

By: Burkett

H.B. No. 4069

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 SECTION 1.03. Section 452.055, Occupations Code, is amended
9 to read as follows:

10 Sec. 452.055. PRESIDING OFFICER. The ~~[member appointed by~~
11 ~~the]~~ governor shall designate a member of the executive council as
12 ~~[is]~~ the presiding officer of the executive council to serve in that
13 capacity at the pleasure of the governor.

14 SECTION 1.04. Sections 452.056(a) and (c), Occupations
15 Code, are amended to read as follows:

16 (a) It is a ground for removal from the executive council
17 that a member:

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

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

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

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

27 (5) is absent from more than half of the regularly

1 scheduled executive council meetings that the member is eligible to
2 attend during a calendar year without an excuse approved [~~unless~~
3 ~~the absence is excused~~] by a majority vote of the executive council.

4 (c) If the director has knowledge that a potential ground
5 for removal exists, the director shall notify the presiding officer
6 of the executive council of the potential ground. The presiding
7 officer shall then notify the governor and the attorney general
8 [~~authority that appointed the member~~] that a potential ground for
9 removal exists. If the potential ground for removal involves the
10 presiding officer, the director shall notify the next highest
11 ranking officer of the executive council, who shall then notify the
12 governor and the attorney general that a potential ground for
13 removal exists.

14 SECTION 1.05. Subchapter B, Chapter 452, Occupations Code,
15 is amended by adding Section 452.059 to read as follows:

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

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

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

25 (2) the programs, functions, rules, and budget of the
26 executive council, physical therapy board, and occupational
27 therapy board;

1 (3) the scope of and limitations on the rulemaking
2 authority of the executive council, physical therapy board, and
3 occupational therapy board;

4 (4) the results of the most recent formal audit of the
5 executive council, physical therapy board, and occupational
6 therapy board;

7 (5) the requirements of:

8 (A) laws relating to open meetings, public
9 information, administrative procedure, and disclosing conflicts of
10 interest; and

11 (B) other laws applicable to members of the
12 executive council, physical therapy board, and occupational
13 therapy board in performing their duties; and

14 (6) any applicable ethics policies adopted by the
15 executive council or the Texas Ethics Commission.

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

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

SECTION 1.06. Section 452.102, Occupations Code, is amended to read as follows:

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

SECTION 1.07. Section 452.152(b), Occupations Code, is amended to read as follows:

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

~~[(1) the administration of written examinations and collection of fees; and~~

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

SECTION 1.08. Subchapter D, Chapter 452, Occupations Code, is amended by adding Section 452.160 to read as follows:

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

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

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the

resolution of internal and external disputes under the executive council's jurisdiction.

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

(c) The executive council shall:

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

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

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

SECTION 1.09. Section [452.153](#)(b), Occupations Code, is repealed.

SECTION 1.10. As soon as practicable after the effective date of this article:

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

(2) the executive council shall:

(A) develop and implement the policies required by Section [452.102](#), Occupations Code, as amended by this article; and

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

SECTION 1.11. Notwithstanding Section 452.059(a), Occupations Code, as added by this article, a member of the Executive Council of Physical Therapy and Occupational Therapy Examiners who has not completed the training required by Section 452.059, Occupations Code, as added by this article, may vote, deliberate, and be counted as a member in attendance at a meeting of the Executive Council of Physical Therapy and Occupational Therapy Examiners until December 1, 2017.

ARTICLE 2. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

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

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

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

Sec. 453.054. MEMBERSHIP RESTRICTIONS. (a) In this section, "Texas trade association" means a [nonprofit,] cooperative[7] and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 453.060. TRAINING. (a) A person who is appointed to and qualifies for office as [~~Before~~] a member of the board may not vote, deliberate, or be counted as a member in attendance at a

1 meeting of ~~[assume the member's duties, the member must complete at~~
2 ~~least a course of the training program established by]~~ the board
3 until the person completes a training program that complies with
4 ~~[under]~~ this section.

