice;

(d) A state or local public body of this state that licenses, franchises or provides emergency medical services; or

(e) A law enforcement agency of this state, another state or the federal government.

(4) Notwithstanding subsections (1) to (3) of this section, the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy** may disclose information described in subsection (1) of this section to the Physical Therapy Compact Commission established in ORS 688.240.

SECTION 8. ORS 676.410 is amended to read:

676.410. (1) As used in this section, "health care workforce regulatory board" means the:

(a) State Board of Examiners for Speech-Language Pathology and Audiology;

(b) State Board of Chiropractic Examiners;

(c) State Board of Licensed Social Workers;

(d) Oregon Board of Licensed Professional Counselors and Therapists;

(e) Oregon Board of Dentistry;

(f) Board of Licensed Dietitians;

(g) State Board of Massage Therapists;

(h) Oregon Board of Naturopathic Medicine;

(i) Oregon State Board of Nursing;

(j) Respiratory Therapist and Polysomnographic Technologist Licensing Board;

(k) Oregon Board of Optometry;

(l) State Board of Pharmacy;

(m) Oregon Medical Board;

(n) Occupational Therapy Licensing Board;

(o) [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy;**

(p) Oregon Board of Psychology; and

(q) Board of Medical Imaging.

(2) An individual applying to renew a license with a health care workforce regulatory board must provide the information prescribed by the Oregon Health Authority pursuant to subsection (3) of this section to the health care workforce regulatory board. Except as provided in subsection (4) of this section, a health care workforce regulatory board may not approve an application to renew a license until the applicant provides the information.

(3) The authority shall collaborate with each health care workforce regulatory board to adopt rules establishing:

(a) The information that must be provided to a health care workforce regulatory board under subsection (2) of this section, which may include:

(A) Demographics, including race and ethnicity.

(B) Education and training information.

(C) License information.

(D) Employment information.

(E) Primary and secondary practice information.

(F) Anticipated changes in the practice.

(G) Languages spoken.

(b) The manner and form of providing information under subsection (2) of this section.

(4)(a) Subject to paragraph (b) of this subsection, a health care workforce regulatory board shall report health care workforce information collected under subsection (2) of this section to the authority.

(b) Except as provided in paragraph (c) of this subsection, personally identifiable information collected under subsection (2) of this section is confidential and a health care workforce regulatory board and the authority may not release such information.

(c) A health care workforce regulatory board may release personally identifiable information collected under subsection (2) of this section to a law enforcement agency for investigative purposes or to the authority for state health planning purposes.

(5) A health care workforce regulatory board may adopt rules to perform the board's duties under this section.

(6) In addition to renewal fees that may be imposed by a health care workforce regulatory board, the authority shall establish fees to be paid by individuals applying to renew a license with a health

care workforce regulatory board. The amount of fees established under this subsection must be reasonably calculated to reimburse the actual cost of obtaining or reporting information as required by subsection (2) of this section.

(7) Using information collected under subsection (2) of this section, the authority shall create and maintain a health care workforce database that will provide data, including data related to the diversity of this state's health care workforce, upon request to state agencies and to the Legislative Assembly. The authority may contract with a private or public entity to establish and maintain the database and to perform data analysis.

SECTION 9. ORS 676.440 is amended to read:

676.440. (1) Health professional regulatory boards shall encourage the development of state-of-the-art multidisciplinary pain management services and the availability of these services to the public.

(2) As used in subsection (1) of this section, "health professional regulatory boards" means the:

(a) Oregon Medical Board;

(b) Oregon Board of Naturopathic Medicine;

(c) Oregon Board of Dentistry;

(d) Oregon State Board of Nursing;

(e) [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy;**

(f) State Board of Chiropractic Examiners;

(g) State Board of Pharmacy; and

(h) Oregon Board of Psychology.

SECTION 10. ORS 676.802 is amended to read:

676.802. As used in this section, ORS 676.806 and 676.810 to 676.820:

(1)(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce significant improvement in human social behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior.

(b) "Applied behavior analysis" does not mean psychological testing, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy or long-term counseling as treatment modalities.

(2) "Licensed health care professional" means an individual whose scope of practice includes applied behavior analysis and who is licensed by:

(a) The Occupational Therapy Licensing Board;

(b) The Oregon Board of Licensed Professional Counselors and Therapists;

(c) The Oregon Medical Board;

(d) The Oregon State Board of Nursing;

(e) The [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy;**

(f) The State Board of Examiners for Speech-Language Pathology and Audiology;

(g) The State Board of Licensed Social Workers;

or

(h) The Oregon Board of Psychology.

