

**House File 2296 - Introduced**

HOUSE FILE 2296

BY KOESTER

**A BILL FOR**

1 An Act establishing a physical therapy licensure compact.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 147C.1 Form of compact.

2 1. *Article I — Purpose.*

3 a. The purpose of this compact is to facilitate interstate  
4 practice of physical therapy with the goal of improving public  
5 access to physical therapy services. The practice of physical  
6 therapy occurs in the state where the patient is located at  
7 the time of the patient encounter. The compact preserves the  
8 regulatory authority of states to protect public health and  
9 safety through the current system of state licensure.

10 b. This compact is designed to achieve all of the following  
11 objectives:

12 (1) Increase public access to physical therapy services  
13 by providing for the mutual recognition of other member state  
14 licenses.

15 (2) Enhance the states' ability to protect the public's  
16 health and safety.

17 (3) Encourage the cooperation of member states in  
18 regulating multistate physical therapy practice.

19 (4) Support spouses of relocating military members.

20 (5) Enhance the exchange of licensure, investigative, and  
21 disciplinary information between member states.

22 (6) Allow a remote state to hold a provider of services with  
23 a compact privilege in that state accountable to that state's  
24 practice standards.

25 2. *Article II — Definitions.*

26 a. "Active duty military" means full-time duty status in  
27 the active uniformed service of the United States, including  
28 members of the national guard and reserve on active duty orders  
29 pursuant to 10 U.S.C. §1209 and 10 U.S.C §1211.

30 b. "Adverse action" means disciplinary action taken by  
31 a physical therapy licensing board based upon misconduct,  
32 unacceptable performance, or a combination of both.

33 c. "Alternative program" means a nondisciplinary monitoring  
34 or practice remediation process approved by a physical therapy  
35 licensing board. This includes but is not limited to substance

1 abuse issues.

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

9     *e. "Continuing competence"* means a requirement, as  
10 a condition of license renewal, to provide evidence of  
11 participation in, and completion of, educational and  
12 professional activities relevant to practice or area of work.

13     *f. "Data system"* means a repository of information about  
14 licensees, including examination, licensure, investigative,  
15 compact privilege, and adverse action.

16     *g. "Encumbered license"* means a license that a physical  
17 therapy licensing board has limited in any way.

18     *h. "Executive board"* means a group of directors elected or  
19 appointed to act on behalf of, and within the powers granted to  
20 them by, the commission.

21     *i. "Home state"* means the member state that is the  
22 licensee's primary state of residence.

23     *j. "Investigative information"* means information, records,  
24 and documents received or generated by a physical therapy  
25 licensing board pursuant to an investigation.

26     *k. "Jurisprudence requirement"* means the assessment of an  
27 individual's knowledge of the laws and rules governing the  
28 practice of physical therapy in a state.

29     *l. "Licensee"* means an individual who currently holds  
30 an authorization from the state to practice as a physical  
31 therapist or to work as a physical therapist assistant.

32     *m. "Member state"* means a state that has enacted the  
33 compact.

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

1 a license or compact privilege.

2 o. *"Physical therapist"* means an individual who is licensed  
3 by a state to practice physical therapy.

4 p. *"Physical therapist assistant"* means an individual who is  
5 licensed by a state and who assists the physical therapist in  
6 selected components of physical therapy.

7 q. *"Physical therapy"*, *"physical therapy practice"*, and  
8 *"the practice of physical therapy"* mean the care and services  
9 provided by or under the direction and supervision of a  
10 licensed physical therapist.

11 r. *"Physical therapy compact commission"* or *"commission"*  
12 means the national administrative body whose membership  
13 consists of all states that have enacted the compact.

14 s. *"Physical therapy licensing board"* or *"licensing board"*  
15 means the agency of a state that is responsible for the  
16 licensing and regulation of physical therapists and physical  
17 therapist assistants.

18 t. *"Remote state"* means a member state other than the home  
19 state, where a licensee is exercising or seeking to exercise  
20 the compact privilege.

21 u. *"Rule"* means a regulation, principle, or directive  
22 promulgated by the commission that has the force of law.

