Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017

HOUSE BILL NO. 1157
(Representatives B. Koppelman, D. Anderson, Roers Jones, Schneider)
(Senators Grabinger, Kreun, J. Lee)

AN ACT to create and enact a new chapter to title 43 of the North Dakota Century Code, relating to the physical therapy licensure compact.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 43 of the North Dakota Century Code is created and enacted as follows:

ARTICLE I - 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 or client is located at the time of the patient or 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 multistate 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.

ARTICLE II - DEFINITIONS

As used in this compact, and except as otherwise provided, the following definitions 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. sections 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 nondisciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes 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 or client is located at the time of the patient or client encounter.

5. "Continuing competence" means a requirement, as a condition of license renewal, to provide evidence of participation in, 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 or 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 direction and supervision of a licensed physical therapist.

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 which 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.

ARTICLE III - STATE PARTICIPATION IN THE COMPACT

1. To participate in the compact, a state must:

   a. Participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;

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

   c. 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;

   d. Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the federal bureau of investigation record search on criminal background checks and use the results in making licensure decisions in accordance with subsection 2;

   e. Comply with the rules of the commission;

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

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

2. Upon adoption of this statute, the member state may 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. section 534 and 42 U.S.C. section 14616.

3. 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.

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

ARTICLE IV - COMPACT PRIVILEGE

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

   a. Hold a license in the home state;

   b. Have no encumbrance on any state license;

   c. Be eligible for a compact privilege in any member state in accordance with subsections 4, 7, and 8;

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

   e. Notify the commission the licensee is seeking the compact privilege within a remote state;

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

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

   h. Report to the commission adverse action taken by any nonmember state within thirty days from the date the adverse action is taken.

2. The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of subsection 1 to maintain the compact privilege in the remote state.

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

4. 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, 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.

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

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

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

6. Once an encumbered license in the home state is restored to good standing, the licensee shall meet the requirements of subsection 1 to obtain a compact privilege in any remote state.

7. If a licensee's compact privilege in any remote state is removed, the individual loses the compact privilege in any remote state until the following occur:

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

   b. All fines have been paid; and

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

8. Once the requirements of subsection 7 have been met, the licensee shall meet the requirements in subsection 1 to obtain a compact privilege in a remote state.

ARTICLE V - 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:

1. Home of record;

2. Permanent change of station; or

3. State of current residence if it is different from the permanent change of station state or home of record.

ARTICLE VI - ADVERSE ACTIONS

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

2. A home state may take adverse action based on the investigative information of a remote state, if the home state follows its own procedures for imposing adverse action.

3. This compact does not override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation must remain nonpublic if required by the member state's laws. Member states shall 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.

4. 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.

5. A remote state may:

   a. Take adverse actions as set forth in subsection 4 of article IV against a licensee's compact privilege in the state;

   b. Issue subpoenas for both hearings and investigations which 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, or the production of evidence from another party state, must 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 or evidence are located; and

   c. 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.

6. Joint investigations.

   a. 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.

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

ARTICLE VII - ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

1. The compact member states hereby create and establish a joint public agency known as the physical therapy compact commission:

   a. The commission is an instrumentality of the compact states.

   b. Venue is proper and judicial proceedings by or against the commission must 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.

   c. This compact may not be construed to be a waiver of sovereign immunity.

2. Membership, voting, and meetings.

   a. Each member state is limited to one delegate selected by that member state's licensing board.

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

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

d. The member state board shall fill any vacancy occurring in the commission.

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

f. 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.

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

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

a. Establish the fiscal year of the commission;

b. Establish bylaws;

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

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

e. Promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules have the force and effect of law and are binding in all member states;

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

g. Purchase and maintain insurance and bonds;

h. Borrow, accept, or contract for services of personnel, including employees of a member state;

i. 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;

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

k. 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;

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

m. Establish a budget and make expenditures;

n. Borrow money;

o. 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;

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

q. Establish and elect an executive board; and

r. 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.

4. The executive board may act on behalf of the commission according to the terms of this compact:

a. The executive board must be comprised of nine members:

(1) Seven voting members who are elected by the commission from the current membership of the commission;

(2) One ex officio, nonvoting member from the recognized national physical therapy professional association; and

(3) One ex officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

b. The ex officio members are selected by their respective organizations.

c. The commission may remove any member of the executive board as provided in bylaws.

d. The executive board shall meet at least annually.

e. The executive board shall:

(1) 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;

(2) Ensure compact administration services are appropriately provided, contractual or otherwise;

(3) Prepare and recommend the budget;

(4) Maintain financial records on behalf of the commission;

(5) Monitor compact compliance of member states and provide compliance reports to the commission;

(6) Establish additional committees as necessary; and

(7) Other duties as provided in rules or bylaws.