SECTION 11. ORS 676.850, as amended by section 24, chapter 61, Oregon Laws 2018, is amended to read:

676.850. (1) As used in this section, “board” means the:

- (a) State Board of Examiners for Speech-Language Pathology and Audiology;
- (b) State Board of Chiropractic Examiners;
- (c) State Board of Licensed Social Workers;
- (d) Oregon Board of Licensed Professional Counselors and Therapists;
- (e) Oregon Board of Dentistry;
- (f) Board of Licensed Dietitians;
- (g) State Board of Massage Therapists;
- (h) Oregon Board of Naturopathic Medicine;
- (i) Oregon State Board of Nursing;
- (j) Long Term Care Administrators Board;
- (k) Oregon Board of Optometry;
- (l) State Board of Pharmacy;
- (m) Oregon Medical Board;
- (n) Occupational Therapy Licensing Board;
- (o) [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy**;
- (p) Oregon Board of Psychology;
- (q) Board of Medical Imaging;
- (r) State Board of Direct Entry Midwifery;
- (s) State Board of Denture Technology;
- (t) Respiratory Therapist and Polysomnographic Technologist Licensing Board;
- (u) Home Care Commission;
- (v) Oregon Health Authority, to the extent that the authority licenses emergency medical service providers; and
- (w) Health Licensing Office, to the extent that the office licenses lactation consultants.

(2)(a) In collaboration with the Oregon Health Authority, a board may adopt rules under which the board may require a person authorized to practice the profession regulated by the board to receive cultural competency continuing education approved by the authority under ORS 413.450.

(b) Cultural competency continuing education courses may be taken in addition to or, if a board determines that the cultural competency continuing education fulfills existing continuing education requirements, instead of any other continuing education requirement imposed by the board.

(3)(a) A board, or the Health Licensing Office for those boards for which the office issues and renews authorizations to practice the profession regulated by the board, shall document participation in cultural competency continuing education by persons authorized to practice a profession regulated by the board.

(b) For purposes of documenting participation under this subsection, a board may adopt rules requiring persons authorized to practice the profession regulated by the board to submit documentation to the board, or to the office for those boards for which the office issues and renews authorizations to practice the profession regulated by the board, of participation in cultural competency continuing education.

(4) A board shall report biennially to the authority on the participation documented under subsection (3) of this section.

(5) The authority, on or before August 1 of each even-numbered year, shall report to the interim committees of the Legislative Assembly related to health care on the information submitted to the authority under subsection (4) of this section.

SECTION 12. ORS 676.860 is amended to read: 676.860. (1) As used in this section:

- (a) “Board” means:
 - (A) Occupational Therapy Licensing Board;
 - (B) Oregon Board of Licensed Professional Counselors and Therapists;
 - (C) Oregon Board of Naturopathic Medicine;
 - (D) Oregon Medical Board;
 - (E) Oregon State Board of Nursing;
 - (F) [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy**;
 - (G) State Board of Chiropractic Examiners;
 - (H) State Board of Licensed Social Workers;
 - (I) Oregon Board of Psychology; and
 - (J) Teacher Standards and Practices Commission.
- (b) “Licensee” means a person authorized to practice one of the following professions:
 - (A) Clinical social worker, as defined in ORS 675.510;
 - (B) Licensed marriage and family therapist, as defined in ORS 675.705;
 - (C) Licensed professional counselor, as defined in ORS 675.705;
 - (D) Licensed psychologist, as defined in ORS 675.010;
 - (E) Occupational therapist, as defined in ORS 675.210;
 - (F) Regulated social worker, as defined in ORS 675.510;
 - (G) School counselor, as defined by rule by the Teacher Standards and Practices Commission;
 - (H) Certified registered nurse anesthetist, as defined in ORS 678.245;
 - (I) Chiropractic physician, as defined in ORS 684.010;
 - (J) Clinical nurse specialist, as defined in ORS 678.010;
 - (K) Naturopathic physician, as defined in ORS 685.010;
 - (L) Nurse practitioner, as defined in ORS 678.010;
 - (M) Physician, as defined in ORS 677.010;
 - (N) Physician assistant, as defined in ORS 677.495;
 - (O) Physical therapist, as defined in ORS 688.010; and
 - (P) Physical therapist assistant, as defined in ORS 688.010.

(2) In collaboration with the Oregon Health Authority, a board shall adopt rules to require a licensee regulated by the board to report to the board, upon reauthorization to practice, the licensee’s completion of any continuing education regarding suicide risk assessment, treatment and management.

