

HOUSE BILL REPORT

HB 1278

As Amended by the Senate

Title: An act relating to enactment of the physical therapy licensure compact.

Brief Description: Enacting the physical therapy licensure compact.

Sponsors: Representatives Macri, DeBolt, Cody, Rodne, Wylie, Jinkins, Harris, Short and Farrell.

Brief History:

Committee Activity:

Health Care & Wellness: 1/25/17, 2/3/17 [DP].

Floor Activity:

Passed House: 2/9/17, 90-8.

Senate Amended.

Passed Senate: 4/5/17, 43-5.

Brief Summary of Bill

- Enacts the Physical Therapy Licensure Compact.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 14 members: Representatives Cody, Chair; Macri, Vice Chair; Graves, Assistant Ranking Minority Member; Caldier, Clibborn, Harris, Jinkins, MacEwen, Maycumber, Riccelli, Robinson, Slatter, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 1 member: Representative Schmick, Ranking Minority Member.

Staff: Jim Morishima (786-7191).

Background:

Physical Therapy.

The practice of physical therapy includes:

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- examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations in movement, and disability or other health and movement-related conditions;
- alleviating impairments and functional limitations in movement;
- training for, and the evaluation of, the function of a patient wearing an orthosis or prosthesis;
- performing wound care services;
- reducing the risk of injury, impairment, functional limitation, and disability related to movement; and
- engaging in administration, consultation, education, and research.

To be licensed as a physical therapist, an applicant must:

- have a baccalaureate degree in physical therapy from an institution of higher education or a baccalaureate degree from an institution of higher education and a certificate or advanced degree from an approved school of physical therapy;
- be of good moral character; and
- pass an examination.

A physical therapist assistant may perform physical therapy tasks selected and delegated by a physical therapist. To be licensed as a physical therapist assistant, an applicant must:

- be of good moral character; and
- successfully complete an approved physical therapist assistant program.

The Physical Therapy Licensure Compact.

Developed by the Federation of State Boards of Physical Therapy, the Physical Therapy Licensure Compact (Compact) allows licensed physical therapists and physical therapist assistants to practice in states that have enacted the Compact. The Compact becomes effective when enacted by 10 states. As of January 2017, four states have enacted the Compact.

Summary of Bill:

Compact Establishment.

Washington enacts and formally joins the Physical Therapy Licensure Compact (Compact), allowing physical therapists and physical therapist assistants licensed in other Compact states to practice in Washington and allowing physical therapists and physical therapist assistants licensed in Washington to practice in other Compact states. The practice of physical therapy occurs in the state where the patient is located at the time of the encounter.

Compact Commission.

States participating in the Compact must establish the Physical Therapy Compact Commission (Commission), which has various powers and duties, including:

- establishing bylaws;
- adopting rules to facilitate and coordinate the implementation and administration of the Compact; and

- providing and receiving information from law enforcement agencies.

The Commission consists of one delegate from each Compact state selected by the state's licensing authority. The Commission must establish an executive board consisting of seven Commission members, one non-voting member from a national physical therapy professional association, and one non-voting member from a recognized membership organization of physical therapy licensing boards.

Meetings of the Commission must be open to the public. The Commission may close meetings to the public to discuss certain matters, including noncompliance by Compact states, employment matters, litigation, disclosure of trade secrets, law enforcement investigative records, and matters specifically exempt from disclosure by federal or Compact state statute.

The Commission may adopt rules subject to public notice requirements. At least 30 days prior to adopting a rule, the Commission must allow the submission of written input and conduct a public hearing if such hearing is requested by at least 25 people, a state or federal subdivision or agency, or an association with at least 25 members. The Commission may enact emergency rules that must undergo the full rule-making process no later than 90 days after their effective dates. Rules adopted by the Commission may be repealed by a majority of the legislatures of the Compact states through statute or resolution.

The Commission must establish a database and reporting system containing information regarding licensure, adverse actions, and investigations on all licensed physical therapists and physical therapist assistants in Compact states. The Commission must notify all Compact states of any adverse action taken against a licensee or license applicant. Compact states may designate information that may not be shared without the states' permission. Any information that is subsequently required to be expunged by the laws of the Compact state must be removed from the system.

The Commission may levy an annual assessment on Compact states to cover the costs of operations and activities.

Requirements on Participating States.

Each state participating in the Compact must:

- participate fully in the Commission's data system;
- have a mechanism for receiving and investigating complaints about licensees;
- notify the Commission of any adverse actions or the availability of investigative information about a licensee;
- comply with Compact rules;
- fully implement a criminal background check requirement (member states may obtain biometric information from licensure applicants and submit the information to the Federal Bureau of Investigations);
- use a recognized national examination for licensure; and
- have a continuing competence requirement.