23 v. *"State"* means any state, commonwealth, district, or  
24 territory of the United States that regulates the practice of  
25 physical therapy.

26 3. *Article III — State participation in the compact.*

27 a. To participate in the compact, a state must meet all of  
28 the following requirements:

29 (1) Participate fully in the commission's data system,  
30 including using the commission's unique identifier as defined  
31 in rules.

32 (2) Have a mechanism in place for receiving and  
33 investigating complaints about licensees.

34 (3) Notify the commission, in compliance with the terms  
35 of the compact and rules, of any adverse action or the

1 availability of investigative information regarding a licensee.

2 (4) Fully implement a criminal background check  
3 requirement, within a time frame established by rule, by  
4 receiving the results of the federal bureau of investigation  
5 record search on criminal background checks and using the  
6 results in making licensure decisions in accordance with  
7 article III, paragraph "b".

8 (5) Comply with the rules of the commission.

9 (6) Utilize a recognized national examination as a  
10 requirement for licensure pursuant to the rules of the  
11 commission.

12 (7) Have continuing competence requirements as a condition  
13 for license renewal.

14 b. Upon adoption of this statute, the member state shall  
15 have the authority to obtain biometric-based information from  
16 each physical therapy licensure applicant and submit this  
17 information to the federal bureau of investigation for a  
18 criminal background check in accordance with 28 U.S.C. §534 and  
19 42 U.S.C. §14616.

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

23 d. Member states may charge a fee for granting a compact  
24 privilege.

25 4. *Article IV — Compact privilege.*

26 a. To exercise the compact privilege under the terms and  
27 provisions of the compact, the licensee shall meet all of the  
28 following requirements:

29 (1) Hold a license in the home state.

30 (2) Have no encumbrance on any state license.

31 (3) Be eligible for a compact privilege in any member state  
32 in accordance with article IV, paragraphs "d", "g", and "h".

33 (4) Have not had any adverse action against any license or  
34 compact privilege within the previous two years.

35 (5) Notify the commission that the licensee is seeking the

1 compact privilege within a remote state.

2 (6) Pay any applicable fees, including any state fee, for  
3 the compact privilege.

4 (7) Meet any jurisprudence requirements established by  
5 the remote state in which the licensee is seeking a compact  
6 privilege.

7 (8) Report to the commission adverse action taken by any  
8 nonmember state within thirty days from the date the adverse  
9 action is taken.

10 *b.* The compact privilege is valid until the expiration  
11 date of the home license. The licensee must comply with the  
12 requirements of article IV, paragraph "a", to maintain the  
13 compact privilege in the remote state.

14 *c.* A licensee providing physical therapy in a remote state  
15 under the compact privilege shall function within the laws and  
16 regulations of the remote state.

17 *d.* A licensee providing physical therapy in a remote state  
18 is subject to that state's regulatory authority. A remote  
19 state may, in accordance with due process and that state's  
20 laws, remove a licensee's compact privilege in the remote state  
21 for a specific period of time, impose fines, and take any other  
22 necessary actions to protect the health and safety of its  
23 citizens. The licensee is not eligible for a compact privilege  
24 in any state until the specific time for removal has passed and  
25 all fines are paid.

26 *e.* If a home state license is encumbered, the licensee shall  
27 lose the compact privilege in any remote state until all of the  
28 following occur:

29 (1) The home state license is no longer encumbered.

30 (2) Two years have elapsed from the date of the adverse  
31 action.

32 *f.* Once an encumbered license in the home state is restored  
33 to good standing, the licensee must meet the requirements of  
34 article IV, paragraph "a", to obtain a compact privilege in any  
35 remote state.

1     *g.* If a licensee's compact privilege in any remote state is  
2 removed, the individual shall lose the compact privilege in any  
3 remote state until all of the following occur:

4     (1) The specific period of time for which the compact  
5 privilege was removed has ended.

6     (2) All fines have been paid.

7     (3) Two years have elapsed from the date of the adverse  
8 action.

