



**Physical Therapy Compact Commission Rules and Bylaws Committee Meeting Minutes
September 13, 2018**

WebEx

COMMITTEE MEMBERS PRESENT: Kathy Arney, North Carolina, Committee Chair
Scott Majors, Kentucky
Joe Shanley, New Hampshire
Andrew Wodka, Washington

COMMISSION STAFF PRESENT: T.J. Cantwell, Compact Administrator

Call to Order

T.J. Cantwell called roll and determined a quorum was present. The meeting was called to order at 4:00 PM, ET.

Approve Minutes (Action Required)

Motion: Joe Shanley moved to approve the July 19 minutes as submitted. Andrew Wodka seconded the motion. The motion carried without objection.

Discussion of Informal Comments to Draft Rules Amendments

The Rules and Bylaws Committee reviewed the informal comments and made additional edits on the draft Rules amendments made by the Commission Delegates and Administrators.

Discussion of Informal Comments to Draft Bylaws Amendments

The Rules and Bylaws Committee reviewed the informal comments and made additional edits on the draft Bylaws amendments made by the Commission Delegates and Administrators.

Vote on Draft Rules Amendments

Motion: Joe Shanley moved that the Rules and Bylaws Committee recommend the draft Rules amendments for consideration by the Executive Board. Scott Majors seconded the motion. The motion passed. A copy of the amendments is attached to the minutes.

Vote on Draft Bylaws Amendments

Motion: Kathy Arney moved that the Rules and Bylaws Committee recommend the draft Bylaws amendments for consideration by the Executive Board. Joe Shanley seconded the motion. The motion passed. A copy of the amendments is attached to the minutes.

Next Steps

The draft Rules and Bylaws amendments will be considered by the Executive Board at its September 19, 2018 meeting.

Adjournment

The meeting was adjourned at 4:50 PM, ET.

2018 DRAFT Compact Rules and Bylaws Amendments Recommended by the Rules and Bylaws Committee

Please note that additions are indicated by red underlined text. Deletions are indicated by ~~red strikethrough~~ text. Black text is existing unchanged text.

Recommended Bylaws Amendments

- 1) **Article V. Section 4 – Suspension and Termination of Membership in the Compact**
Reason: To clarify roles of the Executive Board in the suspension and termination process, as well as, other items that need to be better explained to provide transparency in the process.

Proposed Change:

Section 4. Suspension and Termination of Membership in the Compact.

- A. The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the Compact, or the rules and bylaws of the Commission promulgated under the Compact.
- B. If the Commission or the Executive Board determines has reason to believe that a Member State has defaulted in the performance of its obligations or responsibilities under the Compact or the adopted Rules, a representative of the Commission shall the following steps shall be followed:
1. Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, and any action to be taken by the Commission; and
 2. A representative of the Commission shall Provide remedial training and specific technical assistance regarding the default to meet with representatives, including the Delegate of the Member State, including to discuss the potential default and identify potential ways to cure the default.
- C. If the default is not cured, the Member State's membership in the Commission shall be suspended upon a two-thirds (2/3rds) vote of the Commission. The motion to suspend membership must include the nature of the default and proposed means of timely curing the default.
- D. Following a vote to suspend membership, a representative of the Commission shall Commission staff shall send notice of the Commission's decision to the suspended Member State's Delegate, Governor and majority and minority leaders of the legislature, in addition to the board administrator and Delegate of all Member States, within ten (10) business days.
- E. If the Commission determines upon a majority vote that the default is not timely cured, upon a majority vote of the Commission, a Notice of Intent to Terminate shall be sent to the board administrator and Delegate of all Member States and by certified mail to the Delegate, Governor and majority and minority leaders of the legislature of the defaulting state. ~~The Notice to the Governor and legislative leadership shall be sent by certified mail.~~ The Notice shall indicate that if the default is not cured as directed by the Commission

within the timeframe specified in the Notice, the Commission will proceed to vote to Terminate membership in the Compact.

2) Article VI. Section 11 – Conflict of Interest

Reason: To clarify the actions necessary if a conflict of interest arises.

Proposed Change:

Section 11. Conflict of Interest

A. The Commission shall adopt a conflict of interest policy that addresses how to resolve potential conflicts of interest.

B. Delegates shall recuse themselves from voting on any issue where a conflict of interest is determined to exist.

3) Article VII. Sections 1 and 2– Committees and Task Forces

Reason: To specify term lengths for standing committees of the Executive Board and full Commission.

