

1-1 By: Nichols, et al. S.B. No. 317
1-2 (In the Senate - Filed March 7, 2017; March 14, 2017, read
1-3 first time and referred to Committee on State Affairs;
1-4 March 14, 2017, rereferred to Committee on Health & Human Services;
1-5 April 3, 2017, reported adversely, with favorable Committee
1-6 Substitute by the following vote: Yeas 9, Nays 0; April 3, 2017,
1-7 sent to printer.)

1-8 COMMITTEE VOTE

1-9		Yea	Nay	Absent	PNV
1-10	Schwertner	X			
1-11	Uresti	X			
1-12	Buckingham	X			
1-13	Burton	X			
1-14	Kolkhorst	X			
1-15	Miles	X			
1-16	Perry	X			
1-17	Taylor of Collin	X			
1-18	Watson	X			

1-19 COMMITTEE SUBSTITUTE FOR S.B. No. 317 By: Buckingham

1-20 A BILL TO BE ENTITLED
1-21 AN ACT

1-22 relating to the continuation and functions of the Executive Council
1-23 of Physical Therapy and Occupational Therapy Examiners, the Texas
1-24 Board of Physical Therapy Examiners, and the Texas Board of
1-25 Occupational Therapy Examiners; authorizing a fee.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 ARTICLE 1. EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL
1-28 THERAPY EXAMINERS

1-29 SECTION 1.01. Section 452.002, Occupations Code, is amended
1-30 to read as follows:

1-31 Sec. 452.002. APPLICATION OF SUNSET ACT. The Executive
1-32 Council of Physical Therapy and Occupational Therapy Examiners is
1-33 subject to Chapter 325, Government Code (Texas Sunset Act). Unless
1-34 continued in existence as provided by that chapter, the executive
1-35 council is abolished and the following laws expire September 1,
1-36 2029 [2017]:

- 1-37 (1) this chapter;
1-38 (2) Chapter 453; and
1-39 (3) Chapter 454.

1-40 SECTION 1.02. Section 452.053, Occupations Code, is amended
1-41 to read as follows:

1-42 Sec. 452.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.
1-43 (a) In this section, "Texas trade association" means a
1-44 ~~[nonprofit]~~ cooperative~~[,]~~ and voluntarily joined statewide
1-45 association of business or professional competitors in this state
1-46 designed to assist its members and its industry or profession in
1-47 dealing with mutual business or professional problems and in
1-48 promoting their common interest.

1-49 (b) ~~A person [An officer, employee, or paid consultant of a~~
1-50 ~~Texas trade association in the field of health care]~~ may not be a
1-51 member of the executive council and may not be an employee of the
1-52 executive council employed in a "bona fide executive,
1-53 administrative, or professional capacity," as that phrase is used
1-54 for purposes of establishing an exemption to the overtime
1-55 provisions of the federal Fair Labor Standards Act of 1938 (29
1-56 U.S.C. Section 201 et seq.), if:

- 1-57 (1) the person is an officer, employee, or paid
1-58 consultant of a Texas trade association in the field of health care;
1-59 or
1-60 (2) the person's [who is exempt from the state's

~~position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.~~

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

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

SECTION 1.03. Sections 452.056(a) and (c), Occupations Code, are amended to read as follows:

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

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

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

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

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

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

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

SECTION 1.04. Subchapter B, Chapter 452, Occupations Code, is amended by adding Section 452.059 to read as follows:

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

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

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

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

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

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

(5) the requirements of:

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

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

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

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

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

SECTION 1.05. Section 452.102, Occupations Code, is amended to read as follows:

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

SECTION 1.06. Section 452.152(b), Occupations Code, is amended to read as follows:

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

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

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

SECTION 1.07. Subchapter D, Chapter 452, Occupations Code, is amended by adding Section 452.160 to read as follows:

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

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

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

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

(c) The executive council shall:

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

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

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

SECTION 1.08. Section 452.153(b), Occupations Code, is repealed.