(3) A licensee shall report the completion of any continuing education described in subsection (2) of this section to the board that regulates the licensee.

(4)(a) A board shall document completion of any continuing education described in subsection (2) of this section by a licensee regulated by the board. The board shall document the following data:

(A) The number of licensees who complete continuing education described in subsection (2) of this section;

(B) The percentage of the total of all licensees who complete the continuing education;

(C) The counties in which licensees who complete the continuing education practice; and

(D) The contact information for licensees willing to share information about suicide risk assessment, treatment and management with the authority.

(b) The board shall remove any personally identifying information from the data submitted to the board under this subsection, except for the personally identifying information of licensees willing to share such information with the authority.

(c) For purposes of documenting completion of continuing education under this subsection, a board may adopt rules requiring licensees to submit documentation of completion to the board.

(5) A board, on or before March 1 of each even-numbered year, shall report to the authority on the data documented under subsection (4) of this section, as well as information about any initiatives by the board to promote suicide risk assessment, treatment and management among its licensees.

(6) The authority, on or before August 1 of each even-numbered year, shall report to the interim committees of the Legislative Assembly related to health care on the information submitted to the authority under subsection (5) of this section. The authority shall include in the report information about initiatives by boards to promote awareness about suicide risk assessment, treatment and management and information on how boards are promoting continuing education described in subsection (2) of this section to licensees.

(7) The authority may use the information submitted to the authority under subsection (5) of this section to develop continuing education opportunities related to suicide risk assessment, treatment and management for licensees and to facilitate improvements in suicide risk assessment, treatment and management efforts in this state.

SECTION 13. ORS 688.010 is amended to read: 688.010. As used in ORS 688.010 to 688.201, unless the context requires otherwise:

[1] [*“Board” means the Physical Therapist Licensing Board.*]

[2] (1) “Physical therapist” means a person who is licensed pursuant to ORS 688.010 to 688.201 to practice physical therapy.

[3] (2) “Physical therapist aide” means a person who is trained by a physical therapist or physical therapist assistant to perform designated and super-

vised routine tasks related to physical therapy and who works under the direct on-site supervision of a physical therapist or physical therapist assistant.

[4] (3) “Physical therapist assistant” means a person who assists a physical therapist in the administration of selected components of physical therapy intervention. A physical therapist assistant works under the supervision and direction of the physical therapist.

[5] (4) “Physical therapy” means the care and services provided by a physical therapist or by a physical therapist assistant under the supervision and direction of a physical therapist.

[6] (5) “Practice of physical therapy” means:

(a) Examining, evaluating and testing for mechanical, physiological and developmental impairments, functional limitations and disabilities or other neuromusculoskeletal conditions in order to determine a physical therapy diagnosis or prognosis or a plan of physical therapy intervention and to assess the ongoing effects of physical therapy intervention.

(b) Alleviating impairments and functional limitations by designing, implementing, administering and modifying physical therapy interventions.

(c) Reducing the risk of injury, impairment, functional limitation and disability by physical therapy interventions that may include as a component the promotion and maintenance of health, fitness and quality of life in all age populations.

(d) Consulting or providing educational services to a patient for the purposes of paragraphs (a), (b) and (c) of this subsection.

SECTION 14. ORS 688.015 is amended to read:

688.015. (1) The Legislative Assembly finds and declares that providing for state administrative control, supervision, licensure and regulation of the practice of physical therapy in this state serves the purpose of protecting the public health, safety and welfare.

(2) It is the intent of the Legislative Assembly that only individuals who meet and maintain prescribed standards of competence may engage in the practice of physical therapy as authorized by ORS 688.010 to 688.201 and implemented by the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy**.

SECTION 15. ORS 688.040 is amended to read:

688.040. (1) Any person desiring to be a licensed physical therapist or physical therapist assistant shall apply in writing to the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy** in the form and manner provided by the board by rule.

(2) Each application shall include or be accompanied by evidence, satisfactory to the board, that the applicant possesses the qualifications prescribed by ORS 688.050 for applicants for licensing as a physical therapist and ORS 688.055 for applicants for licensing as a physical therapist assistant.

(3) An applicant shall include with the application any application and examination fees prescribed by the board by rule.

(4) The board shall notify an applicant of any deficiencies in the application.

SECTION 16. ORS 688.050 is amended to read: 688.050. (1) Each applicant for a license as a physical therapist shall:

(a) Be at least 18 years of age.

(b) Be of good moral character as determined by the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy**.

