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**SENATE BILL NO. 1106**

Offered January 9, 2019

Prefiled December 21, 2018

A *BILL to amend and reenact §§ 2.2-3705.7 and 54.1-2400.2 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 34.1 of Title 54.1 a section numbered 54.1-3484 and an article numbered 2, consisting of sections numbered 54.1-3485 through 54.1-3496, relating to the licensure of physical therapists and physical therapist assistants; Physical Therapy Licensure Compact.*

Patrons—Peake; Delegate: Peace

Referred to Committee on Education and Health

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3705.7 and 54.1-2400.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 34.1 of Title 54.1 a section numbered 54.1-3484 and an article numbered 2, consisting of sections numbered 54.1-3485 through 54.1-3496, as follows:**

**§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of

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59 formulating advisory opinions to members on standards of conduct, or both.

60 7. Customer account information of a public utility affiliated with a political subdivision of the  
61 Commonwealth, including the customer's name and service address, but excluding the amount of utility  
62 service provided and the amount of money charged or paid for such utility service.

63 8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development  
64 Authority concerning individuals who have applied for or received loans or other housing assistance or  
65 who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by  
66 the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the  
67 waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and  
68 housing authority created pursuant to § 36-4 concerning persons participating in or persons on the  
69 waiting list for housing assistance programs funded by local governments or by any such authority; or  
70 (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other  
71 local government agency concerning persons who have applied for occupancy or who have occupied  
72 affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's  
73 own information shall not be denied.

74 9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if  
75 disclosure of such information would have a detrimental effect upon the negotiating position of a  
76 governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

77 10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled  
78 plant and animal species, natural communities, caves, and significant historic and archaeological sites if,  
79 in the opinion of the public body that has the responsibility for such information, disclosure of the  
80 information would jeopardize the continued existence or the integrity of the resource. This exclusion  
81 shall not apply to requests from the owner of the land upon which the resource is located.

82 11. Memoranda, graphics, video or audio tapes, production models, data, and information of a  
83 proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a  
84 specific lottery game design, development, production, operation, ticket price, prize structure, manner of  
85 selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of  
86 drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such  
87 information not been publicly released, published, copyrighted, or patented. Whether released, published,  
88 or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon  
89 the first day of sales for the specific lottery game to which it pertains.

90 12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local  
91 retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a  
92 trust established by one or more local public bodies to invest funds for post-retirement benefits other  
93 than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the  
94 board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of  
95 visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the  
96 Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or  
97 disposition of a security or other ownership interest in an entity, where such security or ownership  
98 interest is not traded on a governmentally regulated securities exchange, if disclosure of such  
99 information would (i) reveal confidential analyses prepared for the board of visitors of the University of  
100 Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared  
101 by the retirement system, a local finance board or board of trustees, or the Virginia College Savings  
102 Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia  
103 College Savings Plan under a promise of confidentiality of the future value of such ownership interest or  
104 the future financial performance of the entity and (ii) have an adverse effect on the value of the  
105 investment to be acquired, held, or disposed of by the retirement system, a local finance board or board  
106 of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of  
107 William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be  
108 construed to prevent the disclosure of information relating to the identity of any investment held, the  
109 amount invested, or the present value of such investment.

110 13. Financial, medical, rehabilitative, and other personal information concerning applicants for or  
111 recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority  
112 under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

113 14. Information held by the Virginia Commonwealth University Health System Authority pertaining  
114 to any of the following: an individual's qualifications for or continued membership on its medical or  
115 teaching staffs; proprietary information gathered by or in the possession of the Authority from third  
116 parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in  
117 awarding contracts for construction or the purchase of goods or services; information of a proprietary  
118 nature produced or collected by or for the Authority or members of its medical or teaching staffs;  
119 financial statements not publicly available that may be filed with the Authority from third parties; the  
120 identity, accounts, or account status of any customer of the Authority; consulting or other reports paid

121 for by the Authority to assist the Authority in connection with its strategic planning and goals; the  
 122 determination of marketing and operational strategies where disclosure of such strategies would be  
 123 harmful to the competitive position of the Authority; and information of a proprietary nature produced  
 124 or collected by or for employees of the Authority, other than the Authority's financial or administrative  
 125 records, in the conduct of or as a result of study or research on medical, scientific, technical, or  
 126 scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body  
 127 or a private concern, when such information has not been publicly released, published, copyrighted, or  
 128 patented. This exclusion shall also apply when such information is in the possession of Virginia  
 129 Commonwealth University.