5. Meetings of the commission.

a. All meetings are open to the public, and public notice of meetings must be given in the same manner as required under the rulemaking provisions in article IX.

b. The commission or the executive board or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive board or other committees of the commission must discuss:

(1) Noncompliance of a member state with its obligations under the compact;

(2) 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;

(3) Current, threatened, or reasonably anticipated litigation;

(4) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(5) Accusing any person of a crime or formally censuring any person;

(6) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(7) Disclosure of information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy;

(8) Disclosure of investigative records compiled for law enforcement purposes;

(9) 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

(10) Matters specifically exempted from disclosure by federal or member state statute.

c. 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.

d. 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 must be identified in such minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

6. Financing of the commission.

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

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

c. 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 must be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

d. The commission may not incur obligations of any kind before securing the funds adequate to meet the same, nor may the commission pledge the credit of any of the member states, except by and with the authority of the member state.

e. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting

procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission.

7. Qualified immunity, defense, and indemnification.

   a. The members, officers, executive director, employees, and representatives of the commission are 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 subdivision may be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.

   b. 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 this subdivision may not be construed to prohibit that person from retaining that person's own counsel, and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct.

   c. 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, willful, or wanton misconduct of that person.

ARTICLE VIII - DATA SYSTEM

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 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:

   a. Identifying information;

   b. Licensure data;

   c. Adverse actions against a license or compact privilege;

   d. Nonconfidential information related to alternative program participation;

   e. Any denial of application for licensure, and the reason for such denial; and

   f. Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

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

4. The commission promptly shall 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 is available to any other member state.

5. 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.

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

ARTICLE IX - RULEMAKING

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

2. If a majority of the legislatures of the member states reject a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule has no further force and effect in any member state.

3. Rules or amendments to the rules must be adopted at a regular or special meeting of the commission.

4. Before promulgation and adoption of a final rule or rules by the commission, and at least thirty 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:

    a. On the website of the commission or other publicly accessible platform; and

    b. 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.

5. The notice of proposed rulemaking must include:

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

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

    c. A request for comments on the proposed rule from any interested persons; and

    d. The manner in which interested persons may submit notice to the commission of the interested persons' intentions to attend the public hearing and any written comments.

6. Before adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which must be made available to the public.

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

    a. At least twenty-five persons;

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

    c. An association having at least twenty-five members.

8. 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.

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

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

    c. All hearings must be recorded. A copy of the recording must be made available on request.

    d. This section may not 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.

9. 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.

10. If written notice of intent to attend the public hearing by interested parties is not received, the commission may proceed with promulgation of the proposed rule without a public hearing.

11. By majority vote of all members, the commission shall 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.

12. 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 must be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety 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:

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

    b. Prevent a loss of commission or member state funds;

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

    d. Protect public health and safety.

13. 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 must be posted on the website of the commission. The revision is subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds the revision results in a material change to a rule. A challenge must be made in writing, and delivered to the chair of the commission before the end of the notice period. If a challenge is not made, the revision takes effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

ARTICLE X - OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

1. Oversight.

a. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated under this compact have standing as statutory law.

b. 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.

c. The commission is entitled to receive service of process in any such proceeding, and has standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or promulgated rules.

2. Default, technical assistance, and termination.

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

(1) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and any other action to be taken by the commission; and

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

b. 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.

c. Termination of membership in the compact must be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must 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.

d. 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.

e. The commission may 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.

f. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member must be awarded all costs of such litigation, including reasonable attorney's fees.

3. Dispute resolution.

a. Upon request by a member state, the commission shall attempt to resolve disputes related to the compact which arise among member states and between member and nonmember states.

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

4. Enforcement.

   a. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

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

   c. The remedies herein are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE XI - DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

1. The compact comes 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, are 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.

2. Any state that joins the compact after the commission's initial adoption of the rules is 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 has the full force and effect of law on the day the compact becomes law in that state.

3. Any member state may withdraw from this compact by enacting a statute repealing the same.

   a. A member state's withdrawal does not take effect until six months after enactment of the repealing statute.

   b. Withdrawal does 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 compact before the effective date of withdrawal.

4. This compact may not be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a nonmember state which does not conflict with the provisions of this compact.

5. This compact may be amended by the member states. An amendment to this compact may not become effective and binding upon any member state until it is enacted into the laws of all member states.

ARTICLE XII - CONSTRUCTION AND SEVERABILITY

This compact must be liberally construed so as to effectuate the purposes of the compact. The provisions of this compact are 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 of the remainder of this compact to any government, agency, person, or circumstance is not affected thereby. If this compact is held contrary to the constitution of any party state, the compact remains 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.

_____	_____
Speaker of the House	President of the Senate
_____	_____
Chief Clerk of the House	Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1157.

House Vote:	Yeas 87	Nays 0	Absent 7
Senate Vote:	Yeas 47	Nays 0	Absent 0

_____
Chief Clerk of the House

Received by the Governor at _____M. on _____, 2017.

Approved at _____M. on _____, 2017.

_____
Governor

Filed in this office this _____day of _____, 2017,

at _____ o'clock _____M.

_____
Secretary of State