(c)(A) Be a graduate of an accredited professional physical therapy education program approved by the board; or

(B) Have military experience or training that the board determines is substantially equivalent to the education required by subparagraph (A) of this paragraph.

(d) Pass to the satisfaction of the board an examination approved by the board to determine the fitness of the applicant to practice as a physical therapist or to be entitled to be licensed as provided in ORS 688.080. An applicant for licensure as a physical therapist who does not pass the examination on the first attempt may retake the examination as provided by rules adopted by the board.

(2) In addition to the requirements of subsection (1) of this section, an applicant for a license as a physical therapist who has been educated outside the United States shall:

(a) Provide evidence satisfactory to the board that the applicant's physical therapy education program is recognized or accredited and that the applicant's education is substantially equivalent to the education of physical therapists who graduated from accredited physical therapy education programs approved by the board. If the board determines that the education of an applicant who graduated from a physical therapy education program outside the United States is not substantially equivalent, the board may require the applicant to complete additional course work before the board proceeds with the application process.

(b) Obtain an evaluation of the applicant's educational credentials by a credentials evaluation agency approved by the board.

(c) Demonstrate proficiency in English if required by the board.

(d) Pass to the satisfaction of the board an examination approved by the board.

(3) If an applicant who has been educated outside the United States is a graduate of an accredited physical therapy education program approved by the board, the board may waive the requirements of subsection (2)(a) and (b) of this section.

SECTION 17. ORS 688.055 is amended to read: 688.055. Each applicant for a license as a physical therapist assistant shall:

(1) Be at least 18 years of age.

(2) Be of good moral character as determined by the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy**.

(3) Be a graduate of an accredited physical therapist assistant education program approved by the board.

(4) Pass to the satisfaction of the board an examination approved by the board to determine the fitness of the applicant to work as a physical therapist assistant or to be entitled to be licensed as provided in ORS 688.080. An applicant for licensure as a physical therapist assistant who does not pass the examination on the first attempt may retake the examination as provided by rules adopted by the board.

SECTION 18. ORS 688.080 is amended to read: 688.080. (1) The [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy** may license as a physical therapist or license as a physical therapist assistant, without examination, any person who:

(a) Applies for a license as provided in ORS 688.040;

(b) Is of good moral character as determined by the board; and

(c) On the date of making application, is a physical therapist or physical therapist assistant who has a valid unrestricted license from any other state or territory of the United States if the requirements for licensing of physical therapists or physical therapist assistants in the state or territory in which the applicant is licensed are substantially equivalent to Oregon's licensure requirements and the applicant passed to the satisfaction of the examiner of such state or territory a written examination that is approved by the board of this state.

(2) Each applicant under this section shall pay a fee to the board at the time of filing the application.

SECTION 19. ORS 688.090 is amended to read: 688.090. The [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy** shall license as a physical therapist or a physical therapist assistant each applicant who proves to the satisfaction of the board fitness for such license as provided in ORS 688.010 to 688.201. The board shall issue a certificate to each person licensed. The certificate shall be prima facie evidence of the right of the person to whom it is issued to represent that person as a licensed physical therapist or physical therapist assistant, whichever certificate the person holds, subject to the provisions of ORS 688.010 to 688.201.

SECTION 20. ORS 688.100 is amended to read: 688.100. (1) A person who is licensed as a physical therapist or physical therapist assistant shall renew the person's license pursuant to the rules of the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy**. A person who fails to renew the license on or before the expiration date specified by board rule may not practice as a phys-

ical therapist or work as a physical therapist assistant in this state until the lapsed license is renewed.

(2) The board may reinstate a lapsed license upon payment of all past renewal and delinquency fees.

(3) If a person's license has lapsed for more than five consecutive years, that person shall reapply for a license and pay all applicable fees. The person shall also demonstrate to the board's satisfaction competence to practice physical therapy, or shall serve an internship under a restricted license or take remedial or refresher courses, or both, at the discretion of the board. The board may also require the applicant to take an examination.

(4) A person who is licensed as a physical therapist or physical therapist assistant shall report to the board a name change or any change in business or residential address, electronic mail address or contact telephone number within 30 days after the date of change.

SECTION 21. ORS 688.110 is amended to read:

688.110. (1) The [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy**, in its discretion, may issue without examination a temporary permit to a person to practice as a physical therapist or to work as a physical therapist assistant in this state if the person files an application for license as provided in ORS 688.040 or 688.080, and pays to the board at the time of filing the application the temporary permit fee.

(2) A person holding a temporary permit may practice physical therapy only under the direction of a physical therapist licensed under ORS 688.010 to 688.201.