SECTION 1.09. As soon as practicable after the effective date of this article:

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

(2) the executive council shall:

(A) develop and implement the policies required

by Section 452.102, Occupations Code, as amended by this article; and

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

SECTION 1.10. Notwithstanding Section 452.059(a), Occupations Code, as added by this article, a member of the Executive Council of Physical Therapy and Occupational Therapy Examiners who has not completed the training required by Section 452.059, Occupations Code, as added by this article, may vote, deliberate, and be counted as a member in attendance at a meeting of the Executive Council of Physical Therapy and Occupational Therapy Examiners until December 1, 2017.

ARTICLE 2. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

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

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

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

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

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

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

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

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

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

(a) It is a ground for removal from the board that a member: (1) does not have at the time of taking office ~~[appointment]~~ the qualifications required by Section 453.051(a);

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

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

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

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

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

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

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

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

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

Sec. 453.060. TRAINING. (a) A person who is appointed to and qualifies for office as [Before] a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of [assume the member's duties, the member must complete at least a course of the training program established by] the board until the person completes a training program that complies with [under] this section.

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

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

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

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

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

[(5) the current budget for the board,

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

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

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts [Chapters 551, 552, 2001, and 2002, Government Code,

[(8) the requirements of the conflict] of interest; and

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

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

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

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

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

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

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

6-1 Sec. 453.1061. PLACE OF EMPLOYMENT. The board may require
 6-2 that a license holder provide current information in a readily
 6-3 accessible and usable format regarding the license holder's place
 6-4 of employment as a physical therapist or physical therapist
 6-5 assistant.

6-6 Sec. 453.109. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
 6-7 RESOLUTION. (a) The board shall develop a policy to encourage the
 6-8 use of:

6-9 (1) negotiated rulemaking under Chapter 2008,
 6-10 Government Code, for the adoption of board rules; and

6-11 (2) appropriate alternative dispute resolution
 6-12 procedures under Chapter 2009, Government Code, to assist in the
 6-13 resolution of internal and external disputes under the board's
 6-14 jurisdiction.

6-15 (b) The board's procedures relating to alternative dispute
 6-16 resolution must conform, to the extent possible, to any model
 6-17 guidelines issued by the State Office of Administrative Hearings
 6-18 for the use of alternative dispute resolution by state agencies.

6-19 (c) The board shall:

6-20 (1) coordinate the implementation of the policy
 6-21 adopted under Subsection (a);

6-22 (2) provide training as needed to implement the
 6-23 procedures for negotiated rulemaking or alternative dispute
 6-24 resolution; and

6-25 (3) collect data concerning the effectiveness of those
 6-26 procedures.

6-27 SECTION 2.08. Section 453.151(c), Occupations Code, is
 6-28 amended to read as follows:

6-29 (c) Information maintained by the executive council or the
 6-30 board under this chapter regarding the home address or personal
 6-31 telephone number of a person licensed under this chapter ~~[or a~~
 6-32 ~~person who is an owner or manager of a physical therapy facility~~
 6-33 ~~registered under this chapter]~~ is confidential and not subject to
 6-34 disclosure under Chapter 552, Government Code. A person licensed
 6-35 under this chapter ~~[or a person who is an owner or manager of a~~
 6-36 ~~physical therapy facility registered under this chapter]~~ must
 6-37 provide the board with a business address or address of record that
 6-38 will be subject to disclosure under Chapter 552, Government Code.

6-39 SECTION 2.09. Section 453.154(e), Occupations Code, is
 6-40 amended to read as follows:

6-41 (e) The ~~staff of the executive council [coordinator of~~
 6-42 ~~physical therapy programs]~~ shall notify the board of a complaint
 6-43 that is unresolved after the time prescribed by the board for
 6-44 resolving the complaint so that the board may take necessary action
 6-45 on the complaint.

6-46 SECTION 2.10. The heading to Subchapter E, Chapter 453,
 6-47 Occupations Code, is amended to read as follows:

6-48 SUBCHAPTER E. LICENSE REQUIREMENTS~~[, REGISTRATION OF FACILITIES]~~

6-49 SECTION 2.11. Section 453.202(b), Occupations Code, is
 6-50 amended to read as follows:

6-51 (b) The application must be accompanied by~~+~~

6-52 ~~[(1) an examination fee prescribed by the board, and~~

6-53 ~~[(2)] a nonrefundable application fee prescribed by~~
 6-54 the executive council ~~[board]~~.