130 15. Information held by the Department of Environmental Quality, the State Water Control Board,  
 131 the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active  
 132 federal environmental enforcement actions that are considered confidential under federal law and (ii)  
 133 enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such  
 134 information shall be disclosed after a proposed sanction resulting from the investigation has been  
 135 proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure  
 136 of information related to inspection reports, notices of violation, and documents detailing the nature of  
 137 any environmental contamination that may have occurred or similar documents.

138 16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel  
 139 itinerary, including vehicle identification data or vehicle enforcement system information; video or  
 140 photographic images; Social Security or other identification numbers appearing on driver's licenses;  
 141 credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll  
 142 facility use.

143 17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax  
 144 identification number, state sales tax number, home address and telephone number, personal and lottery  
 145 banking account and transit numbers of a retailer, and financial information regarding the nonlottery  
 146 operations of specific retail locations and (ii) individual lottery winners, except that a winner's name,  
 147 hometown, and amount won shall be disclosed.

148 18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a  
 149 person regulated by the Board, where such person has tested negative or has not been the subject of a  
 150 disciplinary action by the Board for a positive test result.

151 19. Information pertaining to the planning, scheduling, and performance of examinations of holder  
 152 records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by  
 153 or for the State Treasurer or his agents or employees or persons employed to perform an audit or  
 154 examination of holder records.

155 20. Information held by the Virginia Department of Emergency Management or a local governing  
 156 body relating to citizen emergency response teams established pursuant to an ordinance of a local  
 157 governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or  
 158 operating schedule of an individual participant in the program.

159 21. Information held by state or local park and recreation departments and local and regional park  
 160 authorities concerning identifiable individuals under the age of 18 years. However, nothing in this  
 161 subdivision shall operate to prevent the disclosure of information defined as directory information under  
 162 regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the  
 163 public body has undertaken the parental notification and opt-out requirements provided by such  
 164 regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of  
 165 such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction  
 166 has restricted or denied such access. For such information of persons who are emancipated, the right of  
 167 access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of  
 168 the information may waive, in writing, the protections afforded by this subdivision. If the protections are  
 169 so waived, the public body shall open such information for inspection and copying.

170 22. Information submitted for inclusion in the Statewide Alert Network administered by the  
 171 Department of Emergency Management that reveal names, physical addresses, email addresses, computer  
 172 or internet protocol information, telephone numbers, pager numbers, other wireless or portable  
 173 communications device information, or operating schedules of individuals or agencies, where the release  
 174 of such information would compromise the security of the Statewide Alert Network or individuals  
 175 participating in the Statewide Alert Network.

176 23. Information held by the Judicial Inquiry and Review Commission made confidential by  
 177 § 17.1-913.

178 24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local  
 179 retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement  
 180 system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

181 a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings

182 Plan on the pursuit of particular investment strategies, or the selection or termination of investment  
183 managers, prior to the execution of such investment strategies or the selection or termination of such  
184 managers, if disclosure of such information would have an adverse impact on the financial interest of  
185 the retirement system or the Virginia College Savings Plan; and

186 b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a  
187 private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records  
188 would have an adverse impact on the financial interest of the retirement system or the Virginia College  
189 Savings Plan.

190 For the records specified in subdivision b to be excluded from the provisions of this chapter, the  
191 entity shall make a written request to the retirement system or the Virginia College Savings Plan:

192 (1) Invoking such exclusion prior to or upon submission of the data or other materials for which  
193 protection from disclosure is sought;

194 (2) Identifying with specificity the data or other materials for which protection is sought; and

195 (3) Stating the reasons why protection is necessary.

196 The retirement system or the Virginia College Savings Plan shall determine whether the requested  
197 exclusion from disclosure meets the requirements set forth in subdivision b.

198 Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of  
199 any investment held or the present value and performance of all asset classes and subclasses.

200 25. Information held by the Department of Corrections made confidential by § 53.1-233.

201 26. Information maintained by the Department of the Treasury or participants in the Local  
202 Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the  
203 Department to establish accounts in accordance with § 2.2-4602.

204 27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident  
205 Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers,  
206 except that access shall not be denied to the person who is the subject of the information.

207 28. Information maintained in connection with fundraising activities by the Veterans Services  
208 Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone  
209 number, social security number or other identification number appearing on a driver's license, or credit  
210 card or bank account data of identifiable donors, except that access shall not be denied to the person  
211 who is the subject of the information. Nothing in this subdivision, however, shall be construed to  
212 prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or  
213 donation or the identity of the donor, unless the donor has requested anonymity in connection with or as  
214 a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply  
215 to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the  
216 foundation for the performance of services or other work or (ii) the terms and conditions of such grants  
217 or contracts.