(3) The temporary permit shall be granted for a period not to exceed three months. The board may renew the temporary permit at its discretion for no more than 90 days.

SECTION 22. ORS 688.140 is amended to read:

688.140. (1) The [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy**, after notice and hearing as provided in ORS 688.145, may impose any or all of the following sanctions or take any of the following actions upon any of the grounds specified in subsection (2) of this section:

(a) Refuse to license any applicant.

(b) Refuse to renew the license of any physical therapist or physical therapist assistant.

(c) Suspend or revoke the license of any physical therapist or physical therapist assistant.

(d) Suspend or revoke a temporary permit issued under ORS 688.110.

(e) Impose a civil penalty not to exceed \$5,000.

(f) Impose probation with authority to limit or restrict a license.

(g) Impose conditions, restrictions or limitations on practice.

(h) Issue letters of reprimand.

(i) Impose any other appropriate sanction, including assessment of the reasonable costs of a proceeding under ORS 688.145 as a civil penalty. Costs

include, but are not limited to, the costs of investigation, attorney fees, hearing officer costs and the costs of discovery.

(2) Grounds exist for the imposition of sanctions as specified in subsection (1) of this section when a person:

(a) Violates any provision of ORS 688.010 to 688.201, board rules or a written order from the board.

(b) Practices or offers to practice beyond the scope of practice of physical therapy.

(c) Obtains or attempts to obtain or renew a license or temporary permit by fraud or misrepresentation.

(d) Provides substandard care as a physical therapist through a deliberate or negligent act or failure to act, regardless of whether injury to the patient occurs.

(e) Provides substandard care as a physical therapist assistant by exceeding the authority to perform components of physical therapy interventions selected by the supervising physical therapist or through a deliberate or negligent act or failure to act, regardless of whether injury to the patient occurs.

(f) Fails as a physical therapist to supervise physical therapist assistants in accordance with board rules.

(g) Fails as a physical therapist or physical therapist assistant to supervise physical therapist aides in accordance with board rules.

(h) Subject to the provisions of ORS 670.280, has been convicted of a crime in Oregon or any other state, territory or country. For purposes of this paragraph, conviction includes a verdict of guilty, a plea of guilty or a plea of no contest.

(i) Has an impairment as defined in ORS 676.303.

(j) Has had an application for licensure refused because of conduct or circumstances that would be grounds for sanctions by the board, or a license revoked or suspended, or other disciplinary action taken by the proper authorities of another state, territory or country.

(k) Engages in sexual misconduct. For purposes of this paragraph, sexual misconduct includes but is not limited to:

(A) Engaging in sexual conduct or soliciting a sexual relationship with a current patient, whether consensual or nonconsensual.

(B) Intentionally exposing or viewing a completely or partially disrobed patient in the course of treatment if the exposure or viewing is not related to patient diagnosis or treatment under current practice standards.

(L) Directly or indirectly requests, receives, pays or participates in dividing, transferring or assigning an unearned fee or profits by a means of a credit or other valuable consideration such as an unearned commission, discount or gratuity in connection with the furnishing of physical therapy services. This paragraph does not prohibit the members of any regularly and properly organized business entity recognized by law and comprised of physical therapists

from dividing fees received for professional services among themselves as they determine.

(m) Fails to adhere to the standards of ethics of the physical therapy profession established by board rule.

(n) Obtains or attempts to obtain a fee for physical therapy services by fraud or misrepresentation.

(o) Makes misleading, deceptive or fraudulent representations in the course of providing physical therapy services.

(p) Fails to report to the board, when the person has direct knowledge of an unprofessional, incompetent or illegal act that reasonably appears to be in violation of ORS 688.010 to 688.201 or any rules of the board.

(q) Interferes with an investigation or disciplinary proceeding of the board.

(r) Aids or abets a person who is not licensed in this state to practice physical therapy.

(s) Fails to maintain adequate patient records.

(t) Fails to maintain patient confidentiality.

(u) Provides treatment intervention that is not warranted by the patient's condition or continues treatment beyond the point of reasonable benefit to the patient.

(v) Provides physical therapy services or participates in physical therapy services solely for reasons of personal or institutional financial gain.

(w) Aids or causes another person, directly or indirectly, to violate ORS 688.010 to 688.201 or rules of the board, fraudulently uses or permits the use of a license number in any way, or acts with the intent to violate ORS 688.010 to 688.201 or rules of the board.

(3) To enforce the provisions of this section, the board is authorized to initiate an investigation and take the following actions:

(a) Receive complaints filed against persons and conduct timely investigations.