6-55 SECTION 2.12. Section 453.203, Occupations Code, is amended
 6-56 to read as follows:

6-57 Sec. 453.203. QUALIFICATIONS FOR PHYSICAL THERAPIST OR
 6-58 PHYSICAL THERAPIST ASSISTANT LICENSE. (a) An applicant for a
 6-59 physical therapist license must, in addition to other requirements
 6-60 and qualifications established by the board, present:

6-61 (1) evidence satisfactory to the board that the
 6-62 applicant has completed an accredited physical therapy educational
 6-63 program; or

6-64 (2) official documentation from an educational
 6-65 credentials review agency approved by the board certifying that the
 6-66 applicant has completed~~+~~

6-67 ~~[(A)]~~ a program equivalent to a Commission on
 6-68 Accreditation in ~~[of]~~ Physical Therapy Education accredited
 6-69 program~~+~~ and

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

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

(c) A physical therapy educational program or physical therapist assistant program is an accredited program if the program is~~[+~~

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

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

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

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

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

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

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

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

(b) The physical therapist examination is a national examination that tests entry-level competence related to ~~[must cover the subjects generally taught by an accredited]~~ physical therapy theory, examination ~~[educational program or an accredited physical therapist assistant program and may include clinical decision-making]~~ and evaluation, prognosis, treatment intervention, prevention ~~[program planning and implementation, and administration, education], and consultation[, and research in physical therapy].~~

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

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

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

(f) If the board enters into a contract with a national testing entity under Subsection (a), the contract must include a provision requiring the national testing entity to provide to the board an examination score report for each applicant for a license under this chapter who took the examination.

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

SECTION 2.15. Section [453.207](#), Occupations Code, is amended to read as follows:

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

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

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

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

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

Sec. 453.214. LICENSE BY ENDORSEMENT. (a) The board shall issue a physical therapist license or a physical therapist assistant license, as applicable, to an applicant who holds a current, unrestricted license in another jurisdiction that maintains licensing requirements that are substantially equivalent to the requirements under this chapter. An applicant for a license under this section must:

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

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

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

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

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

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

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

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

Sec. 453.215. CRIMINAL HISTORY RECORD INFORMATION FOR LICENSE ISSUANCE. (a) The board shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the board, to the board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

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

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

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

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

(d) The board may:

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

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

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

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

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

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

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

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

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

Sec. 453.255. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a license issued under this chapter shall submit a complete and legible set of fingerprints for purposes of performing a criminal history record information check of the applicant as provided by Section 453.215.

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

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

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

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

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

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

(1) the seriousness of the violation, including:

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

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

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts to correct the violation;

(5) the economic harm to the public interest or public

confidence caused by the violation;

(6) whether the violation was intentional; and

(7) any other matter that justice may require.

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

Sec. 453.357. RECORD OF DISCIPLINARY ACTION; EXPUNGEMENT.

(a) The board by rule shall establish a process to expunge any record of disciplinary action taken against a license holder before September 1, 2019, for practicing in a facility that failed to meet the registration requirements of Section 453.213, as that section existed on January 1, 2019. The rules must provide that the board may not expunge a record under this section after September 1, 2021.

(b) This section expires September 1, 2021.

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

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

SECTION 2.23. Section 453.402(b), Occupations Code, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

(1) Section 453.001(8);

(2) Section 453.202(c);

(3) Section 453.206; and

(4) Section 453.213.

SECTION 2.26. (a) Except as provided by Subsection (b) of this section, Section 453.060, Occupations Code, as amended by this article, applies to a member of the Texas Board of Physical Therapy Examiners appointed before, on, or after the effective date of this article.

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

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

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

(1) develop and implement the policies required by:

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

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

(2) adopt any rules necessary to implement Chapter 453, Occupations Code, as amended by this article.

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

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

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

SECTION 2.32. (a) The Texas Board of Physical Therapy Examiners shall dismiss the portion of any complaint, penalty, disciplinary action, or contested case pending on September 1, 2019, that is based on a violation of rules adopted under Section 453.213, Occupations Code, as repealed by this article.

