

HOUSE BILL REPORT

SB 5518

As Passed House:

March 2, 2022

Title: An act relating to the occupational therapy licensure compact.

Brief Description: Concerning the occupational therapy licensure compact.

Sponsors: Senators Muzzall, Keiser, Cleveland, Conway, Gildon, Hunt and Randall.

Brief History:

Committee Activity:

Health Care & Wellness: 2/17/22, 2/23/22 [DP].

Floor Activity:

Passed House: 3/2/22, 97-0.

Brief Summary of Bill

- Adopts the Occupational Therapy Licensure Compact to allow occupational therapists and occupational therapy assistants to practice occupational therapy in other member states.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 15 members: Representatives Cody, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Bronoske, Davis, Harris, Macri, Maycumber, Riccelli, Rude, Simmons, Stonier, Tharinger and Ybarra.

Staff: Christopher Blake (786-7392).

Background:

Licensing of Occupational Therapists and Occupational Therapy Assistants.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Occupational therapy is the use of purposeful activity to maximize independence, prevent disability, and maintain health for individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or aging. Occupational therapy services include using activities and exercises to enhance functioning, administering and interpreting tests, teaching daily living skills, developing prevocational skills, developing play and avocational capabilities, designing and applying orthotic and prosthetic devices and adaptive equipment, practicing wound care management, and adapting environments for persons with disabilities.

Persons who practice occupational therapy must be licensed by the Occupational Therapy Practice Board (Board) as an occupational therapist (OT). To become an OT, a person must complete an accredited educational program in occupational therapy approved by the Board, complete at least six months of supervised fieldwork experience, and pass an examination.

Persons who assist in the practice of occupational therapy must be licensed by the Board as an occupational therapy assistant (OTA). To become an OTA, a person must complete an accredited educational program in occupational therapy approved by the Board, complete at least two months of supervised fieldwork experience, and pass an examination.

The Board may also issue a license as an OT or OTA to persons who are licensed as an OT or OTA in another state with equivalent standards to those in Washington.

The Occupational Therapy Licensure Compact.

The Occupational Therapy Licensure Compact (Compact) is jointly administered by the American Occupational Therapy Association and the National Board for Certification in Occupational Therapy. The Compact establishes standards and procedures authorizing licensed OTs and OTAs to practice occupational therapy in other member states. The Compact becomes effective on the date that the Compact is enacted by the tenth member state. A tenth state recently adopted the Compact.

Summary of Bill:

Authority for Occupational Therapists and Occupational Therapy Assistants to Exercise Compact Privilege.

The Occupational Therapy Licensure Compact (Compact) is adopted in Washington. The Compact allows an occupational therapist (OT) or occupational therapist assistant (OTA) to exercise compact privilege. "Compact privilege" is defined as the authority granted by a remote state for an OT or OTA from another state that is a member of the Compact to practice as an OT or OTA in the remote state. The OT or OTA must practice under the laws of the remote state and the practice of occupational therapy is deemed to occur in the member state where the patient is located at the time of the encounter. A "remote state" is a state that is a member of the Compact where an OT or OTA seeks to exercise compact privilege, other than the OT's or OTA's home state. A "home state" is a member state that is the OT's or OTA's state of primary residence.

An OT or an OTA may exercise compact privilege if the OT or OTA:

- holds a license in a home state;
- has a valid Social Security Number or National Practitioner Identification Number;
- has no encumbrances on a state license;
- has paid all fines and completed all requirements related to adverse actions against the OT's or OTA's license or compact privilege and at least two years have passed since the date of completion;
- notifies the Occupational Therapy Compact Commission (Commission) that the OT or OTA is seeking compact privilege within one or more remote states;
- pays any applicable fees for the compact privilege;
- completes a background check that meets the standards of the Compact;
- meets any jurisprudence requirements established by any of the remote states in which the OT or OTA is seeking compact privilege; and
- reports to the Commission any adverse action against the OT or OTA in a state that is not a member of the Compact.

In addition, an OTA must be supervised by an authorized OT while practicing in a remote state. The compact privilege is valid until the expiration of the home state license.