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

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

9 (2) the programs, functions, rules, and budget of
10 ~~[operated by]~~ the board and executive council;

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

14 (4) ~~[the rules of the board, with an emphasis on the~~
15 ~~rules that relate to disciplinary and investigatory authority,~~

16 ~~[(5) the current budget for the board,~~

17 ~~[(6)] the results of the most recent formal audit of~~
18 the board and executive council;

19 (5) ~~[(7)]~~ the requirements of:

20 (A) laws relating to open meetings, public
21 information, administrative procedure, and disclosing conflicts

22 ~~[Chapters 551, 552, 2001, and 2002, Government Code,~~

23 ~~[(8) the requirements of the conflict]~~ of interest;

24 and

25 (B) ~~[laws and]~~ other laws applicable to members
26 of the board in performing their duties ~~[relating to public~~

27 ~~officials]~~; and

1 (6) ~~[(9)]~~ any applicable ethics policies adopted by
2 the board or the Texas Ethics Commission.

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

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

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

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

26 SECTION 2.07. Subchapter C, Chapter 453, Occupations Code,
27 is amended by adding Sections 453.1061 and 453.109 to read as

1 follows:

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

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

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

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

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

20 (c) The board shall:

21 (1) coordinate the implementation of the policy
22 adopted under Subsection (a);

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

26 (3) collect data concerning the effectiveness of those
27 procedures.

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

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

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

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

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

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

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

(b) The application must be accompanied by~~+~~

~~[(1) an examination fee prescribed by the board, and~~

~~[(2)]~~ a nonrefundable application fee prescribed by

1 the executive council ~~[board]~~.

2 SECTION 2.12. Section 453.203, Occupations Code, is amended
3 to read as follows:

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

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

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

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

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

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

27 (c) A physical therapy educational program or physical

therapist assistant program is an accredited program if the program
is[+]

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

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

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

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

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

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

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

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

(b) The physical therapist examination is a national
examination that tests entry-level competence related to [~~must~~
~~cover the subjects generally taught by an accredited~~] physical
therapy theory, examination [~~educational program or an accredited~~
~~physical therapist assistant program and may include clinical~~

1 ~~decision-making]~~ and evaluation, prognosis, treatment
2 intervention, prevention [~~program planning and implementation, and~~
3 ~~administration, education]~~, and consultation[, ~~and research in~~
4 ~~physical therapy]~~.

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

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

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

24 (f) If the board enters into a contract with a national
25 testing entity under Subsection (a), the contract must include a
26 provision requiring the national testing entity to provide to the
27 board an examination score report for each applicant for a license

under this chapter who took the examination.

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

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

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

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

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

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

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

Sec. 453.214. LICENSE BY ENDORSEMENT. (a) The board shall issue a physical therapist license or a physical therapist

1 assistant license, as applicable, to an applicant who holds a
2 current, unrestricted license in another jurisdiction that
3 maintains licensing requirements that are substantially equivalent
4 to the requirements under this chapter. An applicant for a license
5 under this section must:

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

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

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

14 (4) meet the qualifications required by Section
15 [453.203](#) or [453.204](#), as applicable;

16 (5) not have committed an act that is grounds for
17 denial of a license under Section [453.351](#);

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

20 (7) meet any additional requirements provided by board
21 rule.

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

27 Sec. 453.215. CRIMINAL HISTORY RECORD INFORMATION FOR

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

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

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

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

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

16 (d) The board may:

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

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

24 SECTION 2.17. Section 453.252(b), Occupations Code, is
25 amended to read as follows:

26 (b) A person whose license has been expired for 90 days or
27 less may renew the license by paying to the executive council the

renewal fee and a late fee set by the executive council in an amount that does not exceed one-half of the amount charged for renewal of ~~[examination for]~~ the license. If a person's license has been expired for more than 90 days but less than one year, the person may renew the license by paying to the executive council all unpaid renewal fees and a late fee set by the executive council in an amount that does not exceed the amount charged for renewal of ~~[examination for]~~ the license.

SECTION 2.18. Section 453.253(b), Occupations Code, is amended to read as follows:

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

SECTION 2.19. Section 453.254, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) The board by rule shall establish a process for selecting an appropriate organization to approve continuing competence activities under Subsection (d). The selection process must include a request for proposal and bidding process. If the board authorizes an organization to approve continuing competence activities under Subsection (d), the board shall request bids and proposals from that organization and other organizations at least once every four years.

SECTION 2.20. Subchapter F, Chapter 453, Occupations Code, is amended by adding Section 453.255 to read as follows:

Sec. 453.255. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a

1 license issued under this chapter shall submit a complete and
2 legible set of fingerprints for purposes of performing a criminal
3 history record information check of the applicant as provided by
4 Section 453.215.