9     *h.* Once the requirements of article IV, paragraph "*g*", have  
10 been met, the license must meet the requirements in article IV,  
11 paragraph "*a*", to obtain a compact privilege in a remote state.

12     5. *Article V — Active duty military personnel or their*  
13 *spouses.* A licensee who is active duty military or is the  
14 spouse of an individual who is active duty military may  
15 designate any of the following as the home state:

16     *a.* Home of record.

17     *b.* Permanent change of station.

18     *c.* State of current residence if it is different than the  
19 permanent change of station state or home of record.

20     6. *Article VI — Adverse actions.*

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

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

27     *c.* Nothing in this compact shall override a member state's  
28 decision that participation in an alternative program may be  
29 used in lieu of adverse action and that such participation  
30 shall remain nonpublic if required by the member state's laws.  
31 Member states must require licensees who enter any alternative  
32 programs in lieu of discipline to agree not to practice in any  
33 other member state during the term of the alternative program  
34 without prior authorization from such other member state.

35     *d.* Any member state may investigate actual or alleged

1 violations of the statutes and rules authorizing the practice  
2 of physical therapy in any other member state in which a  
3 physical therapist or physical therapist assistant holds a  
4 license or compact privilege.

5 e. A remote state shall have the authority to do all of the  
6 following:

7 (1) Take adverse actions as set forth in article IV,  
8 paragraph "d", against a licensee's compact privilege in the  
9 state.

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

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

25 *f. Joint investigations.*

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

30 (2) Member states shall share any investigative,  
31 litigation, or compliance materials in furtherance of any joint  
32 or individual investigation initiated under the compact.

33 *7. Article VII — Establishment of the physical therapy*  
34 *compact commission.*

35 a. The compact member states hereby create and establish



1 a joint public agency known as the physical therapy compact  
2 commission.

3 (1) The commission is an instrumentality of the compact  
4 states.

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

11 (3) Nothing in this compact shall be construed to be a  
12 waiver of sovereign immunity.

13 *b. Membership, voting, and meetings.*

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

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

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

22 (4) The member state board shall fill any vacancy occurring  
23 in the commission.

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

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

32 (7) The commission shall meet at least once during each  
33 calendar year. Additional meetings shall be held as set forth  
34 in the bylaws.

35 *c.* The commission shall have all of the following powers and

1 duties:

2 (1) Establish the fiscal year of the commission.

3 (2) Establish bylaws.

4 (3) Maintain its financial records in accordance with the  
5 bylaws.

6 (4) Meet and take such actions as are consistent with the  
7 provisions of this compact and the bylaws.

8 (5) Promulgate uniform rules to facilitate and coordinate  
9 implementation and administration of this compact. The rules  
10 shall have the force and effect of law and shall be binding in  
11 all member states.

12 (6) Bring and prosecute legal proceedings or actions in  
13 the name of the commission, provided that the standing of any  
14 state physical therapy licensing board to sue or be sued under  
15 applicable law shall not be affected.

16 (7) Purchase and maintain insurance and bonds.

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

19 (9) Hire employees, elect or appoint officers, fix  
20 compensation, define duties, grant such individuals appropriate  
21 authority to carry out the purposes of the compact, and  
22 establish the commission's personnel policies and programs  
23 relating to conflicts of interest, qualifications of personnel,  
24 and other related personnel matters.

25 (10) Accept any and all appropriate donations and grants  
26 of money, equipment, supplies, materials and services, and to  
27 receive, utilize, and dispose of the same; provided that at all  
28 times the commission shall avoid any appearance of impropriety  
29 or conflict of interest.

30 (11) Lease, purchase, accept appropriate gifts or donations  
31 of, or otherwise to own, hold, improve, or use, any property,  
32 whether real, personal, or mixed; provided that at all times  
33 the commission shall avoid any appearance of impropriety.

34 (12) Sell, convey, mortgage, pledge, lease, exchange,  
35 abandon, or otherwise dispose of any property real, personal,

1 or mixed.

2 (13) Establish a budget and make expenditures.

3 (14) Borrow money.