218 29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the  
219 training of state prosecutors or law-enforcement personnel, where such information is not otherwise  
220 available to the public and the disclosure of such information would reveal confidential strategies,  
221 methods, or procedures to be employed in law-enforcement activities or materials created for the  
222 investigation and prosecution of a criminal case.

223 30. Information provided to the Department of Aviation by other entities of the Commonwealth in  
224 connection with the operation of aircraft where the information would not be subject to disclosure by the  
225 entity providing the information. The entity providing the information to the Department of Aviation  
226 shall identify the specific information to be protected and the applicable provision of this chapter that  
227 excludes the information from mandatory disclosure.

228 31. Information created or maintained by or on the behalf of the judicial performance evaluation  
229 program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

230 32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are  
231 discussed by any sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse  
232 or neglect cases or sex offenses involving a child are discussed by multidisciplinary child abuse teams  
233 established pursuant to § 15.2-1627.5. The findings of any such team may be disclosed or published in  
234 statistical or other aggregated form that does not disclose the identity of specific individuals.

235 33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the  
236 Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target  
237 companies, specific allocation of resources and staff for marketing activities, and specific marketing  
238 activities that would reveal to the Commonwealth's competitors for economic development projects the  
239 strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial  
240 interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and  
241 operational plan shall not be redacted or withheld pursuant to this subdivision.

242 34. Information discussed in a closed session of the Physical Therapy Compact Commission or the  
243 Executive Board or other committees of the Commission for purposes set forth in subsection E of

244 § 54.1-3491.

245 § 54.1-2400.2. Confidentiality of information obtained during an investigation or disciplinary  
246 proceeding; penalty.

247 A. Any reports, information or records received and maintained by the Department of Health  
248 Professions or any health regulatory board in connection with possible disciplinary proceedings,  
249 including any material received or developed by a board during an investigation or proceeding, shall be  
250 strictly confidential. The Department of Health Professions or a board may only disclose such  
251 confidential information:

252 1. In a disciplinary proceeding before a board or in any subsequent trial or appeal of an action or  
253 order, or to the respondent in entering into a confidential consent agreement under § 54.1-2400;

254 2. To regulatory authorities concerned with granting, limiting or denying licenses, certificates or  
255 registrations to practice a health profession, including the coordinated licensure information system, as  
256 defined in § 54.1-3040.2 and the data system as set forth in § 54.1-3492;

257 3. To hospital committees concerned with granting, limiting or denying hospital privileges if a final  
258 determination regarding a violation has been made;

259 4. Pursuant to an order of a court of competent jurisdiction for good cause arising from extraordinary  
260 circumstances being shown;

261 5. To qualified personnel for bona fide research or educational purposes, if personally identifiable  
262 information relating to any person is first deleted. Such release shall be made pursuant to a written  
263 agreement to ensure compliance with this section; or

264 6. To the Health Practitioners' Monitoring Program within the Department of Health Professions in  
265 connection with health practitioners who apply to or participate in the Program.

266 B. In no event shall confidential information received, maintained or developed by the Department of  
267 Health Professions or any board, or disclosed by the Department of Health Professions or a board to  
268 others, pursuant to this section, be available for discovery or court subpoena or introduced into evidence  
269 in any civil action. This section shall not, however, be construed to inhibit an investigation or  
270 prosecution under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

271 C. Any claim of a physician-patient or practitioner-patient privilege shall not prevail in any  
272 investigation or proceeding by any health regulatory board acting within the scope of its authority. The  
273 disclosure, however, of any information pursuant to this provision shall not be deemed a waiver of such  
274 privilege in any other proceeding.

275 D. This section shall not prohibit the Director of the Department of Health Professions, after  
276 consultation with the relevant health regulatory board president or his designee, from disclosing to the  
277 Attorney General, or the appropriate attorney for the Commonwealth, investigatory information which  
278 indicates a possible violation of any provision of criminal law, including the laws relating to the  
279 manufacture, distribution, dispensing, prescribing or administration of drugs, other than drugs classified  
280 as Schedule VI drugs and devices, by any individual regulated by any health regulatory board.

281 E. This section shall not prohibit the Director of the Department of Health Professions from  
282 disclosing matters listed in subdivision A 1, A 2, or A 3 of § 54.1-2909; from making the reports of  
283 aggregate information and summaries required by § 54.1-2400.3; or from disclosing the information  
284 required to be made available to the public pursuant to § 54.1-2910.1.