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

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

11 (1) Section 453.215 for the initial issuance of the
12 license; or

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

14 SECTION 2.21. Subchapter H, Chapter 453, Occupations Code,
15 is amended by adding Sections 453.3525 and 453.357 to read as
16 follows:

17 Sec. 453.3525. SCHEDULE OF SANCTIONS. (a) The board by
18 rule shall adopt a schedule of administrative penalties and other
19 sanctions that the board may impose under this chapter. In adopting
20 the schedule of sanctions, the board shall ensure that the amount of
21 the penalty or severity of the sanction imposed is appropriate to
22 the type of violation or conduct that is the basis for disciplinary
23 action. In determining the appropriate disciplinary action,
24 including the amount of any administrative penalty to assess, the
25 board shall consider:

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

27 (A) the nature, circumstances, extent, and

1 gravity of the violation; and

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

4 (2) the history of previous violations;

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

6 (4) efforts to correct the violation;

7 (5) the economic harm to the public interest or public
8 confidence caused by the violation;

9 (6) whether the violation was intentional; and

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

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

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

14 (a) The board by rule shall establish a process to expunge any
15 record of disciplinary action taken against a license holder before
16 September 1, 2017, for practicing in a facility that failed to meet
17 the registration requirements of Section 453.213, as that section
18 existed on January 1, 2017. The rules must provide that the board
19 may not expunge a record under this section after September 1, 2019.

20 (b) This section expires September 1, 2019.

21 SECTION 2.22. Section 453.401, Occupations Code, is amended
22 to read as follows:

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

27 SECTION 2.23. Section 453.402(b), Occupations Code, is

amended to read as follows:

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

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

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

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

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

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

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

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

SECTION 2.24. Section 453.403(a), Occupations Code, is amended to read as follows:

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

SECTION 2.25. The following provisions of the Occupations Code are repealed:

(1) Section 453.001(8);

(2) Section 453.202(c);

(3) Section 453.206; and

(4) Section 453.213.

SECTION 2.26. (a) Except as provided by Subsection (b) of this section, Section 453.060, Occupations Code, as amended by this article, applies to a member of the Texas Board of Physical Therapy

Examiners appointed before, on, or after the effective date of this article.

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

SECTION 2.27. As soon as practicable after the effective date of this article, the director of the Executive Council of Physical Therapy and Occupational Therapy Examiners shall create the training manual required by Section 453.060(d), Occupations Code, as amended by this article.

SECTION 2.28. As soon as practicable after the effective date of this article, the Texas Board of Physical Therapy Examiners shall:

(1) develop and implement the policies required by:

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

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

(2) adopt any rules necessary to implement Chapter

1 453, Occupations Code, as amended by this article.

2 SECTION 2.29. Not later than September 1, 2018, the Texas
3 Board of Physical Therapy Examiners shall establish the request for
4 proposal and bidding process required by Section 453.254(e),
5 Occupations Code, as added by this article.

6 SECTION 2.30. Sections 453.203, 453.204, 453.205, 453.207,
7 453.252, and 453.253, Occupations Code, as amended by this article,
8 and Sections 453.215 and 453.255, Occupations Code, as added by
9 this article, apply only to an application for the issuance or
10 renewal of a physical therapist or physical therapist assistant
11 license submitted to the Texas Board of Physical Therapy Examiners
12 on or after the effective date of this article. An application
13 submitted before that date is governed by the law in effect on the
14 date the application was submitted, and the former law is continued
15 in effect for that purpose.

16 SECTION 2.31. A person who holds a physical therapist or
17 physical therapist assistant license issued before the effective
18 date of this article may continue to renew that license without
19 complying with the changes in law made by this article to Section
20 453.203, Occupations Code.

21 SECTION 2.32. (a) The Texas Board of Physical Therapy
22 Examiners shall dismiss the portion of any complaint, penalty,
23 disciplinary action, or contested case pending on the effective
24 date of this article that is based on a violation of rules adopted
25 under Section 453.213, Occupations Code, as repealed by this
26 article.

27 (b) Section 453.357, Occupations Code, as added by this

1 article, applies only to records of disciplinary action for conduct
2 that occurred before the effective date of this article.