(b) Section 453.357, Occupations Code, as added by this article, applies only to records of disciplinary action for conduct that occurred before September 1, 2019.

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

ARTICLE 3. PHYSICAL THERAPY LICENSURE COMPACT

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

SUBCHAPTER K. PHYSICAL THERAPY LICENSURE COMPACT

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

SECTION 1. PURPOSE

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

This Compact is designed to achieve the following objectives:

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

state's practice standards.

SECTION 2. DEFINITIONS

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

1. "Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.
2. "Adverse Action" means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.
3. "Alternative Program" means a non-disciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes, but is not limited to, substance abuse issues.
4. "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.
5. "Continuing competence" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.
6. "Data system" means a repository of information about licensees, including examination, licensure, investigative, compact privilege, and adverse action.
7. "Encumbered license" means a license that a physical therapy licensing board has limited in any way.
8. "Executive Board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.
9. "Home state" means the member state that is the licensee's primary state of residence.
10. "Investigative information" means information, records, and documents received or generated by a physical therapy licensing board pursuant to an investigation.
11. "Jurisprudence Requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of physical therapy in a state.
12. "Licensee" means an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant.
13. "Member state" means a state that has enacted the Compact.
14. "Party state" means any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege.
15. "Physical therapist" means an individual who is licensed by a state to practice physical therapy.
16. "Physical therapist assistant" means an individual who is licensed/certified by a state and who assists the physical therapist in selected components of physical therapy.
17. "Physical therapy," "physical therapy practice,"

and "the practice of physical therapy" mean the care and services provided by or under the direction and supervision of a licensed physical therapist.

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

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

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

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

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

SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

1. Participate fully in the Commission's data system, including using the Commission's unique identifier as defined in rules;
2. Have a mechanism in place for receiving and investigating complaints about licensees;
3. Notify the Commission, in compliance with the terms of the Compact and rules, of any adverse action or the availability of investigative information regarding a licensee;
4. Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions in accordance with Section 3.B.;
5. Comply with the rules of the Commission;
6. Utilize a recognized national examination as a requirement for licensure pursuant to the rules of the Commission; and
7. Have continuing competence requirements as a condition for license renewal.

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

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

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

SECTION 4. COMPACT PRIVILEGE

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

1. Hold a license in the home state;
2. Have no encumbrance on any state license;
3. Be eligible for a compact privilege in any member state in accordance with Section 4D, G and H;
4. Have not had any adverse action against any license or compact privilege within the previous 2 years;
5. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);
6. Pay any applicable fees, including any state fee,

for the compact privilege;

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

8. Report to the Commission adverse action taken by any non-member state within 30 days from the date the adverse action is taken.

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

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

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

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

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

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

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

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

H. Once the requirements of Section 4G have been met, the license must meet the requirements in Section 4A to obtain a compact privilege in a remote state.

SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

A. Home of record;

B. Permanent Change of Station (PCS); or

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

SECTION 6. ADVERSE ACTIONS

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

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

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

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

15-1 E. A remote state shall have the authority to:

- 15-2 1. Take adverse actions as set forth in Section 4.D.
 15-3 against a licensee's compact privilege in the
 15-4 state;
 15-5 2. Issue subpoenas for both hearings and
 15-6 investigations that require the attendance and
 15-7 testimony of witnesses, and the production of
 15-8 evidence. Subpoenas issued by a physical therapy
 15-9 licensing board in a party state for the attendance
 15-10 and testimony of witnesses, and/or the production
 15-11 of evidence from another party state, shall be
 15-12 enforced in the latter state by any court of
 15-13 competent jurisdiction, according to the practice
 15-14 and procedure of that court applicable to subpoenas
 15-15 issued in proceedings pending before it. The
 15-16 issuing authority shall pay any witness fees,
 15-17 travel expenses, mileage, and other fees required
 15-18 by the service statutes of the state where the
 15-19 witnesses and/or evidence are located; and
 15-20 3. If otherwise permitted by state law, recover from
 15-21 the licensee the costs of investigations and
 15-22 disposition of cases resulting from any adverse
 15-23 action taken against that licensee.