4 (15) Appoint committees, including standing committees  
5 comprised of members, state regulators, state legislators or  
6 their representatives, and consumer representatives, and such  
7 other interested persons as may be designated in this compact  
8 and the bylaws.

9 (16) Provide and receive information from, and cooperate  
10 with, law enforcement agencies.

11 (17) Establish and elect an executive board.

12 (18) Perform such other functions as may be necessary or  
13 appropriate to achieve the purposes of this compact consistent  
14 with the state regulation of physical therapy licensure and  
15 practice.

16 *d. The executive board.*

17 (1) The executive board shall have the power to act on  
18 behalf of the commission according to the terms of this  
19 compact.

20 (2) The executive board shall be comprised of the following  
21 nine members:

22 (a) Seven voting members who are elected by the commission  
23 from the current membership of the commission.

24 (b) One ex officio, nonvoting member from the recognized  
25 national physical therapy professional association.

26 (c) One ex officio, nonvoting member from the recognized  
27 membership organization of the physical therapy licensing  
28 boards.

29 (3) The ex officio members will be selected by their  
30 respective organizations.

31 (4) The commission may remove any member of the executive  
32 board as provided in bylaws.

33 (5) The executive board shall meet at least annually.

34 (6) The executive board shall have all of the following  
35 duties and responsibilities:

1 (a) Recommend to the entire commission changes to the rules  
2 or bylaws, changes to this compact, fees paid by compact member  
3 states such as annual dues, and any commission compact fee  
4 charged to licensees for the compact privilege.

5 (b) Ensure compact administration services are  
6 appropriately provided, contractual or otherwise.

7 (c) Prepare and recommend the budget.

8 (d) Maintain financial records on behalf of the commission.

9 (e) Monitor compact compliance of member states and provide  
10 compliance reports to the commission.

11 (f) Establish additional committees as necessary.

12 (g) Other duties as provided in rules or bylaws.

13 *e. Meetings of the commission.*

14 (1) All meetings shall be open to the public, and public  
15 notice of meetings shall be given in the same manner as  
16 required under the rulemaking provisions in article IX.

17 (2) The commission or the executive board or other  
18 committees of the commission may convene in a closed,  
19 nonpublic meeting if the commission or executive board or other  
20 committees of the commission must discuss all of the following:

21 (a) Noncompliance of a member state with its obligations  
22 under the compact.

23 (b) The employment, compensation, discipline, or other  
24 matters, practices, or procedures related to specific employees  
25 or other matters related to the commission's internal personnel  
26 practices and procedures.

27 (c) Current, threatened, or reasonably anticipated  
28 litigation.

29 (d) Negotiation of contracts for the purchase, lease, or  
30 sale of goods, services, or real estate.

31 (e) Accusing any person of a crime or formally censuring any  
32 person.

33 (f) Disclosure of trade secrets or commercial or financial  
34 information that is privileged or confidential.

35 (g) Disclosure of information of a personal nature where

1 disclosure would constitute a clearly unwarranted invasion of  
2 personal privacy.

3 (h) Disclosure of investigative records compiled for law  
4 enforcement purposes of any of the following.

5 (i) Disclosure of information related to any investigative  
6 reports prepared by or on behalf of or for use of the  
7 commission or other committee charged with responsibility of  
8 investigation or determination of compliance issues pursuant  
9 to the compact.

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

12 (3) If a meeting, or portion of a meeting, is closed  
13 pursuant to this provision, the commission's legal counsel or  
14 designee shall certify that the meeting may be closed and shall  
15 reference each relevant exempting provision.

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

25 *f. Financing of the commission.*

26 (1) The commission shall pay, or provide for the payment of,  
27 the reasonable expenses of its establishment, organization, and  
28 ongoing activities.

29 (2) The commission may accept any and all appropriate  
30 revenue sources, donations, and grants of money, equipment,  
31 supplies, materials, and services.