3 SECTION 2.33. Section 453.3525, Occupations Code, as added
4 by this article, and Section 453.402(b), Occupations Code, as
5 amended by this article, apply only to conduct that occurs on or
6 after the date that rules adopted under Section 453.3525 take
7 effect. Conduct that occurs before that date is governed by the law
8 in effect before the effective date of this article, and the former
9 law is continued in effect for that purpose.

10 ARTICLE 3. PHYSICAL THERAPY LICENSURE COMPACT

11 SECTION 3.01. Chapter 453, Occupations Code, is amended by
12 adding Subchapter K to read as follows:

13 SUBCHAPTER K. PHYSICAL THERAPY LICENSURE COMPACT

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

18 SECTION 1. PURPOSE

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

26 This Compact is designed to achieve the following objectives:

27 1. Increase public access to physical therapy services by

1 providing for the mutual recognition of other member
2 state licenses;

3 2. Enhance the states' ability to protect the public's
4 health and safety;

5 3. Encourage the cooperation of member states in regulating
6 multi-state physical therapy practice;

7 4. Support spouses of relocating military members;

8 5. Enhance the exchange of licensure, investigative, and
9 disciplinary information between member states; and

10 6. Allow a remote state to hold a provider of services with a
11 compact privilege in that state accountable to that
12 state's practice standards.

13 SECTION 2. DEFINITIONS

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

16 1. "Active Duty Military" means full-time duty status
17 in the active uniformed service of the United
18 States, including members of the National Guard and
19 Reserve on active duty orders pursuant to 10 U.S.C.
20 Section 1209 and 1211.

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

25 3. "Alternative Program" means a non-disciplinary
26 monitoring or practice remediation process
27 approved by a physical therapy licensing board.

1 This includes, but is not limited to, substance
2 abuse issues.

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

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

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

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

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

27 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
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 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

1 investigating complaints about licensees;

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

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

13 5. Comply with the rules of the Commission;

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

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

19 B. Upon adoption of this statute, the member state shall
20 have the authority to obtain biometric-based information from each
21 physical therapy licensure applicant and submit this information to
22 the Federal Bureau of Investigation for a criminal background check
23 in accordance with 28 U.S.C. Section 534 and 42 U.S.C. Section
24 14616.

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

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

3 SECTION 4. COMPACT PRIVILEGE

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

- 6 1. Hold a license in the home state;
- 7 2. Have no encumbrance on any state license;
- 8 3. Be eligible for a compact privilege in any member
9 state in accordance with Section 4D, G and H;
- 10 4. Have not had any adverse action against any license
11 or compact privilege within the previous 2 years;
- 12 5. Notify the Commission that the licensee is seeking
13 the compact privilege within a remote state(s);
- 14 6. Pay any applicable fees, including any state fee,
15 for the compact privilege;
- 16 7. Meet any jurisprudence requirements established by
17 the remote state(s) in which the licensee is
18 seeking a compact privilege; and
- 19 8. Report to the Commission adverse action taken by
20 any non-member state within 30 days from the date
21 the adverse action is taken.

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

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

1 regulations of the remote state.

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

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

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

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

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

- 22 1. The specific period of time for which the compact
23 privilege was removed has ended;
- 24 2. All fines have been paid; and
- 25 3. Two years have elapsed from the date of the adverse
26 action.

27 H. Once the requirements of Section 4G have been met, the

1 license must meet the requirements in Section 4A to obtain a compact
2 privilege in a remote state.

3 SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

7 A. Home of record;

8 B. Permanent Change of Station (PCS); or

9 C. State of current residence if it is different than the
10 PCS state or home of record.

11 SECTION 6. ADVERSE ACTIONS

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

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

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

25 D. Any member state may investigate actual or alleged
26 violations of the statutes and rules authorizing the practice of
27 physical therapy in any other member state in which a physical

1 therapist or physical therapist assistant holds a license or
2 compact privilege.

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

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

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

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

26 F. Joint Investigations

27 1. In addition to the authority granted to a member

1 state by its respective physical therapy practice
2 act or other applicable state law, a member state
3 may participate with other member states in joint
4 investigations of licensees.

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

9 SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT
10 COMMISSION

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

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

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

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

26 B. Membership, Voting, and Meetings

27 1. Each member state shall have and be limited to one

1 (1) delegate selected by that member state's
2 licensing board.