Exercising the Compact Privilege.

In order to exercise the privilege to practice in other Compact states, a licensee must:

- hold an unencumbered license in his or her home state;
- have no adverse actions against his or her license within the previous two years;
- notify the Commission of his or her intention to seek the Compact privilege;
- pay applicable fees;
- meet any legal knowledge requirements of any Compact states where the licensee is seeking to practice; and
- report any adverse actions taken by any non-Compact state within 30 days of the action.

For purposes of the Compact, an active-duty member of the military or his or her spouse may designate any of the following as his or her home state: the home of record, permanent change of station, or state of current residence.

Discipline.

A physical therapist or physical therapist assistant practicing in a Compact state must function with the laws and regulations of that state. The physical therapist or physical therapist assistant is subject to the disciplining authority in the state in which he or she is practicing, which may remove the physical therapist's Compact privileges. The Compact privileges may only be restored once the specific time for removal has passed and all fines are paid. If the privilege is removed in one Compact state, it is removed for all other Compact states until the specific time for removal has passed, all fines have been paid, and at least two years has elapsed from the date of the adverse action.

If a physical therapist's or physical therapist assistant's license is encumbered in his or her home state, he or she loses Compact privileges in all other states. The Compact privilege may be restored only if the home state license is no longer encumbered, two years have passed since the adverse action, and the physical therapist or physical therapist assistant meets all of the other conditions of Compact participation.

A licensee's home state has the exclusive power to impose adverse actions against his or her license. The home state may take actions based on the investigations of another Compact state. Any Compact state may individually or jointly investigate violations of the laws of any other Compact state. The Compact does not override an alternative to discipline as long as the participant agrees not to practice in other Compact states during his or her participation in the alternative.

Conflicts Between Compact Members.

Participating states must enforce the Compact. The Commission may initiate legal proceedings against a state that is not in compliance with the Compact.

If a Compact state has defaulted in its obligations, the Commission must provide the state notice and provide assistance to the state regarding the default. If the state fails to cure the default, the state may be terminated from the Compact after all other means of securing

compliance have been exhausted. A terminated state may appeal the termination in federal court.

The Commission must attempt to resolve disputes between Compact states and adopt rules regarding mediation and binding arbitration.

Joining and Withdrawing from the Compact.

States may join the Compact by enacting the Compact's provisions into law. The Compact becomes effective when 10 states have joined. States that join after the Compact has been established are subject to the rules in place at the time. Compact amendments are ineffective, unless adopted by all Compact states. States may withdraw from the Compact by repealing its enacting statute.

Fees.

The Secretary of Health, in consultation with the Board of Physical Therapy, must establish fees on physical therapists and physical therapist assistants from other states seeking to practice in Washington under the Compact. The fees must be set in an amount sufficient to cover Washington's monetary obligations under the Compact. Fees collected from physical therapists and physical therapist assistants licensed in Washington may not be used to meet the state's monetary obligations under the Compact.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment:

- prohibits the Board of Physical Therapy (Board) from disseminating criminal history information gained through a federal background check to the Physical Therapy Compact Commission (Commission), another state, or another state's licensure board;
- requires the Board to review the rules of the Commission;
- authorizes the Board to reject or approve and adopt the rules of the Commission as rules of the Board; and
- states that Washington is subject to a rule of the Commission only if the rule is adopted by the Board and the rule does not violate any right guaranteed by the state and federal constitutions.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill will protect the public and promote safe and competent practice of physical therapy. This bill will increase access to physical therapy, especially in underserved areas, and will facilitate the use of telemedicine. This bill helps military spouses as they

travel from state to state; military spouses move six to nine times in their spouses' careers and gravitate to health care portability careers. The bill will also help employers recruit physical therapists from other states and facilitate the use of locum staff. Four states have already joined the Compact. If Washington is one of the first 10 states, it can help establish the initial rules of the Compact. Physical therapists from other states would have to follow Washington's laws and rules when practicing here. Washington also retains its authority to take action on a Washington physical therapist's license.

(Opposed) None.

Persons Testifying: Representative Macri, prime sponsor; Erik Moen and Emilie Jones, Physical Therapy Association of Washington; Mark San Souci, United States Department of Defense; Columbus Candies, Providence Health Systems; and Blake Maresh, Department of Health.

Persons Signed In To Testify But Not Testifying: None.