32 (3) The commission may levy on and collect an annual  
33 assessment from each member state or impose fees on other  
34 parties to cover the cost of the operations and activities  
35 of the commission and its staff, which must be in a total

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

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

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

18 *g. Qualified immunity, defense, and indemnification.*

19 (1) The members, officers, executive director, employees,  
20 and representatives of the commission shall be immune from suit  
21 and liability, either personally or in their official capacity,  
22 for any claim for damage to or loss of property or personal  
23 injury or other civil liability caused by or arising out of any  
24 actual or alleged act, error, or omission that occurred, or  
25 that the person against whom the claim is made had a reasonable  
26 basis for believing occurred within the scope of commission  
27 employment, duties, or responsibilities; provided that nothing  
28 in this paragraph "g" shall be construed to protect any such  
29 person from suit or liability for any damage, loss, injury,  
30 or liability caused by the intentional or willful or wanton  
31 misconduct of that person.

32 (2) The commission shall defend any member, officer,  
33 executive director, employee, or representative of the  
34 commission in any civil action seeking to impose liability  
35 arising out of any actual or alleged act, error, or omission

1 that occurred within the scope of commission employment,  
2 duties, or responsibilities, or that the person against  
3 whom the claim is made had a reasonable basis for believing  
4 occurred within the scope of commission employment, duties,  
5 or responsibilities; provided that nothing herein shall be  
6 construed to prohibit that person from retaining the person's  
7 own counsel; and provided further, that the actual or alleged  
8 act, error, or omission did not result from that person's  
9 intentional, willful, or wanton misconduct.

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

21 8. *Article VIII — Data system.*

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

27 b. Notwithstanding any other provision of state law to  
28 the contrary, a member state shall submit a uniform data set  
29 to the data system on all individuals to whom this compact  
30 is applicable as required by the rules of the commission,  
31 including all of the following:

- 32 (1) Identifying information.
- 33 (2) Licensure data.
- 34 (3) Adverse actions against a license or compact privilege.
- 35 (4) Nonconfidential information related to alternative

1 program participation.

2 (5) Any denial of application for licensure, and the reason  
3 for such denial.

4 (6) Other information that may facilitate the  
5 administration of this compact, as determined by the rules of  
6 the commission.

7 *c.* Investigative information pertaining to a licensee in any  
8 member state will only be available to other party states.

9 *d.* The commission shall promptly notify all member states of  
10 any adverse action taken against a licensee or an individual  
11 applying for a license. Adverse action information pertaining  
12 to a licensee in any member state will be available to any  
13 other member state.

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

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

22 9. *Article IX — Rulemaking.*

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

27 *b.* If a majority of the legislatures of the member states  
28 rejects a rule, by enactment of a statute or resolution in the  
29 same manner used to adopt the compact within four years of the  
30 date of adoption of the rule, then such rule shall have no  
31 further force and effect in any member state.

32 *c.* Rules or amendments to the rules shall be adopted at a  
33 regular or special meeting of the commission.

34 *d.* Prior to promulgation and adoption of a final rule or  
35 rules by the commission, and at least thirty days in advance



1 of the meeting at which the rule will be considered and voted  
2 upon, the commission shall file a notice of proposed rulemaking  
3 as follows:

4 (1) On the internet site of the commission or other publicly  
5 accessible platform.

6 (2) On the internet site of each member state physical  
7 therapy licensing board or other publicly accessible platform  
8 or the publication in which each state would otherwise publish  
9 proposed rules.

10 e. The notice of proposed rulemaking shall include all of  
11 the following:

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

14 (2) The text of the proposed rule or amendment and the  
15 reason for the proposed rule.

16 (3) A request for comments on the proposed rule from any  
17 interested person.

18 (4) The manner in which interested persons may submit notice  
19 to the commission of their intention to attend the public  
20 hearing and any written comments.

21 f. Prior to adoption of a proposed rule, the commission  
22 shall allow persons to submit written data, facts, opinions,  
23 and arguments, which shall be made available to the public.

24 g. The commission shall grant an opportunity for a public  
25 hearing before it adopts a rule or amendment if a hearing is  
26 requested by any of the following:

27 (1) At least twenty-five persons.