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

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

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

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

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

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

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

26 1. Establish the fiscal year of the Commission;

27 2. Establish bylaws;

- 1 3. Maintain its financial records in accordance with
2 the bylaws;
- 3 4. Meet and take such actions as are consistent with
4 the provisions of this Compact and the bylaws;
- 5 5. Promulgate uniform rules to facilitate and
6 coordinate implementation and administration of
7 this Compact. The rules shall have the force and
8 effect of law and shall be binding in all member
9 states;
- 10 6. Bring and prosecute legal proceedings or actions in
11 the name of the Commission, provided that the
12 standing of any state physical therapy licensing
13 board to sue or be sued under applicable law shall
14 not be affected;
- 15 7. Purchase and maintain insurance and bonds;
- 16 8. Borrow, accept, or contract for services of
17 personnel, including, but not limited to,
18 employees of a member state;
- 19 9. Hire employees, elect or appoint officers, fix
20 compensation, define duties, grant such
21 individuals appropriate authority to carry out the
22 purposes of the Compact, and to establish the
23 Commission's personnel policies and programs
24 relating to conflicts of interest, qualifications
25 of personnel, and other related personnel matters;
- 26 10. Accept any and all appropriate donations and grants
27 of money, equipment, supplies, materials and

1 services, and to receive, utilize and dispose of
2 the same; provided that at all times the Commission
3 shall avoid any appearance of impropriety and/or
4 conflict of interest;

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

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

13 13. Establish a budget and make expenditures;

14 14. Borrow money;

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

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

23 17. Establish and elect an Executive Board; and

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

1 D. The Executive Board

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

4 1. The Executive Board shall be composed of nine
5 members:

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

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

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

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

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

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

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

22 a. Recommend to the entire Commission changes to
23 the rules or bylaws, changes to this Compact
24 legislation, fees paid by Compact member
25 states such as annual dues, and any
26 commission Compact fee charged to licensees
27 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

1 matters related to the Commission's internal
2 personnel practices and procedures;

3 c. Current, threatened, or reasonably
4 anticipated litigation;

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

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

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

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

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

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

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

26 3. If a meeting, or portion of a meeting, is closed
27 pursuant to this provision, the Commission's legal

1 counsel or designee shall certify that the meeting
2 may be closed and shall reference each relevant
3 exempting provision.

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

15 F. Financing of the Commission

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

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

23 3. The Commission may levy on and collect an annual
24 assessment from each member state or impose fees on
25 other parties to cover the cost of the operations
26 and activities of the Commission and its staff,
27 which must be in a total amount sufficient to cover

1 its annual budget as approved each year for which
2 revenue is not provided by other sources. The
3 aggregate annual assessment amount shall be
4 allocated based upon a formula to be determined by
5 the Commission, which shall promulgate a rule
6 binding upon all member states.

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

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

22 G. Qualified Immunity, Defense, and Indemnification

23 1. The members, officers, executive director,
24 employees and representatives of the Commission
25 shall be immune from suit and liability, either
26 personally or in their official capacity, for any
27 claim for damage to or loss of property or personal

1 injury or other civil liability caused by or
2 arising out of any actual or alleged act, error or
3 omission that occurred, or that the person against
4 whom the claim is made had a reasonable basis for
5 believing occurred within the scope of Commission
6 employment, duties or responsibilities; provided
7 that nothing in this paragraph shall be construed
8 to protect any such person from suit and/or
9 liability for any damage, loss, injury, or
10 liability caused by the intentional or willful or
11 wanton misconduct of that person.

12 2. The Commission shall defend any member, officer,
13 executive director, employee or representative of
14 the Commission in any civil action seeking to
15 impose liability arising out of any actual or
16 alleged act, error, or omission that occurred
17 within the scope of Commission employment, duties,
18 or responsibilities, or that the person against
19 whom the claim is made had a reasonable basis for
20 believing occurred within the scope of Commission
21 employment, duties, or responsibilities; provided
22 that nothing herein shall be construed to prohibit
23 that person from retaining his or her own counsel;
24 and provided further, that the actual or alleged
25 act, error, or omission did not result from that
26 person's intentional or willful or wanton
27 misconduct.

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

15 SECTION 8. DATA SYSTEM

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

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

- 25 1. Identifying information;
26 2. Licensure data;
27 3. Adverse actions against a license or compact

1 privilege;

2 4. Non-confidential information related to
3 alternative program participation;

4 5. Any denial of application for licensure, and the
5 reason(s) for such denial; and

6 6. Other information that may facilitate the
7 administration of this Compact, as determined by
8 the rules of the Commission.