(b) Initiate its own investigation if the board has reason to believe that there may have been a violation of ORS 688.010 to 688.201.

(c) Issue a subpoena to compel the attendance of any witness or the production of any documentation relating to a matter under investigation. In addition to the board, the executive director or the executive director's designee may issue a subpoena. When the board, in the course of an investigation, requires the production of patient records for inspection and copying by subpoena, or otherwise, the records shall be produced without regard to whether patient consent has been obtained and without regard to any claim of confidentiality or privilege.

(d) Take the deposition of a witness, including a physical therapist or physical therapist assistant being investigated, in the manner provided by law in civil cases.

(e) Take emergency action to suspend a person's license or restrict the person's practice or employment pending proceedings by the board.

(f) Report to the appropriate district attorney all cases that, in the judgment of the board, warrant prosecution.

(g) Require a person to undergo a mental, physical, chemical dependency or competency evaluation at the person's expense when the board has objectively reasonable grounds to believe that the person is or may be unable to practice physical therapy with reasonable skill and safety, with the results being reported to the board. The report shall not be disclosed to the public but may be received into evidence in a proceeding between the board and the person when the mental, physical, chemical dependency or competency of the person is at issue, notwithstanding any claim of privilege by the person.

(4) If the board finds that the information received in a complaint or an investigation does not merit disciplinary action against a person, nondisciplinary actions may ensue. The board may then take the following actions:

(a) Dismiss the complaint.

(b) Issue a confidential advisory letter to the person that is nondisciplinary and that notifies the physical therapist or physical therapist assistant that certain conduct or practices must be modified or eliminated.

(5) The board may apply for injunctive relief in any court of competent jurisdiction to enjoin any person from committing any act in violation of ORS 688.010 to 688.201. Injunction proceedings are in addition to, and not in lieu of, penalties or other sanctions prescribed in ORS 688.010 to 688.201.

SECTION 23. ORS 688.145 is amended to read:

688.145. (1) When the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy** proposes to impose any of the sanctions authorized in ORS 688.140, opportunity for hearing shall be accorded as provided in ORS chapter 183.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS chapter 183.

(3) Information that the board obtains as part of an investigation into licensee or applicant conduct or as part of a contested case proceeding, consent order or stipulated agreement involving licensee or applicant conduct is confidential as provided under ORS 676.175.

SECTION 24. ORS 688.160 is amended to read:

688.160. (1) The [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy** operates as a semi-independent state agency subject to ORS 182.456 to 182.472, for purposes of carrying out the provisions of ORS 688.010 to 688.201 and 688.990. The [*Physical Therapist Licensing Board*] **board** consists of eight members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) Five must be physical therapists who are Oregon residents, possess unrestricted licenses to practice physical therapy in this state, have been practicing in this state for at least two years immediately preceding their appointments and have been

practicing in the field of physical therapy for at least five years.

(b) One must be a licensed physical therapist assistant.

(c) Two must be public members who have an interest in consumer rights and who are not:

(A) Otherwise eligible for appointment to the board; or

(B) The spouse, domestic partner, child, parent or sibling of a physical therapist or physical therapist assistant.

(2)(a) Board members required to be physical therapists or physical therapist assistants may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by the Oregon Physical Therapy Association.

(b) In selecting the members of the board, the Governor shall strive to balance the representation on the board according to:

(A) Geographic areas of this state; and

(B) Ethnic group.

(3)(a) The term of office of each member is four years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. A member is eligible for reappointment.

(b) In the event of a vacancy in the office of a member of the board other than by reason of the expiration of a term, the Governor, not later than 90 days after the occurrence of the vacancy, shall appoint a person to fill the vacancy for the unexpired term.

(c) A board member shall be removed immediately from the board if, during the member's term, the member:

(A) Is not a resident of this state;

(B) Has been absent from three consecutive board meetings, unless at least one absence is excused;

(C) Is not a licensed physical therapist or a retired physical therapist who was a licensed physical therapist in good standing at the time of retirement, if the board member was appointed to serve on the board as a physical therapist; or

(D) Is not a licensed physical therapist assistant or a retired physical therapist assistant who was a licensed physical therapist assistant in good standing at the time of retirement, if the board member was appointed to serve on the board as a retired physical therapist assistant.

(4) Each member of the board is entitled to compensation and expenses as provided in ORS 292.495. The board may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495.

(5) A board member who acts within the scope of board duties, without malice and in reasonable belief that the member's action is warranted by law, is immune from civil liability.