15-24 F. Joint Investigations

- 15-25 1. In addition to the authority granted to a member
 15-26 state by its respective physical therapy practice
 15-27 act or other applicable state law, a member state
 15-28 may participate with other member states in joint
 15-29 investigations of licensees.
 15-30 2. Member states shall share any investigative,
 15-31 litigation, or compliance materials in furtherance
 15-32 of any joint or individual investigation initiated
 15-33 under the Compact.

15-34 SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT
 15-35 COMMISSION

15-36 A. The Compact member states hereby create and establish a
 15-37 joint public agency known as the Physical Therapy Compact
 15-38 Commission:

- 15-39 1. The Commission is an instrumentality of the Compact
 15-40 states.
 15-41 2. Venue is proper and judicial proceedings by or
 15-42 against the Commission shall be brought solely and
 15-43 exclusively in a court of competent jurisdiction
 15-44 where the principal office of the Commission is
 15-45 located. The Commission may waive venue and
 15-46 jurisdictional defenses to the extent it adopts or
 15-47 consents to participate in alternative dispute
 15-48 resolution proceedings.
 15-49 3. Nothing in this Compact shall be construed to be a
 15-50 waiver of sovereign immunity.

15-51 B. Membership, Voting, and Meetings

- 15-52 1. Each member state shall have and be limited to one
 15-53 (1) delegate selected by that member state's
 15-54 licensing board.
 15-55 2. The delegate shall be a current member of the
 15-56 licensing board, who is a physical therapist,
 15-57 physical therapist assistant, public member, or
 15-58 the board administrator.
 15-59 3. Any delegate may be removed or suspended from
 15-60 office as provided by the law of the state from
 15-61 which the delegate is appointed.
 15-62 4. The member state board shall fill any vacancy
 15-63 occurring in the Commission.
 15-64 5. Each delegate shall be entitled to one (1) vote with
 15-65 regard to the promulgation of rules and creation of
 15-66 bylaws and shall otherwise have an opportunity to
 15-67 participate in the business and affairs of the
 15-68 Commission.
 15-69 6. A delegate shall vote in person or by such other

means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

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

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

1. Establish the fiscal year of the Commission;
2. Establish bylaws;
3. Maintain its financial records in accordance with the bylaws;
4. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;
5. Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;
6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected;
7. Purchase and maintain insurance and bonds;
8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;
9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;
11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;
12. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
13. Establish a budget and make expenditures;
14. Borrow money;
15. Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;
16. Provide and receive information from, and cooperate with, law enforcement agencies;
17. Establish and elect an Executive Board; and
18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of physical therapy licensure and practice.