28 (2) A state or federal governmental subdivision or agency.

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

30 h. If a hearing is held on the proposed rule or amendment,  
31 the commission shall publish the place, time, and date of  
32 the scheduled public hearing. If the hearing is held via  
33 electronic means, the commission shall publish the mechanism  
34 for access to the electronic hearing.

35 (1) All persons wishing to be heard at the hearing shall

1 notify the executive director of the commission or other  
2 designated member in writing of their desire to appear and  
3 testify at the hearing not less than five business days before  
4 the scheduled date of the hearing.

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

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

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

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

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

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

26 *l.* Upon determination that an emergency exists, the  
27 commission may consider and adopt an emergency rule without  
28 prior notice, opportunity for comment, or hearing, provided  
29 that the usual rulemaking procedures provided in the compact  
30 and in this section shall be retroactively applied to the rule  
31 as soon as reasonably possible, in no event later than ninety  
32 days after the effective date of the rule. For the purposes of  
33 this provision, an emergency rule is one that must be adopted  
34 immediately in order to do any of the following:

35 (1) Meet an imminent threat to public health, safety, or

1 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 law or rule.

5 (4) Protect public health and safety.

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

20 10. *Article X — Oversight, dispute resolution, and*  
21 *enforcement.*

22 *a. Oversight.*

23 (1) The executive, legislative, and judicial branches  
24 of state government in each member state shall enforce this  
25 compact and take all actions necessary and appropriate to  
26 effectuate the compact's purposes and intent. The provisions  
27 of this compact and the rules promulgated hereunder shall have  
28 standing as statutory law.

29 (2) All courts shall take judicial notice of the compact  
30 and the rules in any judicial or administrative proceeding in a  
31 member state pertaining to the subject matter of this compact  
32 which may affect the powers, responsibilities, or actions of  
33 the commission.

34 (3) The commission shall be entitled to receive service  
35 of process in any such proceeding, and shall have standing to

1 intervene in such a proceeding for all purposes. Failure to  
2 provide service of process to the commission shall render a  
3 judgment or order void as to the commission, this compact, or  
4 promulgated rules.

5 *b. Default, technical assistance, and termination.*

6 (1) If the commission determines that a member state  
7 has defaulted in the performance of its obligations or  
8 responsibilities under this compact or the promulgated rules,  
9 the commission shall do all of the following:

10 (a) Provide written notice to the defaulting state and other  
11 member states of the nature of the default, the proposed means  
12 of curing the default, or any other action to be taken by the  
13 commission.

14 (b) Provide remedial training and specific technical  
15 assistance regarding the default.

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

23 (3) Termination of membership in the compact shall be  
24 imposed only after all other means of securing compliance have  
25 been exhausted. Notice of intent to suspend or terminate shall  
26 be given by the commission to the governor, the majority and  
27 minority leaders of the defaulting state's legislature, and  
28 each of the member states.

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

33 (5) The commission shall not bear any costs related  
34 to a state that is found to be in default or that has been  
35 terminated from the compact unless agreed upon in writing

1 between the commission and the defaulting state.

2 (6) The defaulting state may appeal the action of the  
3 commission by petitioning the United States district court  
4 for the District of Columbia or the federal district where  
5 the commission has its principal offices. The prevailing  
6 member shall be awarded all costs of such litigation, including  
7 reasonable attorney fees.

8 *c. Dispute resolution.*

9 (1) Upon request by a member state, the commission shall  
10 attempt to resolve disputes related to the compact that arise  
11 among member states and between member and nonmember states.

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

15 *d. Enforcement.*

16 (1) The commission, in the reasonable exercise of its  
17 discretion, shall enforce the provisions and rules of this  
18 compact.

19 (2) By majority vote, the commission may initiate legal  
20 action in the United States district court for the District  
21 of Columbia or the federal district where the commission has  
22 its principal offices against a member state in default to  
23 enforce compliance with the provisions of the compact and its  
24 promulgated rules and bylaws. The relief sought may include  
25 both injunctive relief and damages. In the event judicial  
26 enforcement is necessary, the prevailing member shall be  
27 awarded all costs of such litigation, including reasonable  
28 attorney fees.