(6) The board shall have power to:

(a) Establish matters of policy affecting administration of ORS 688.010 to 688.201;

(b) Provide for examinations for physical therapists and physical therapist assistants and adopt passing scores for the examinations;

(c) Adopt rules necessary to carry out and enforce the provisions of ORS 688.010 to 688.201;

(d) Establish standards and tests to determine the qualifications of applicants for licenses to practice physical therapy in this state;

(e) Issue licenses to persons who meet the requirements of ORS 688.010 to 688.201;

(f) Adopt rules relating to the supervision and the duties of physical therapist aides who assist in performing routine work under supervision;

(g) Adopt rules establishing minimum continuing competency requirements for all licensees;

(h) Exercise general supervision over the practice of physical therapy within this state;

(i) Establish and collect fees for the application or examination for, or the renewal, reinstatement or duplication of, a license under ORS 688.040, 688.080 or 688.100 or for the issuance of a temporary permit under ORS 688.110; and

(j) Establish and collect fees to carry out and enforce the provisions of ORS 688.010 to 688.201.

(7) The board shall meet as determined by the board and at any other time at the call of the board chairperson, who shall be elected by the members of the board. All members have equal voting privileges.

(8) The board may appoint and fix the compensation of staff as necessary to carry out the operations of the board.

(9) The board shall:

(a) Maintain a current list of all persons regulated under ORS 688.010 to 688.201, including the persons' names, current business and residential addresses, telephone numbers, electronic mail addresses and license numbers.

(b) Provide information to the public regarding the procedure for filing a complaint against a physical therapist or physical therapist assistant.

(c) Publish at least annually, and in a format or place determined by the board, final disciplinary actions taken against physical therapists and physical therapist assistants and other information, including rules, in order to guide physical therapists and physical therapist assistants regulated pursuant to ORS 688.010 to 688.201.

SECTION 25. ORS 688.201 is amended to read:

688.201. (1) All moneys received under ORS 688.010 to 688.201 shall be paid into an account established by the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy** under ORS 182.470. The board may establish an additional account under ORS 182.470 for the purpose of meeting financial obligations imposed on the State of Oregon as a result of this state's participation in the Physical Therapy Licensure Compact established under ORS 688.240.

(2) The moneys paid into the accounts established by the board under ORS 182.470 are continuously appropriated to the board and may be used only for the administration and enforcement of ORS

676.850, 676.860 and 688.010 to 688.201 and for the purpose of meeting financial obligations imposed on the State of Oregon as a result of this state's participation in the Physical Therapy Licensure Compact established under ORS 688.240.

SECTION 26. ORS 688.230 is amended to read:

688.230. (1) Any licensed health facility, licensed physical therapist, licensed physical therapist assistant, the Oregon Physical Therapy Association, physician licensed under ORS chapter 677 or dentist shall, and any other person may, report suspected violations of ORS 688.010 to 688.201 to the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy**. The reports are confidential as provided under ORS 676.175.

(2) Any person who reports or provides information to the board under subsection (1) of this section and who provides information in good faith shall not be subject to an action for civil damages as a result thereof.

SECTION 27. ORS 688.240 is amended to read:

688.240. The provisions of the Physical Therapy Licensure Compact are as follows:

PHYSICAL THERAPY LICENSURE
COMPACT

SECTION 1. PURPOSE

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

This Compact is designed to achieve the following objectives:

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

SECTION 2. DEFINITIONS

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

1. "Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard

and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

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

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

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

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

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

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

8. "Executive Board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

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

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

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

12. "Licensee" means an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant.

13. "Member state" means a state that has enacted the Compact.

14. "Party state" means any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege.

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

16. "Physical therapist assistant" means an individual who is licensed/certified by a state and who assists the physical therapist in selected components of physical therapy.

17. "Physical therapy," "physical therapy practice," and "the practice of physical therapy" mean the care and services provided by or under the di-

rection and supervision of a licensed physical therapist. The “practice of physical therapy” also has the meaning given that term in ORS 688.010.

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

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

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

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

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

SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

1. Participate fully in the Commission’s data system, including using the Commission’s unique identifier as defined in rules;

2. Have a mechanism in place for receiving and investigating complaints about licensees;

3. Notify the Commission, in compliance with the terms of the Compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

4. Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions in accordance with Section 3.B.[4.];

5. Comply with the rules of the Commission;

6. Utilize a recognized national examination as a requirement for licensure pursuant to the rules of the Commission; and

7. Have continuing competence requirements as a condition for license renewal.

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

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

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

SECTION 4. COMPACT PRIVILEGE

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

1. Hold a license in the home state;
2. Have no encumbrance on any state license;

3. Be eligible for a compact privilege in any member state in accordance with Section 4D, G and H;

4. Have not had any adverse action against any license or compact privilege within the previous 2 years;

5. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);

6. Pay any applicable fees, including any state fee, for the compact privilege;

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

8. Report to the Commission adverse action taken by any non-member state within 30 days from the date the adverse action is taken.