D. The Executive Board

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

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

- 17-1 a. Seven voting members who are elected by the
 17-2 Commission from the current membership of the
 17-3 Commission;
 17-4 b. One ex-officio, nonvoting member from the
 17-5 recognized national physical therapy
 17-6 professional association; and
 17-7 c. One ex-officio, nonvoting member from the
 17-8 recognized membership organization of the
 17-9 physical therapy licensing boards.
- 17-10 2. The ex-officio members will be selected by their
 17-11 respective organizations.
- 17-12 3. The Commission may remove any member of the
 17-13 Executive Board as provided in bylaws.
- 17-14 4. The Executive Board shall meet at least annually.
- 17-15 5. The Executive Board shall have the following Duties
 17-16 and responsibilities:
- 17-17 a. Recommend to the entire Commission changes to
 17-18 the rules or bylaws, changes to this Compact
 17-19 legislation, fees paid by Compact member
 17-20 states such as annual dues, and any
 17-21 commission Compact fee charged to licensees
 17-22 for the compact privilege;
 17-23 b. Ensure Compact administration services are
 17-24 appropriately provided, contractual or
 17-25 otherwise;
 17-26 c. Prepare and recommend the budget;
 17-27 d. Maintain financial records on behalf of the
 17-28 Commission;
 17-29 e. Monitor Compact compliance of member states
 17-30 and provide compliance reports to the
 17-31 Commission;
 17-32 f. Establish additional committees as necessary;
 17-33 and
 17-34 g. Other duties as provided in rules or bylaws.
- 17-35 E. Meetings of the Commission
- 17-36 1. All meetings shall be open to the public, and public
 17-37 notice of meetings shall be given in the same
 17-38 manner as required under the rulemaking provisions
 17-39 in Section 9.
- 17-40 2. The Commission or the Executive Board or other
 17-41 committees of the Commission may convene in a
 17-42 closed, non-public meeting if the Commission or
 17-43 Executive Board or other committees of the
 17-44 Commission must discuss:
- 17-45 a. Non-compliance of a member state with its
 17-46 obligations under the Compact;
 17-47 b. The employment, compensation, discipline or
 17-48 other matters, practices or procedures
 17-49 related to specific employees or other
 17-50 matters related to the Commission's internal
 17-51 personnel practices and procedures;
 17-52 c. Current, threatened, or reasonably
 17-53 anticipated litigation;
 17-54 d. Negotiation of contracts for the purchase,
 17-55 lease, or sale of goods, services, or real
 17-56 estate;
 17-57 e. Accusing any person of a crime or formally
 17-58 censuring any person;
 17-59 f. Disclosure of trade secrets or commercial or
 17-60 financial information that is privileged or
 17-61 confidential;
 17-62 g. Disclosure of information of a personal nature
 17-63 where disclosure would constitute a clearly
 17-64 unwarranted invasion of personal privacy;
 17-65 h. Disclosure of investigative records compiled
 17-66 for law enforcement purposes;
 17-67 i. Disclosure of information related to any
 17-68 investigative reports prepared by or on
 17-69 behalf of or for use of the Commission or

other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or
 j. Matters specifically exempted from disclosure by federal or member state statute.

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

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

F. Financing of the Commission

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

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

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

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

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

G. Qualified Immunity, Defense, and Indemnification

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

liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

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

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

SECTION 8. DATA SYSTEM

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

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

1. Identifying information;
2. Licensure data;
3. Adverse actions against a license or compact privilege;
4. Non-confidential information related to alternative program participation;
5. Any denial of application for licensure, and the reason(s) for such denial; and
6. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

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

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

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

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

SECTION 9. RULEMAKING

A. The Commission shall exercise its rulemaking powers

pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

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

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

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

1. On the website of the Commission or other publicly accessible platform; and
2. On the website of each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;
2. The text of the proposed rule or amendment and the reason for the proposed rule;
3. A request for comments on the proposed rule from any interested person; and
4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

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

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

1. At least twenty-five (25) persons;
2. A state or federal governmental subdivision or agency; or
3. An association having at least twenty-five (25) members.

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

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.
2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.
3. All hearings will be recorded. A copy of the recording will be made available on request.
4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

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

J. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may

proceed with promulgation of the proposed rule without a public hearing.

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

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

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

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

SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.
2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.
3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:
 - a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and
 - b. Provide remedial training and specific

technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.
6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.
2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.
2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.
3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

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

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission

shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

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

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

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

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

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

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

SECTION 12. CONSTRUCTION AND SEVERABILITY

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

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

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

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

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

ARTICLE 4. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) provide or attend an educational activity;

(ii) assist in a case of medical emergency;

or

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

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

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

Sec. 454.053. MEMBERSHIP RESTRICTIONS. (a) In this section, "Texas trade association" means a [~~nonprofit,~~] cooperative[~~7~~] and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[If another state agency or entity is given the authority to establish the training requirements, the board shall allow that training instead of developing its own program].~~

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

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

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

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

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

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

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

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

(c) The board shall:

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

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

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

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

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

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

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

SECTION 4.11. Section 454.203, Occupations Code, is amended to read as follows:

Sec. 454.203. QUALIFICATIONS FOR OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT LICENSE. [(a)] An applicant for an occupational therapist license or an occupational therapy assistant license must present evidence satisfactory to the board that the applicant has:

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

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

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

[(b) To satisfy the supervised field work experience required by Subsection (a)(2):

[(1) an occupational therapist must have completed a period of at least six months, and

~~[(2) an occupational therapy assistant must have completed a period of at least two months.]~~