Proposed Change:

Section 1. Standing Committees of the Commission

A. Elections Committee.

The Elections Committee will consist of two Delegates who are not on the Executive Board or slated for election. Committee member terms will expire at the close of the following year’s annual Commission meeting.

Section 2. Standing Committees of the Executive Board

A. Finance Committee

The Committee will consist of at least three members. The Secretary/Treasurer shall serve as Chair of the Committee. Committee member terms will expire at the close of the following year’s annual Commission meeting.

B. Rules and Bylaws Committee

The Committee will consist of at least three members. The Vice Chair shall serve as Chair of the Committee. Committee member terms will expire at the close of the following year’s annual Commission meeting.

Recommended Rules Amendments

1) Rule 1.1 - Definitions

Reason: To conform with the model Compact language to include the words “or is applying for a license or compact privilege”.

Rule 1.1 – Definitions

(K) “Party state” means any member state where the individual currently holds, or has ever held a physical therapist or physical therapist assistant license or compact privilege or is applying for a license or compact privilege.

2) Rule 2.1 – Criminal Background Check

Reason: To improve language and clarify that when the statute refers to 42 USC 14616, it really means the other section 40316 of Title 34.

Proposed Change:

(A) To avoid default, member states must have completed all required processes, requirements, and applications necessary to request the ability to receive the results of the Federal Bureau of Investigation (~~FBI~~) record search on criminal background checks, as required by the Compact.

(B) Results of the criminal background check shall be reviewed solely by the member state in accordance with state law and shall not be shared, unless otherwise permitted under state law, with individuals, other member states, or the Commission.

(C) A member state cannot participate in issuing compact privileges until such member state has completed the requirements to fully implement the ~~Federal Bureau of Investigation (FBI)~~ Criminal Background Check requirement established in Section 3 of the Compact.

As used in Section 3.A.4 of the Compact, full implementation of the ~~Federal Bureau of Investigation FBI~~ Criminal Background Check requirement means that the member state’s licensing board is using the results of the ~~Federal Bureau of Investigation FBI~~ record search on criminal background checks in making licensure decision for all applicants seeking an initial license to practice as a physical therapist or work as a physical therapist assistant in the member state.

(D) Due to editorial reclassification, the reference to 42 U.S.C. §14616 in Section 3.B. of the Compact actually refers to 34 U.S.C. §40316.

3) Chapter 2 – Member State Participation

Reason: To add a rule delineating all the requirements a member state needs to complete before issuing compact privileges in order to avoid any confusion in the future.

Proposed Change:

Rule 2.4 – Requirements to Issue Compact Privileges

A member state cannot participate in issuing compact privileges until such member state has completed all the following requirements:

- (A) Fully implement the FBI Criminal Background Check requirement established in Rule 2.1.
- (B) Require continuing competence for renewal for physical therapists and physical therapist assistants.
- (C) Fully implement the requirements of Rule 6.1.

4) Rule 3.5 –Expiration or Termination of a Compact Privilege

Reason: To add language addressing the eligibility of someone who has a revoked license and/or has a licensed revoked while holding compact privileges.

Proposed Change:

- (A) All compact privileges shall expire on the actual expiration date of the home state license even if the home state allows practice beyond the license expiration date.
- (B) Impact of changing the primary state of residence.
 - 1) Moving to another member state.
 - a. The compact privilege holder must hold an active license in the new home state prior to changing the primary state of residence or all current compact privileges will be terminate.
 - b. When a compact privilege holder obtains the license in the new home state and changes the primary state of residence, the expiration date of all current compact privileges will be updated to match the expiration date of the new home state license.
 - 2) Moving to a non-member state.

If the compact privilege holder’s new primary state of residence is a non-member state, all current compact privileges will be immediately terminated.
- (C) If an individual’s license is revoked, the individual is deemed to have an encumbrance until the revoked license is reinstated/restored without restrictions, conditions or terms.

5) Rule 3.7 – Joint Investigations

Reason: To clarify the confidentiality of party states sharing investigatory information.

Proposed Change:

Rule 3.7 – Joint Investigations

- (A) When participating with other member states in joint investigations, the member state where the alleged violation initially occurred will take the lead on any investigation.
- (B) All investigatory information provided to member states shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

6) Rule 3.8 – Jurisprudence

Reason: To specify if jurisprudence requirements are only for initial compact privilege purchase or can also be required at renewal/repurchase.

