



# PT • COMPACT

## Physical Therapy Compact Commission Notice of Proposed Rulemaking

The Physical Therapy Compact Commission is requesting public comment on the proposed amendments to its Rules. Pursuant to Section 9 of the Physical Therapy Compact, the Commission is required to post this Notice at least thirty (30) days in advance of the meeting at which the Rules will be considered and voted upon by the Commission.

### PUBLICATION DATE:

9/25/2018

### SUMMARY OF THE PROPOSED RULES OR AMENDMENT TO EXISTING RULES:

Rule	Summary of Changes
1.1	Conforms the rule with the model Compact language
2.1	Clarifies the reference to U.S. Code in the model Compact language to reflect an editorial reclassification
2.4	New rule to outline the requirements that must be met before a state can issue compact privileges
3.1	Clarifies the need to report "home state" address change. Allows member states to require compact privilege holders to notify the board of the physical location(s) where the individual will be providing physical therapy within the member state
3.2	Conforms the rule with the model Compact language
3.3	Modifies wording to clarify the intent of the rule
3.5	Clarifies that an individual is deemed to have an encumbrance if a licensed is revoked
3.6	Conforms the rule with the model Compact language
3.7	Clarifies the confidentiality of party states sharing investigatory information
3.8	Specifies that the jurisprudence requirement can be required for both the initial purchase and renewal of a compact privilege
4.1	Modifies wording to clarify the intent of the rule
6.7	Modifies wording to clarify the intent of the rule

### TEXT OF THE PROPOSED AMENDMENTS:

A copy of the proposed amendments is attached to this Notice.

### MEETING DATE, TIME, AND LOCATION:

The Physical Therapy Compact Commission will consider and vote on the adoption of the attached amendments to its Rules at its public meeting on October 28, 2018. The meeting will take place at 9:30 AM, ET, at the Hyatt Regency Reston, 1800 Presidents Street, Reston, Virginia 20190.

**DEADLINE AND PROCESS TO SUBMIT WRITTEN COMMENTS:**

Written comments must be received by 5:00 PM, ET, on October 18, 2018. All comments or intentions to attend the Commission meeting should be submitted electronically by the deadline to [info@ptcompact.org](mailto:info@ptcompact.org). All comments must be provided in a single file and must include the name of the submitter, any organization the submitter represents, and the rule number(s) the comments address. If electronic submission of comments is not feasible, please contact the PT Compact Commission using the contact information below for special instructions.

**REQUESTS FOR PUBLIC HEARING:**

Pursuant to Section 9 of the Physical Therapy Compact, the PT Compact Commission shall hold a public hearing on the proposed rules changes 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.

If one of the three standards above is met, the Commission will hold a hearing on the proposed rules at its public meeting on October 28, 2018. The meeting will take place at 9:30 AM, ET, at the Hyatt Regency Reston, 1800 Presidents Street, Reston, Virginia 20190.

All requests for a public hearing must be submitted electronically to [info@ptcompact.org](mailto:info@ptcompact.org) by 5:00 PM, ET, on October 18, 2018.

**FOR FURTHER INFORMATION CONTACT:**

T.J. Cantwell, Compact Administrator, by email at [administrator@ptcompact.org](mailto:administrator@ptcompact.org) or by telephone at 703-299-3100 ext. 261 or at 124 West Street South, Suite 300, Alexandria, VA 22314-2825.

## 2018 Physical Therapy Compact Commission Draft Rules Amendments Recommended by the PT Compact Executive Board for Public Comment

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

### 1) Rule 1.1 - Definitions

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

Rule 1.1 – Definitions

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

### 2) Rule 2.1 – Criminal Background Check

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

Proposed Change:

- (A) To avoid default, member states must have completed all required processes, requirements, and applications necessary to request the ability to receive the results of the Federal Bureau of Investigation (FBI) record search on criminal background checks, as required by the Compact.
- (B) Results of the criminal background check shall be reviewed solely by the member state in accordance with state law and shall not be shared, unless otherwise permitted under state law, with individuals, other member states, or the Commission.
- (C) A member state cannot participate in issuing compact privileges until such member state has completed the requirements to fully implement the ~~Federal Bureau of Investigation~~ FBI Criminal Background Check requirement established in Section 3 of the Compact.

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

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

### 3) Chapter 2 – Member State Participation

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

Proposed Change:

Rule 2.4 – Requirements to Issue Compact Privileges

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

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

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

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

Proposed Change:

Rule 3.1 – Home State License

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

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

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

Proposed Change:

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

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

**6) Rule 3.3 - Eligibility for Compact Privilege after an Adverse Action or Encumbrance**

**Reason: To clarify and reword so it is consistent with Article IV 5, 6, and 7 of the Compact.**

Proposed Change:

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

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

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

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

- (1) Immediately after the removal of all non-disciplinary encumbrance(s), provided there are no current adverse actions against the license or compact privilege; or
- (2) Two (2) years from the effective date of the adverse action as specified in the Board Order. Board order of the adverse action.
  - a. If the timeframe imposed by the Licensing Board is greater than two years, the individual will not regain eligibility until the greater timeframe has elapsed; or
  - b. If the timeframe when all disciplinary encumbrances have passed and all fines are paid is greater than two (2) years, the individual will not regain eligibility until that timeframe has elapsed.

#### 7) Rule 3.5 –Expiration or Termination of a Compact Privilege

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

Proposed Change:

(A) All compact privileges shall expire on the actual expiration date of the home state license even if the home state allows practice beyond the license expiration date.

(B) Impact of changing the primary state of residence.

- 1) Moving to another member state.
  - a. The compact privilege holder must hold an active license in the new home state prior to changing the primary state of residence or all current compact privileges will be terminate.
  - b. When a compact privilege holder obtains the license in the new home state and changes the primary state of residence, the expiration date of all current compact privileges will be updated to match the expiration date of the new home state license.

2) Moving to a non-member state.

If the compact privilege holder's new primary state of residence is a non-member state, all current compact privileges will be immediately terminated.

(C) If an individual's license is revoked, the individual is deemed to have an encumbrance until the revoked license is reinstated/restored without restrictions, conditions or terms.

#### 8) Rule 3.6 - Participation in an Alternative Program

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

Proposed Change:

Rule 3.6 – Participation in an Alternative Program

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

**9) Rule 3.7 – Joint Investigations**

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

Proposed Change:

Rule 3.7 – Joint Investigations

(A) When participating with other member states in joint investigations, the member state where the alleged violation initially occurred will take the lead on any investigation.

(B) All investigatory information provided to member states shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

**10) Rule 3.8 – Jurisprudence**

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

Proposed Change:

Rule 3.8 – Jurisprudence

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

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

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

**Reason: To maintain the language within the same rule regarding "active duty military".**

Proposed Change:

Rule 4.1 – Home State Designation

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

(A) "Home of record" means, for purposes of the Compact only, the active duty military personnel's State of Legal Residence on record with the military.

- (B) "Permanent Change of Station" or "PCS" means the state of the duty station noted in the active duty military personnel's PCS orders.
- (C) "State of current residence" means the state in which the active duty military personnel or spouse is currently physically residing.
- (D) The active duty military member or spouse of an individual who is active duty military may change the member state designated as the individual's home state by notifying the Commission.

**12) Rule 6.7 – Indicating Availability of Investigatory Information**

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

Proposed Change:

Rule 6.7 – Indicating Availability of Investigatory Information

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