SECTION 4.12. Section 454.204, Occupations Code, is amended to read as follows:

Sec. 454.204. EDUCATIONAL REQUIREMENTS. To satisfy Section 454.203(1) [~~454.203(a)(1)~~]:

(1) an applicant applying for an occupational therapist license must have, from an educational [a] program approved by the Accreditation Council for Occupational Therapy Education, its predecessor organization, or another national credentialing agency approved by the board:

(A) an entry-level degree in occupational therapy, or a degree that exceeds the requirements for an entry-level degree in occupational therapy, from an educational program that prepares a person for entry into the field as an occupational therapist [a baccalaureate degree in occupational therapy, if the applicant graduated before January 1, 2007]; or

(B) a certificate evidencing successful completion of required undergraduate occupational therapy course work awarded to persons with a baccalaureate degree that is not in occupational therapy, if the applicant graduated before January 1, 2007; ~~or~~

~~[(C) a postbaccalaureate degree in occupational therapy,] and~~

(2) an applicant applying for an occupational therapy assistant license must have, from an educational program approved by the Accreditation Council for Occupational Therapy Education, its predecessor organization, or another national credentialing agency approved by the board:

(A) an entry-level degree in occupational therapy, or a degree that exceeds the requirements for an entry-level degree in occupational therapy, from an educational program that prepares a person for entry into the field as an [associate degree in] occupational therapy assistant; or

(B) an entry-level certificate in occupational therapy, or a certificate that exceeds the requirements for an entry-level certificate in occupational therapy, from an educational program that prepares a person for entry into the field as an occupational therapy assistant [certificate].

SECTION 4.13. Section 454.205(a), Occupations Code, is amended to read as follows:

(a) To obtain a license under this chapter, an applicant who is foreign-trained must satisfy the examination requirements and complete academic and supervised field work requirements substantially equivalent to those under [of] Section 454.203 [454.203(a)(3)].

SECTION 4.14. Section 454.207, Occupations Code, is amended to read as follows:

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

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

~~[(b) The board shall examine applicants for licenses at least twice each year at the board's regular meetings and under the supervision required by the board.]~~

(c) If the board enters into a contract with a national testing entity under Subsection (a), the contract must include a provision requiring that the national testing entity be responsible for overseeing the examination process, including responsibility for:

(1) specifying application requirements for the examination;

(2) specifying reexamination requirements for the examination;

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

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

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

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

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

~~[(2) establish standards for acceptable performance, and~~

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

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

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

SECTION 4.15. Subchapter E, Chapter 454, Occupations Code, is amended by adding Sections 454.216 and 454.217 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The board may:

(1) enter into an agreement with the Department of

Public Safety to administer a criminal history record information check required under this section; and

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

SECTION 4.16. Section 454.252(b), Occupations Code, is amended to read as follows:

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

SECTION 4.17. Section 454.253(b), Occupations Code, is amended to read as follows:

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

SECTION 4.18. Section 454.254, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) The board by rule shall establish a process for selecting a license holder peer organization in this state to evaluate and approve continuing education courses under Subsection (d). The selection process must include a request for proposal and bidding process. If the board authorizes a peer organization to evaluate and approve continuing education courses under Subsection (d), the board shall request bids and proposals from that organization and other organizations at least once every four years.

SECTION 4.19. Subchapter F, Chapter 454, Occupations Code, is amended by adding Section 454.255 to read as follows:

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

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

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

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

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

SECTION 4.20. Subchapter G, Chapter 454, Occupations Code, is amended by adding Sections 454.3025 and 454.307 to read as follows:

Sec. 454.3025. SCHEDULE OF SANCTIONS. (a) The board by rule shall adopt a schedule of administrative penalties and other sanctions that the board may impose under this chapter. In adopting the schedule of sanctions, the board shall ensure that the amount of the penalty or severity of the sanction imposed is appropriate to the type of violation or conduct that is the basis for disciplinary action. In determining the appropriate disciplinary action, including the amount of any administrative penalty to assess, the board shall consider:

(1) the seriousness of the violation, including:

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

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

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts to correct the violation;
 (5) the economic harm to the public interest or public confidence caused by the violation;
 (6) whether the violation was intentional; and
 (7) any other matter that justice requires.