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

11 D. The Commission shall promptly notify all member states of
12 any adverse action taken against a licensee or an individual
13 applying for a license. Adverse action information pertaining to a
14 licensee in any member state will be available to any other member
15 state.

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

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

22 SECTION 9. RULEMAKING

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

27 B. If a majority of the legislatures of the member states

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

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

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

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

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

17 E. The Notice of Proposed Rulemaking shall include:

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

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

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

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

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

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

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

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

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

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

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

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

27 3. All hearings will be recorded. A copy of the

1 recording will be made available on request.

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

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

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

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

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

27 1. Meet an imminent threat to public health, safety,

1 or welfare;

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

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

6 4. Protect public health and safety.

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

21 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

22 A. Oversight

23 1. The executive, legislative, and judicial branches
24 of state government in each member state shall
25 enforce this Compact and take all actions necessary
26 and appropriate to effectuate the Compact's
27 purposes and intent. The provisions of this Compact

1 and the rules promulgated hereunder shall have
2 standing as statutory law.

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

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

16 B. Default, Technical Assistance, and Termination

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

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

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

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

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

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

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

27 6. The defaulting state may appeal the action of the

1 Commission by petitioning the U.S. District Court
2 for the District of Columbia or the federal
3 district where the Commission has its principal
4 offices. The prevailing member shall be awarded all
5 costs of such litigation, including reasonable
6 attorney's fees.

7 C. Dispute Resolution

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

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

15 D. Enforcement

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

19 2. By majority vote, the Commission may initiate legal
20 action in the United States District Court for the
21 District of Columbia or the federal district where
22 the Commission has its principal offices against a
23 member state in default to enforce compliance with
24 the provisions of the Compact and its promulgated
25 rules and bylaws. The relief sought may include
26 both injunctive relief and damages. In the event
27 judicial enforcement is necessary, the prevailing

1 member shall be awarded all costs of such
2 litigation, including reasonable attorney's fees.

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

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

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

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

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

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

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

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

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

16 SECTION 12. CONSTRUCTION AND SEVERABILITY

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

1 and effect as to the party state affected as to all severable
2 matters.

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

5 Sec. 453.503. RULES. The board may adopt rules necessary to
6 implement this subchapter.

7 Sec. 453.504. PHYSICAL THERAPY LICENSURE COMPACT;
8 DISCLOSURE OF PERSONAL INFORMATION. (a) In reporting information
9 to the coordinated database and reporting system under Section 8 of
10 the Physical Therapy Licensure Compact, the board may disclose
11 personally identifiable information about a physical therapist or a
12 physical therapist assistant, including the person's social
13 security number.

14 (b) The coordinated database and reporting system may not
15 share personally identifiable information with a state that is not
16 a party to the compact unless the state agrees to not disclose that
17 information to any other person.

18 ARTICLE 4. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

19 SECTION 4.01. Section 454.003, Occupations Code, is amended
20 to read as follows:

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

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

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

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

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

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

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

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

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

(5) an occupational therapist or occupational therapy assistant who does not live in this state and who:

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

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

(i) provide or attend an educational activity;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (4) cannot, because of illness or disability,
16 discharge the member's duties for a substantial part of the member's
17 term; or

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

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

1 presiding officer, the coordinator shall notify the next highest
2 ranking officer of the board, who shall then notify the governor and
3 the attorney general that a potential ground for removal exists.

4 SECTION 4.05. Section 454.057, Occupations Code, is amended
5 to read as follows:

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

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

13 SECTION 4.06. Section 454.059, Occupations Code, is amended
14 to read as follows:

15 Sec. 454.059. TRAINING. (a) A person who is appointed to
16 and qualifies for office as [~~Before~~] a member of the board may not
17 vote, deliberate, or be counted as a member in attendance at a
18 meeting of the board until the person completes [~~assume the~~
19 ~~member's duties, the member must complete at least~~] a [~~course of~~
20 ~~the~~] training program that complies with [~~established by the board~~
21 ~~under~~] this section.