If a home state restricts the license of an OT or OTA, the OT or OTA loses compact privilege in any remote state until the restriction is removed and two years have passed since the home state license is no longer restricted. If a remote state removes the compact privilege of an OT or OTA, the OT or OTA may lose the compact privilege in other remote states until: (1) the end of the remote state's time period for removal of the compact privilege; (2) the payment of any fines and the completion of any conditions; (3) two years have passed since the end of the time period for removal of the compact privilege, the payment of fines, and the completion of conditions; and (4) the Commission has reinstated the compact privileges.

Procedures are established for an OT or OTA to designate a home state or change a designated home state. While a remote state may take adverse action against an OT's or OTA's compact privilege within the remote state, only an OT's or OTA's home state may take adverse action on an OT's or OTA's underlying home state license. When considering adverse action, a home state must give the same priority to reported conduct received from a member state as if the conduct had occurred in the home state.

Occupational Therapy License Compact Governance.

To become a member state in the Compact, a state must comply with several requirements. A state must license OTs and OTAs and have a mechanism for receiving and investigating complaints against them. The state's licensing requirements must use a national examination and have continuing education or competence standards. The state must have procedures for considering the criminal history records of applicants for an initial compact privilege. The state must notify the Commission of any adverse actions or availability of

investigative information regarding an OT or OTA. In addition, the state must comply with Commission rules and participate in the Commission's data system. Member states must grant the compact privilege to an OT or OTA holding a valid, unencumbered license in another member state. The member state may charge a fee to an OT or OTA for granting a compact privilege.

The Commission is established consisting of one delegate from each member state's licensing board. The delegate must be either an administrator of the licensing board or a current member of the licensing board who is an OT, OTA, or public member. An executive committee is established consisting of nine members. The members are seven voting members elected by the Commission from its current membership, a nonvoting member from a recognized national occupational therapy professional association, and a nonvoting member from a recognized national occupational therapy certification organization. The executive committee may act on behalf of the Commission.

The Commission is responsible for adopting rules to implement and administer the Compact, establishing a budget, collecting an annual assessment from each member state to cover the Commission's annual budget, and establishing a formula to determine each member state's allocation of the aggregate assessment amount. In addition, the Commission must develop and maintain a coordinated database and reporting system with information about licenses, adverse actions, and investigations on all licensed OTs and OTAs in member states. Member states must submit a uniform data set to the data system with information about all OTs and OTAs that the Compact applies to, including identifying information, licensing data, adverse actions against a license or compact privilege, nonconfidential information about alternative program participation, denials of applications for licensure, and significant investigative information. The Commission must promptly notify all member states of any adverse action taken against an OT or OTA or an applicant for a license.

The Compact becomes effective once it has been adopted by 10 states. Member states may withdraw from the Compact by repealing the enacting statute. A withdrawal becomes effective six months after the repeal. If a state defaults in performing its responsibilities, the Commission must notify the state of the default and provide it with technical assistance. Failure to cure the default may result in the state being terminated from the Compact.

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) The Occupational Therapy Licensure Compact increases access to care, protects patient safety, and reduces costs while supporting state-of-the-art health care delivery. This bill will help people in Washington, as well as elsewhere in the country, who need occupational therapy services. This bill will be of significant benefit to families that need to move a lot, such as military families, by allowing spouses to continue to support a military member. Interstate compacts are the gold standard to support licensure reciprocity for military spouses who are moving from state to state. This bill will allow patients to receive the most specialized services that are unique to their needs, even if the occupational therapist (OT) is in another state. It will allow people to travel to other states without interrupting care. This bill will reduce the long licensing process for OTs moving to Washington. This bill will facilitate and leverage expertise in telehealth. This bill will assure that occupational therapy professionals meet the standard of practice. This bill will promote cooperation among the different compact states and create a greater degree of consumer protection across state lines.

(Opposed) None.

Persons Testifying: Kate White Tudor, Terry Bowman, and Patricia Toole, Washington Occupational Therapy Association; Tammie Perreault; and Amy Anderson, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.