285 F. This section shall not prohibit the Director of the Department of Health Professions, following  
286 consultation with the relevant health regulatory board president or his designee, from disclosing  
287 information about a suspected violation of state or federal law or regulation to other agencies within the  
288 Health and Human Resources Secretariat or to federal law-enforcement agencies having jurisdiction over  
289 the suspected violation or requesting an inspection or investigation of a licensee by such state or federal  
290 agency when the Director has reason to believe that a possible violation of federal or state law has  
291 occurred. Such disclosure shall not exceed the minimum information necessary to permit the state or  
292 federal agency having jurisdiction over the suspected violation of state or federal law to conduct an  
293 inspection or investigation. Disclosures by the Director pursuant to this subsection shall not be limited to  
294 requests for inspections or investigations of licensees. Nothing in this subsection shall require the  
295 Director to make any disclosure. Nothing in this section shall permit any agency to which the Director  
296 makes a disclosure pursuant to this section to re-disclose any information, reports, records, or materials  
297 received from the Department.

298 G. Whenever a complaint or report has been filed about a person licensed, certified, or registered by  
299 a health regulatory board, the source and the subject of a complaint or report shall be provided  
300 information about the investigative and disciplinary procedures at the Department of Health Professions.  
301 Prior to interviewing a licensee who is the subject of a complaint or report, or at the time that the  
302 licensee is first notified in writing of the complaint or report, whichever shall occur first, the licensee  
303 shall be provided with a copy of the complaint or report and any records or supporting documentation,  
304 unless such provision would materially obstruct a criminal or regulatory investigation. If the relevant

board concludes that a disciplinary proceeding will not be instituted, the board may send an advisory letter to the person who was the subject of the complaint or report. The relevant board may also inform the source of the complaint or report (i) that an investigation has been conducted, (ii) that the matter was concluded without a disciplinary proceeding, (iii) of the process the board followed in making its determination, and (iv), if appropriate, that an advisory letter from the board has been communicated to the person who was the subject of the complaint or report. In providing such information, the board shall inform the source of the complaint or report that he is subject to the requirements of this section relating to confidentiality and discovery.

H. Orders and notices of the health regulatory boards relating to disciplinary actions, other than confidential exhibits described in subsection K, shall be disclosed. Information on the date and location of any disciplinary proceeding, allegations against the respondent, and the list of statutes and regulations the respondent is alleged to have violated shall be provided to the source of the complaint or report by the relevant board prior to the proceeding. The source shall be notified of the disposition of a disciplinary case.

I. This section shall not prohibit investigative staff authorized under § 54.1-2506 from interviewing fact witnesses, disclosing to fact witnesses the identity of the subject of the complaint or report, or reviewing with fact witnesses any portion of records or other supporting documentation necessary to refresh the fact witnesses' recollection.

J. Any person found guilty of the unlawful disclosure of confidential information possessed by a health regulatory board shall be guilty of a Class 1 misdemeanor.

K. In disciplinary actions in which a practitioner is or may be unable to practice with reasonable skill and safety to patients and the public because of a mental or physical disability, a health regulatory board shall consider whether to disclose and may decide not to disclose in its notice or order the practitioner's health records, as defined in § 32.1-127.1:03, or his health services, as defined in § 32.1-127.1:03. Such information may be considered by the relevant board in a closed hearing in accordance with subdivision A 16 of § 2.2-3711 and included in a confidential exhibit to a notice or order. The public notice or order shall identify, if known, the practitioner's mental or physical disability that is the basis for its determination. In the event that the relevant board, in its discretion, determines that this subsection should apply, information contained in the confidential exhibit shall remain part of the confidential record before the relevant board and is subject to court review under the Administrative Process Act (§ 2.2-4000 et seq.) and to release in accordance with this section.

**§ 54.1-3484. Criminal history background checks.**

*The Board shall require each applicant for licensure as a physical therapist or physical therapist assistant to submit fingerprints and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and the criminal history record search shall be paid by the applicant.*

*The Central Criminal Records Exchange shall forward the results of the state and federal criminal history record search to the Board, which shall be a governmental entity. If an applicant is denied licensure because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation and the Central Criminal Records Exchange. The information shall not be disseminated except as provided in this section.*

*Article 2.*

*Physical Therapy Licensure Compact.*

**§ 54.1-3485. Form of compact; declaration of purpose.**

*A. The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the Physical Therapy Licensure Compact with any and all jurisdictions legally joining therein according to its terms, in the form substantially as follows.*

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

*This Compact is designed to achieve the following objectives:*

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

367 states; and

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

370 **§ 54.1-3486. Definitions.**

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

372 "Active duty military" means full-time duty status in the active uniformed service of the United States,  
373 including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§  
374 1209 and 1211.