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

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

26 (2) the programs, functions, rules, and budget of
27 [~~operated by~~] the board and executive council;

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

3 (4) [~~the rules of the board, with an emphasis on the~~
4 ~~rules that relate to disciplinary and investigatory authority,~~

5 ~~[(5) the current budget for the board,~~

6 ~~[(6)]~~ the results of the most recent formal audit of
7 the board and executive council;

8 (5) [~~(7)~~] the requirements of:

9 (A) laws relating to open meetings, public
10 information, administrative procedure, and disclosing conflicts of
11 interest; and

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

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

17 (6) [~~(9)~~] any applicable ethics policies adopted by
18 the board or the Texas Ethics Commission.

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

27 (d) The director of the executive council shall create a

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

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

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

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

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

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

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

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

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

9 (c) The board shall:

10 (1) coordinate the implementation of the policy
11 adopted under Subsection (a);

12 (2) provide training as needed to implement the
13 procedures for negotiated rulemaking or alternative dispute
14 resolution; and

15 (3) collect data concerning the effectiveness of those
16 procedures.

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

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

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

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

27 SECTION 4.11. Section 454.203(a), Occupations Code, is

1 amended to read as follows:

2 (a) An applicant for an occupational therapist license or an
3 occupational therapy assistant license must present evidence
4 satisfactory to the board that the applicant has:

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

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

13 ~~[(3)]~~ passed an examination as provided by Section
14 454.207.

15 SECTION 4.12. Section 454.207, Occupations Code, is amended
16 to read as follows:

17 Sec. 454.207. LICENSE EXAMINATION. (a) The board by rule
18 shall recognize a national testing entity to administer the
19 examinations required to obtain an occupational therapist or
20 occupational therapy assistant license.

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

26 ~~[(b) The board shall examine applicants for licenses at~~
27 ~~least twice each year at the board's regular meetings and under the~~

~~supervision required by the board.]~~

(c) The national testing entity recognized by the board shall be responsible for overseeing the examination process, including responsibility for:

(1) specifying application requirements for the examination;

(2) specifying reexamination requirements for the examination;

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

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

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

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

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

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

~~and~~

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

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

(e) The board may require an applicant for an occupational therapist or occupational therapy assistant license to pass a

1 jurisprudence examination.

2 SECTION 4.13. Subchapter E, Chapter 454, Occupations Code,
3 is amended by adding Sections 454.216 and 454.217 to read as
4 follows:

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

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

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

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

20 (4) meet the qualifications required by Section
21 454.203 or 454.205, as applicable;

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

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

26 (7) meet any additional requirements provided by board
27 rule.

1 (b) The board shall adopt rules for issuing a provisional
2 license under Section 454.210 to an applicant for a license by
3 endorsement who encounters a delay that is outside the applicant's
4 control in submitting to the board the documentation required by
5 this section.

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

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

15 (c) The board shall conduct a criminal history record
16 information check of each applicant for a license using
17 information:

18 (1) provided by the individual under this section; and
19 (2) made available to the board by the Department of
20 Public Safety, the Federal Bureau of Investigation, and any other
21 criminal justice agency under Chapter 411, Government Code.

22 (d) The board may:

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

26 (2) authorize the Department of Public Safety to
27 collect from each applicant the costs incurred by the Department of

1 Public Safety in conducting the criminal history record information
2 check.

3 SECTION 4.14. Section 454.252(b), Occupations Code, is
4 amended to read as follows:

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

14 SECTION 4.15. Section 454.253(b), Occupations Code, is
15 amended to read as follows:

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

19 SECTION 4.16. Section 454.254, Occupations Code, is amended
20 by adding Subsection (e) to read as follows:

21 (e) The board by rule shall establish a process for
22 selecting a license holder peer organization in this state to
23 evaluate and approve continuing education courses under Subsection
24 (d). The selection process must include a request for proposal and
25 bidding process. If the board authorizes a peer organization to
26 evaluate and approve continuing education courses under Subsection
27 (d), the board shall request bids and proposals from that

1 organization and other organizations at least once every four
2 years.