Proposed Change:

Rule 3.8 – Jurisprudence

If a member state has a jurisprudence requirement [to be eligible to obtain a compact privilege](#) in accordance with Section 4.A.7. of the Compact that may be completed after the issuance of the compact privilege, the deadline to complete the jurisprudence requirement is thirty (30) days.

[A member state may choose to have a jurisprudence requirement in accordance with Section 4.A.7 of the Compact for both initial purchase and renewal of a compact privilege.](#)

7) Rule 3.1 - Compact Privilege Eligibility, Adverse Actions, and Encumbrances

Reason: To clarify the need to share the “Home State” address and allow states to require the notification of the physical locations compact privilege holders will be working.

Proposed Change:

Rule 3.1 – Home State License

- (A) Compact privilege holders may be audited at any time by the Commission to verify compliance with home state residency requirements.
- (B) An individual holding a temporary permit, temporary license, or temporary authorization to practice shall not be eligible for a Compact Privilege.
- (C) In addition to complying with reporting name and address change as required by the home state, compact privilege holders must also notify the Commission of a change of name and/or home [state](#) address within thirty (30) business days of the change.
- (D) [Member states may require compact privilege holders to notify the licensing board of the physical location\(s\) where the individual is providing physical therapy services within that remote state.](#)

8) Rule 3.2- Self-Reporting of an Encumbrance or Adverse Action on a License

Reason: Article IV (1)(h) of the Compact says notice must be provided within 30 days of the date the adverse action is taken. The Rule needs to conform with the Compact language.

Proposed Change:

Rule 3.2 – Self-Reporting of an Encumbrance or Adverse Action on a License

A compact privilege holder must report to the Commission any encumbrance or adverse action placed upon any physical therapist or physical therapist assistant license held by the compact privilege holder in a non-member state within ~~two (2) business~~ [thirty \(30\)](#) days of the effective date.

9) Rule 3.3 - Eligibility for Compact Privilege after an Adverse Action or Encumbrance
Reason: To clarify and reword so it is consistent with Article IV 5, 6, and 7 of the Compact.

Proposed Change:

Rule 3.3 – Eligibility for Compact Privilege after an Adverse Action or Encumbrance

(A) An individual immediately loses any and all compact privilege(s) upon the effective date of either of the following actions taken by a Licensing Board:

- (1) Adverse action taken against a license or compact privilege; or
- (2) Encumbrance placed upon the individual’s license or compact privilege.

(B) Following an adverse action or encumbrance, an individual regains eligibility for compact privilege(s):

- (1) Immediately after the removal of all non-disciplinary encumbrance(s), provided there are no current adverse actions against the license or compact privilege; or
- (2) Two (2) years from the effective date of the adverse action as specified in the Board Order. Board order of the adverse action.

a. If the timeframe imposed by the Licensing Board is greater than two years, the individual will not regain eligibility until the greater timeframe has elapsed;
or

b. If the timeframe when all disciplinary encumbrances have passed and all fines are paid is greater than two (2) years, the individual will not regain eligibility until that timeframe has elapsed.

10) Rule 3.6 - Participation in an Alternative Program

Reason: To conform with the model Compact language to include the words "without prior authorization from the other member state".

Proposed Change:

Rule 3.6 – Participation in an Alternative Program

Member state Licensing Boards must add language to any alternative program agreements entered into with a licensee or compact privilege holder prohibiting practice or work in any other member states without prior authorization from the other member state.

11) Rule 4.1 – Active Duty Military Personnel or Their Spouses

Reason: To maintain the language within the same rule regarding “active duty military”.

Proposed Change:

Rule 4.1 – Home State Designation

For the purposes of Section 5. of the Compact, the following definitions shall apply:

- (A) “Home of record” means, for purposes of the Compact only, the active duty military personnel’s State of Legal Residence on record with the military.
- (B) “Permanent Change of Station” or “PCS” means the state of the duty station noted in the active duty military personnel’s PCS orders.
- (C) “State of current residence” means the state in which the active duty military personnel or spouse is currently physically residing.
- (D) The active duty military member or spouse of an individual who is active duty military may change the member state designated as the individual’s home state by notifying the Commission.

12) Rule 6.7 – Indicating Availability of Investigatory Information

Reason: To clarify that member states will share investigatory information directly.

Proposed Change:

Rule 6.7 – Indicating Availability of Investigatory Information

A member state shall notify the Commission that investigatory information is available to party states when a member state has determined probable cause exists that the allegations against the licensee may constitute a violation of the member’s state statute or regulations. The actual investigative information shall be shared directly with the party state and not through the Commission.