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

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

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

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

1. The home state license is no longer encumbered; and

2. Two years have elapsed from the date of the adverse action.

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

G. If a licensee’s compact privilege in any remote state is removed, the individual shall lose the compact privilege in any remote state until the following occur:

1. The specific period of time for which the compact privilege was removed has ended;

2. All fines have been paid; and

3. Two years have elapsed from the date of the adverse action.

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

SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

A licensee who is active duty military or is the spouse of an individual who is active duty military

may designate one of the following as the home state:

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

SECTION 6. ADVERSE ACTIONS

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

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

C. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state's laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

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

E. A remote state shall have the authority to:

1. Take adverse actions as set forth in Section 4D against a licensee's compact privilege in the state;

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

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

F. Joint Investigations

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

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

SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

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

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

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

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

B. Membership, Voting, and Meetings

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

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

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

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

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

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

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

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

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

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

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

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

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

7. Purchase and maintain insurance and bonds;

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

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

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

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

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

13. Establish a budget and make expenditures;

14. Borrow money;

15. Appoint committees, including standing committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

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

17. Establish and elect an Executive Board; and

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

D. The Executive Board

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

1. The Executive Board shall be comprised of nine members:

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

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

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

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

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

4. The Executive Board shall meet at least annually.

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

a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such

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

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

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

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

f. Establish additional committees as necessary; and

g. Other duties as provided in rules or bylaws.

E. Meetings of the Commission

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

2. The Commission or the Executive Board or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Board or other committees of the Commission must discuss:

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

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

c. Current, threatened, or reasonably anticipated litigation;

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

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

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

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

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

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

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

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under

seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

F. Financing of the Commission

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

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

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

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

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

6. An assessment levied, or any other financial obligation imposed, under this Compact is effective against the State of Oregon only to the extent that moneys necessary to pay the assessment or meet the financial obligations have been deposited in an account established under ORS 182.470 by the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy** pursuant to ORS 688.201.

G. Qualified Immunity, Defense, and Indemnification

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

2. The Commission shall defend any member, officer, executive director, employee or representative

of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

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

SECTION 8. DATA SYSTEM

A. 1. The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

2. Notwithstanding Section 9.A.1., the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy** shall review the rules of the Commission. The licensing board may approve and adopt the rules of the Commission as rules of the licensing board. The State of Oregon is subject to a rule of the Commission only if the rule of the Commission is adopted by the licensing board.

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

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

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

D. The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee

in any member state will be available to any other member state.

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

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

SECTION 9. RULEMAKING

A. 1. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

2. Notwithstanding Section 9.A.1., the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy** shall review the rules of the Commission. The licensing board may approve and adopt the rules of the Commission as rules of the licensing board. The State of Oregon is subject to a rule of the Commission only if the rule of the Commission is adopted by the licensing board.

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

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

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

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

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

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

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

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

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

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

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

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

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

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

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

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

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

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

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

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

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

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or member state funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

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

SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder and adopted by the [*Physical Therapist Licensing Board*] **Oregon Board of Physical Therapy** shall have standing as statutory law.

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

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

B. Default, Technical Assistance, and Termination

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

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

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

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

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

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

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

C. Dispute Resolution

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

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

D. Enforcement

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

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

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

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

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

powers necessary to the implementation and administration of the Compact.

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

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

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

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

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

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

SECTION 12. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase,

clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any party state, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

SECTION 28. (1) The amendments to ORS 182.454, 182.460, 182.462, 445.010, 676.150, 676.160, 676.177, 676.410, 676.440, 676.802, 676.850, 676.860, 688.010, 688.015, 688.040, 688.050, 688.055, 688.080, 688.090, 688.100, 688.110, 688.140, 688.145, 688.160, 688.201, 688.230 and 688.240 by sections 1 to 27 of this 2019 Act are intended to change the name of the "Physical Therapist Licensing Board" to the "Oregon Board of Physical Therapy."

(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the "Physical Therapist Licensing Board," wherever they occur in statutory law, other words designating the "Oregon Board of Physical Therapy."

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