29 (3) The remedies herein shall not be the exclusive remedies  
30 of the commission. The commission may pursue any other  
31 remedies available under federal or state law.

32 11. *Article XI — Date of implementation of the interstate*  
33 *commission for physical therapy practice and associated rules,*  
34 *withdrawal, and amendment.*

35 *a.* The compact shall come into effect on the date on

1 which the compact statute is enacted into law in the tenth  
2 member state. The provisions, which become effective at  
3 that time, shall be limited to the powers granted to the  
4 commission relating to assembly and the promulgation of rules.  
5 Thereafter, the commission shall meet and exercise rulemaking  
6 powers necessary to the implementation and administration of  
7 the compact.

8     **b.** Any state that joins the compact subsequent to the  
9 commission's initial adoption of the rules shall be subject  
10 to the rules as they exist on the date on which the compact  
11 becomes law in that state. Any rule that has been previously  
12 adopted by the commission shall have the full force and effect  
13 of law on the day the compact becomes law in that state.

14     **c.** Any member state may withdraw from this compact by  
15 enacting a statute repealing the same.

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

18     (2) Withdrawal shall not affect the continuing requirement  
19 of the withdrawing state's physical therapy licensing board  
20 to comply with the investigative and adverse action reporting  
21 requirements of this compact prior to the effective date of  
22 withdrawal.

23     **d.** Nothing contained in this compact shall be construed to  
24 invalidate or prevent any physical therapy licensure agreement  
25 or other cooperative arrangement between a member state and a  
26 nonmember state that does not conflict with the provisions of  
27 this compact.

28     **e.** This compact may be amended by the member states. No  
29 amendment to this compact shall become effective and binding  
30 upon any member state until it is enacted into the laws of all  
31 member states.

32     12. *Article XII — Construction and severability.*

33     This compact shall be liberally construed so as to  
34 effectuate the purposes thereof. The provisions of this  
35 compact shall be severable, and if any phrase, clause,

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

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with  
14 the explanation's substance by the members of the general assembly.

15 This bill adopts the interstate physical therapy licensure  
16 compact. The compact grants Iowa the authority to obtain  
17 biometric information from applicants for physical therapy  
18 licensure and to submit such information to the federal bureau  
19 of investigation for a criminal background check.

20 The compact instructs member states to grant the compact  
21 privilege to practice physical therapy to a person holding a  
22 valid license to practice physical therapy in another member  
23 state that is unencumbered, or not limited in any way. A  
24 licensee seeking to exercise the compact privilege must not  
25 have an encumbered license to practice physical therapy in  
26 any state, must not have had any adverse action taken against  
27 any such license or compact privilege in the previous two  
28 years, must notify the physical therapy compact commission  
29 (commission) that the licensee is seeking the compact  
30 privilege, pass any tests regarding the rules of practicing  
31 physical therapy required by the state in which the licensee  
32 seeks to practice, and report to the commission any adverse  
33 action taken against the licensee by the physical therapy  
34 board of a nonmember state within 30 days. A member state may  
35 charge a fee to a person applying for a compact privilege. A

1 compact privilege remains valid until the licensee's license to  
2 practice physical therapy expires or until the license becomes  
3 encumbered.

4 Under the compact, the state that granted a licensee's  
5 license retains exclusive authority to discipline that license.  
6 However, any member of the compact may investigate any actual  
7 or alleged violations of the statutes and rules governing  
8 the practice of physical therapy of another state. A state  
9 that has granted a licensee a compact privilege may take  
10 disciplinary actions against that compact privilege. Member  
11 states may also engage in joint investigations of licensees.