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

377 "Alternative program" means a nondisciplinary monitoring or practice remediation process approved  
378 by a physical therapy licensing board. This includes, but is not limited to, substance abuse issues.

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

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

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

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

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

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

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

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

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

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

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

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

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

405 "Physical therapy," "physical therapy practice," and "the practice of physical therapy" mean the care  
406 and services provided by or under the direction and supervision of a licensed physical therapist as  
407 defined by § 54.1-3473.

408 "Physical Therapy Compact Commission" or "Commission" means the national administrative body  
409 whose membership consists of all states that have enacted the Compact.

410 "Physical therapy licensing board" or "licensing board" means the agency of a state that is  
411 responsible for the licensing and regulation of physical therapists and physical therapist assistants.

412 "Remote state" means a member state other than the home state, where a licensee is exercising or  
413 seeking to exercise the compact privilege.

414 "Rule" means a regulation, principle, or directive promulgated by the Commission that has the force  
415 of law.

416 "State" means any state, commonwealth, district, or territory of the United States of America that  
417 regulates the practice of physical therapy.

418 **§ 54.1-3487. State participation in the Compact.**

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

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

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

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

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

428 § 54.1-3488;

429 5. Comply with the rules of the Commission;

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

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

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

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

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

440 § 54.1-3488. **Compact privilege.**

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

443 1. Hold a license in the home state;

444 2. Have no encumbrance on any state license;

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

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

449 5. Notify the Commission that the licensee is seeking the compact privilege within a remote state or  
450 remote states;

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

452 7. Meet any jurisprudence requirements established by the remote state or states in which the  
453 licensee is seeking a compact privilege; and

454 8. Report to the Commission adverse action taken by any nonmember state within 30 days from the  
455 date the adverse action is taken.

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

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

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

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

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

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

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

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

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

474 2. All fines have been paid; and

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

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

478 § 54.1-3489. **Active duty military personnel or their spouses.**

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

481 1. Home of record;

482 2. Permanent Change of Station (PCS); or

483 3. State of current residence if it is different from the PCS state or home of record.

484 § 54.1-3490. **Adverse actions.**

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

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

489 C. Nothing in this Compact shall override a member state's decision that participation in an

490 alternative program may be used in lieu of adverse action and that such participation shall remain  
 491 non-public if required by the member state's laws. Member states must require licensees who enter any  
 492 alternative programs in lieu of discipline to agree not to practice in any other member state during the  
 493 term of the alternative program without prior authorization from such other member state.

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

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

498 1. Take adverse actions as set forth in subsection D of § 54.1-3488 against a licensee's compact  
 499 privilege in the state;

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

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

509 F. Joint investigations.

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

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

515 **§ 54.1-3491. Establishment of the Physical Therapy Compact Commission.**

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

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

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

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

524 B. Membership, voting, and meetings.

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

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

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

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

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

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

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

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

540 1. Establish the fiscal year of the Commission;

541 2. Establish bylaws;

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

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

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

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

549 7. Purchase and maintain insurance and bonds;

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

551 *member state;*

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

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

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

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

564 13. Establish a budget and make expenditures;

565 14. Borrow money;

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

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

570 17. Establish and elect an Executive Board; and

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

573 D. The Executive Board.

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

576 1. The Executive Board shall be composed of nine members as follows:

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

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

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

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

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

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

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

587 a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact  
588 legislation, fees paid by Compact member states such as annual dues, and any Commission Compact fee  
589 charged to licensees for the compact privilege;

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

591 c. Prepare and recommend the budget;

592 d. Maintain financial records on behalf of the Commission;

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

595 f. Establish additional committees as necessary; and

596 g. Perform other duties as provided in rules or bylaws.

597 E. Meetings of the Commission.

598 1. All meetings shall be open to the public, and public notice of meetings shall be given in the same  
599 manner as required under the rulemaking provisions in § 54.1-3493.