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

Sec. 454.307. RECORD OF DISCIPLINARY ACTION; EXPUNGEMENT.

(a) The board by rule shall establish a process to expunge any record of disciplinary action taken against a license holder before September 1, 2019, for practicing in a facility that failed to meet the registration requirements of Section 454.215, as that section existed on January 1, 2019. The rules must provide that the board may not expunge a record under this section after September 1, 2021.

(b) This section expires September 1, 2021.

SECTION 4.21. Sections 454.3521(a) and (b), Occupations Code, are amended to read as follows:

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

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

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

(2) the history of previous violations;

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

(4) efforts to correct the violation; and

(5) any other matter that justice requires].

SECTION 4.22. The following provisions of the Occupations Code are repealed:

(1) Section 454.205(b);

(2) Section 454.206;

(3) Section 454.208;

(4) Section 454.209; and

(5) Section 454.215.

SECTION 4.23. (a) Except as provided by Subsection (b) of this section, Section 454.059, Occupations Code, as amended by this article, applies to a member of the Texas Board of Occupational Therapy Examiners appointed before, on, or after the effective date of this article.

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

SECTION 4.24. As soon as practicable after the effective date of this article, the director of the Executive Council of Physical Therapy and Occupational Therapy Examiners shall create the training manual required by Section 454.059(d), Occupations Code, as amended by this article.

SECTION 4.25. As soon as practicable after the effective date of this article, the Texas Board of Occupational Therapy Examiners shall:

(1) develop and implement the policies required by:

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

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

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

SECTION 4.26. Not later than September 1, 2018, the Texas Board of Occupational Therapy Examiners shall establish the request for proposal and bidding process required by Section 454.254(e), Occupations Code, as added by this article.

SECTION 4.27. Sections 454.203, 454.205, 454.252, and 454.253, Occupations Code, as amended by this article, and Sections 454.217 and 454.255, Occupations Code, as added by this article, apply only to an application for the issuance or renewal of an occupational therapist or occupational therapy assistant license submitted to the Texas Board of Occupational Therapy Examiners on or after the effective date of this article. An application submitted before that date is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION 4.28. A person who holds an occupational therapist or occupational therapy assistant license issued before the effective date of this article may continue to renew that license without complying with the changes in law made by this article to Section 454.203, Occupations Code.

SECTION 4.29. (a) The Texas Board of Occupational Therapy Examiners shall dismiss the portion of any complaint, penalty, disciplinary action, or contested case pending on September 1, 2019, that is based on a violation of rules adopted under Section 454.215, Occupations Code, as repealed by this article.

(b) Section 454.307, Occupations Code, as added by this article, applies only to records of disciplinary action for conduct that occurred before September 1, 2019.

SECTION 4.30. Section 454.3025, Occupations Code, as added by this article, and Section 454.3521(b), Occupations Code, as amended by this article, apply only to conduct that occurs on or after the date that rules adopted under Section 454.3025 take effect. Conduct that occurs before that date is governed by the law in effect before the effective date of this article, and the former law is continued in effect for that purpose.

ARTICLE 5. EFFECTIVE DATE

SECTION 5.01. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2017.

(b) The following changes in law take effect September 1, 2019:

(1) the repeal by Article 2 of this Act of Sections 453.001(8) and 453.213, Occupations Code;

(2) Sections 453.1061 and 453.357, Occupations Code, as added by Article 2 of this Act;

(3) Sections 453.151(c), 453.401, and 453.403(a), Occupations Code, as amended by Article 2 of this Act;

(4) the heading to Subchapter E, Chapter 453, Occupations Code, as amended by Article 2 of this Act;

(5) Sections 454.1061 and 454.307, Occupations Code, as added by Article 4 of this Act;

(6) the heading to Subchapter E, Chapter 454, Occupations Code, as amended by Article 4 of this Act;

(7) the repeal by Article 4 of this Act of Section 454.215, Occupations Code; and

(8) Section 454.3521(a), Occupations Code, as amended by Article 4 of this Act.

* * * * *