3 SECTION 4.17. Subchapter F, Chapter 454, Occupations Code,
4 is amended by adding Section 454.255 to read as follows:

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

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

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

17 (1) Section 454.217 for the initial issuance of the
18 license; or

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

20 SECTION 4.18. Subchapter G, Chapter 454, Occupations Code,
21 is amended by adding Sections 454.3025 and 454.307 to read as
22 follows:

23 Sec. 454.3025. SCHEDULE OF SANCTIONS. (a) The board by
24 rule shall adopt a schedule of administrative penalties and other
25 sanctions that the board may impose under this chapter. In adopting
26 the schedule of sanctions, the board shall ensure that the amount of
27 the penalty or severity of the sanction imposed is appropriate to

1 the type of violation or conduct that is the basis for disciplinary
2 action. In determining the appropriate disciplinary action,
3 including the amount of any administrative penalty to assess, the
4 board shall consider:

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

6 (A) the nature, circumstances, extent, and
7 gravity of the violation; and

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

10 (2) the history of previous violations;

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

12 (4) efforts to correct the violation;

13 (5) the economic harm to the public interest or public
14 confidence caused by the violation;

15 (6) whether the violation was intentional; and

16 (7) any other matter that justice requires.

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

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

20 (a) The board by rule shall establish a process to expunge any
21 record of disciplinary action taken against a license holder before
22 September 1, 2017, for practicing in a facility that failed to meet
23 the registration requirements of Section 454.215, as that section
24 existed on January 1, 2017. The rules must provide that the board
25 may not expunge a record under this section after September 1, 2019.

26 (b) This section expires September 1, 2019.

27 SECTION 4.19. Sections 454.3521(a) and (b), Occupations

Code, are amended to read as follows:

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

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

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

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

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

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

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

SECTION 4.20. The following provisions of the Occupations Code are repealed:

(1) Section 454.203(b);

(2) Section 454.205(b);

(3) Section 454.206;

(4) Section 454.208;

(5) Section 454.209; and

(6) Section 454.215.

SECTION 4.21. (a) Except as provided by Subsection (b) of this section, Section 454.059, Occupations Code, as amended by this

1 article, applies to a member of the Texas Board of Occupational
2 Therapy Examiners appointed before, on, or after the effective date
3 of this article.

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

15 SECTION 4.22. As soon as practicable after the effective
16 date of this article, the director of the Executive Council of
17 Physical Therapy and Occupational Therapy Examiners shall create
18 the training manual required by Section 454.059(d), Occupations
19 Code, as amended by this article.

20 SECTION 4.23. As soon as practicable after the effective
21 date of this article, the Texas Board of Occupational Therapy
22 Examiners shall:

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

24 (A) Section 454.105(b), Occupations Code, as
25 amended by this article; and

26 (B) Section 454.108, Occupations Code, as added
27 by this article; and

1 (2) adopt any rules necessary to implement Chapter
2 454, Occupations Code, as amended by this article.

3 SECTION 4.24. Not later than September 1, 2018, the Texas
4 Board of Occupational Therapy Examiners shall establish the request
5 for proposal and bidding process required by Section 454.254(e),
6 Occupations Code, as added by this article.

7 SECTION 4.25. Sections 454.203, 454.205, 454.252, and
8 454.253, Occupations Code, as amended by this article, and Sections
9 454.217 and 454.255, Occupations Code, as added by this article,
10 apply only to an application for the issuance or renewal of an
11 occupational therapist or occupational therapy assistant license
12 submitted to the Texas Board of Occupational Therapy Examiners on
13 or after the effective date of this article. An application
14 submitted before that date is governed by the law in effect on the
15 date the application was submitted, and the former law is continued
16 in effect for that purpose.

17 SECTION 4.26. A person who holds an occupational therapist
18 or occupational therapy assistant license issued before the
19 effective date of this article may continue to renew that license
20 without complying with the changes in law made by this article to
21 Section 454.203, Occupations Code.

22 SECTION 4.27. (a) The Texas Board of Occupational Therapy
23 Examiners shall dismiss the portion of any complaint, penalty,
24 disciplinary action, or contested case pending on the effective
25 date of this article that is based on a violation of rules adopted
26 under Section 454.215, Occupations Code, as repealed by this
27 article.

1 (b) Section 454.307, Occupations Code, as added by this
2 article, applies only to records of disciplinary action for conduct
3 that occurred before the effective date of this article.

4 SECTION 4.28. Section 454.3025, Occupations Code, as added
5 by this article, and Section 454.3521(b), Occupations Code, as
6 amended by this article, apply only to conduct that occurs on or
7 after the date that rules adopted under Section 454.3025 take
8 effect. Conduct that occurs before that date is governed by the law
9 in effect before the effective date of this article, and the former
10 law is continued in effect for that purpose.

11 ARTICLE 5. EFFECTIVE DATE

12 SECTION 5.01. This Act takes effect September 1, 2017.