12 The compact establishes a commission, consisting of one  
13 delegate from each member state's physical therapy licensing  
14 board, to promulgate rules and bylaws relating to the governing  
15 of the compact; purchase, accept, borrow, and dispose of  
16 property and money; appoint committees; cooperate with law  
17 enforcement; establish and elect an executive board; and  
18 perform such other functions as may be necessary or appropriate  
19 to achieve the purposes of the compact. Any rules promulgated  
20 by the commission shall be preceded by a notice at least 30  
21 days before the meeting at which a rule will be considered  
22 and voted upon, as well as an opportunity to submit written  
23 comments, unless the commission determines that an emergency  
24 exists. The commission shall grant an opportunity for a public  
25 hearing if such a hearing is requested by at least 25 persons,  
26 a state or federal governmental subdivision or agency, or an  
27 association having at least 25 members. A rule adopted by the  
28 commission shall have no further effect in any member state  
29 if a majority of legislatures in member states adopt statutes  
30 rejecting the rule within four years of the date of adoption  
31 of the rule.

32 The commission may also levy annual assessments or other  
33 fees against member states or other parties to cover the  
34 costs of the operation of the commission. Except for certain  
35 meetings relating to private or confidential information that



1 are certified to be subject to closure by the commission's  
2 legal counsel, meetings of the committee shall be open to  
3 the public and preceded by public notice. The members,  
4 officers, executive director, employees, and representatives  
5 of the commission are immune from suit for damages caused by  
6 or arising from actions taken within the scope of commission  
7 employment, provided that the immunity shall not extend to  
8 intentional, willful, or wanton misconduct. The commission  
9 shall defend, indemnify, and hold harmless any member, officer,  
10 executive director, employee, or representative sued for  
11 actions taken within the scope of commission employment, unless  
12 the person intentionally, willfully, or wantonly committed  
13 misconduct.

14 The executive board shall consist of seven voting members,  
15 elected from among current members of the commission, and two  
16 nonvoting members, one each from the national physical therapy  
17 professional association and the membership organization of the  
18 physical therapy licensing boards. The nonvoting members shall  
19 be selected by their respective organizations. The executive  
20 board shall recommend to the commission changes to laws, rules,  
21 and bylaws governing the compact, ensure that administrative  
22 services are appropriately provided, prepare and recommend the  
23 budget, maintain financial records on behalf of the commission,  
24 monitor compliance of member states with the compact and  
25 provide compliance reports to the committee, establish  
26 committees, and perform other duties provided for in bylaws.

27 The compact instructs the commission to create a database  
28 and reporting system containing licensure, adverse action, and  
29 investigative information on all licensed persons in member  
30 states. Investigative information pertaining to a licensee  
31 shall only be available to party states. A member state  
32 contributing information to the system may designate that the  
33 information shall not be shared with the public without the  
34 express permission of the member state. The commission shall  
35 notify all member states of any adverse action taken against a

1 licensee or an individual applying for a license.

2 The compact grants the commission the authority to receive  
3 service of process for and intervene in any judicial proceeding  
4 that may affect the powers, responsibilities, or actions of  
5 the commission. A failure to provide such service renders  
6 a judgment void as to the commission, the compact, and any  
7 promulgated rules.

8 If the commission determines that a member state has  
9 defaulted in its duties or obligations under the compact or  
10 promulgated rules, it shall notify all member states as to  
11 the nature of the default, the proposed means of curing the  
12 default, and any other actions to be taken by the commission.  
13 The commission shall also provide remedial training and  
14 technical assistance regarding the default. If a member state  
15 fails to cure a default after all other means of securing  
16 compliance have been exhausted, the member state may be  
17 terminated from the compact upon an affirmative vote of a  
18 majority of member states. A defaulting state may appeal the  
19 action of the commission by petitioning the United States  
20 district court for the District of Columbia or the federal  
21 district where the commission has its principal offices.  
22 The commission may also, following an affirmative vote of a  
23 majority of members, initiate legal action against a defaulting  
24 state in the United States district court for the District of  
25 Columbia or the federal district where the commission has its  
26 principal offices.

27 A member state may withdraw from the compact by enacting a  
28 statute repealing it. Such a withdrawal shall not take effect  
29 until six months after the enactment of the statute. Member  
30 states may amend the compact, but any such amendments are not  
31 effective or binding upon any member state until all member  
32 states enact the amendment into their laws.