600 2. The Commission or the Executive Board or other committees of the Commission may convene in a  
601 closed, nonpublic meeting if the Commission or Executive Board or other committees of the Commission  
602 must discuss:

603 a. Noncompliance of a member state with its obligations under the Compact;

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

607 c. Current, threatened, or reasonably anticipated litigation;

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

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

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

612 g. Disclosure of information of a personal nature where disclosure would constitute a clearly

613 unwarranted invasion of personal privacy;

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

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

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

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

622 4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a  
623 meeting and shall provide a full and accurate summary of actions taken and the reasons therefor,  
624 including a description of the views expressed. All documents considered in connection with an action  
625 shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under  
626 seal, subject to release by a majority vote of the Commission or order of a court of competent  
627 jurisdiction.

628 F. Financing of the Commission.

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

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

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

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

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

647 G. Qualified immunity, defense, and indemnification.

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

656 2. The Commission shall defend any member, officer, executive director, employee, or representative  
657 of the Commission in any civil action seeking to impose liability arising out of any actual or alleged  
658 act, error, or omission that occurred within the scope of Commission employment, duties, or  
659 responsibilities or that the person against whom the claim is made had a reasonable basis for believing  
660 occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing  
661 herein shall be construed to prohibit that person from retaining his or her own counsel and provided  
662 further that the actual or alleged act, error, or omission did not result from that person's intentional or  
663 willful or wanton misconduct.

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

671 § 54.1-3492. Data system.

672 A. The Commission shall provide for the development, maintenance, and utilization of a coordinated  
673 database and reporting system containing licensure, adverse action, and investigative information on all

674 *licensed individuals in member states.*

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

678 *1. Identifying information;*

679 *2. Licensure data;*

680 *3. Adverse actions against a license or compact privilege;*

681 *4. Nonconfidential information related to alternative program participation;*

682 *5. Any denial of application for licensure, and the reason or reasons for such denial; and*

683 *6. Other information that may facilitate the administration of this Compact, as determined by the*  
 684 *rules of the Commission.*

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

687 *D. The Commission shall promptly notify all member states of any adverse action taken against a*  
 688 *licensee or an individual applying for a license. Adverse action information pertaining to a licensee in*  
 689 *any member state will be available to any other member state.*

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

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

694 **§ 54.1-3493. Rulemaking.**

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

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

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

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

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

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

709 *E. The Notice of Proposed Rulemaking shall include:*

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

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

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

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

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

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

720 *1. At least 25 persons;*

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

722 *3. An association having at least 25 members.*

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

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

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

731 *3. All hearings shall be recorded. A copy of the recording shall be made available on request.*

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

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

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

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

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

- 747 *1. Meet an imminent threat to public health, safety, or welfare;*
- 748 *2. Prevent a loss of Commission or member state funds;*
- 749 *3. Meet a deadline for the promulgation of an administrative rule that is established by federal law*  
 750 *or rule; or*
- 751 *4. Protect public health and safety.*

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

761 **§ 54.1-3494. Oversight, dispute resolution, and enforcement.**

762 **A. Oversight.**

763 *1. The executive, legislative, and judicial branches of state government in each member state shall*  
 764 *enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's*  
 765 *purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have*  
 766 *standing as statutory law.*

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

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

774 **B. Default, technical assistance, and termination.**

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

- 777 *a. Provide written notice to the defaulting state and other member states of the nature of the default,*  
 778 *the proposed means of curing the default, and/or any other action to be taken by the Commission; and*
- 779 *b. Provide remedial training and specific technical assistance regarding the default.*

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

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

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

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

795 *6. The defaulting state may appeal the action of the Commission by petitioning the United States*  
 796 *District Court for the District of Columbia or the federal district where the Commission has its*

797 principal offices. The prevailing member shall be awarded all costs of such litigation, including  
798 reasonable attorney fees.

799 C. Dispute resolution.

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

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

804 D. Enforcement.

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

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

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

815 **§ 54.1-3495. Date of implementation of the Interstate Commission for Physical Therapy Practice**  
816 **and associated rules, withdrawal, and amendment.**

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

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

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

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

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

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

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

838 **§ 54.1-3496. Construction and severability.**

839 This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of  
840 this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is  
841 declared to be contrary to the constitution of any party state or the Constitution of the United States, or  
842 the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity  
843 of the remainder of this Compact and the applicability thereof to any government, agency, person, or  
844 circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of  
845 any party state, the Compact shall remain in full force and effect as to the remaining party states and in  
846 full force and effect as to the party state affected as to all severable matters.

847 **2. That the provisions of this act shall become effective on January 1, 2020.**

848 **3. That the Board of Physical Therapy shall promulgate regulations to implement the provisions of**  
849 **this act to be effective within 280 days of its enactment.**