

HB 1278 - S AMD  
By Senator Rivers

ADOPTED AND ENGROSSED 4/5/17

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 18.74  
4 RCW to read as follows:

5 The Physical Therapy Licensure Compact as set forth in this  
6 section is hereby enacted into law and entered into on behalf of this  
7 state with any and all other states legally joining therein in a form  
8 substantially as follows:

9 **PHYSICAL THERAPY LICENSURE COMPACT**

10 **ARTICLE I - PURPOSE**

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

18 This compact is designed to achieve the following objectives:

19 (1) Increase public access to physical therapy services by  
20 providing for the mutual recognition of other member state licenses;

21 (2) Enhance the states' ability to protect the public's health  
22 and safety;

23 (3) Encourage the cooperation of member states in regulating  
24 multistate physical therapy practice;

25 (4) Support spouses of relocating military members;

26 (5) Enhance the exchange of licensure, investigative, and  
27 disciplinary information between member states; and

28 (6) Allow a remote state to hold a provider of services with a  
29 compact privilege in that state accountable to that state's practice  
30 standards.

31 **ARTICLE II - DEFINITIONS**

1 As used in this compact, and except as otherwise provided, the  
2 following definitions apply:

3 (1) "Active duty military" means full-time duty status in the  
4 active uniformed service of the United States, including members of  
5 the national guard and reserve on active duty orders pursuant to 10  
6 U.S.C. Secs. 1209 and 1211.

7 (2) "Adverse action" means disciplinary action taken by a  
8 physical therapy licensing board based upon misconduct, unacceptable  
9 performance, or a combination of both.

10 (3) "Alternative program" means a nondisciplinary monitoring or  
11 practice remediation process approved by a physical therapy licensing  
12 board. This includes, but is not limited to, substance abuse issues.

13 (4) "Compact privilege" means the authorization granted by a  
14 remote state to allow a licensee from another member state to  
15 practice as a physical therapist or work as a physical therapist  
16 assistant in the remote state under its laws and rules. The practice  
17 of physical therapy occurs in the member state where the patient/  
18 client is located at the time of the patient/client encounter.

19 (5) "Continuing competence" means a requirement, as a condition  
20 of license renewal, to provide evidence of participation in, and/or  
21 completion of, educational and professional activities relevant to  
22 practice or area of work.

23 (6) "Data system" means a repository of information about  
24 licensees, including examination, licensure, investigative, compact  
25 privilege, and adverse action.

26 (7) "Encumbered license" means a license that a physical therapy  
27 licensing board has limited in any way.

28 (8) "Executive board" means a group of directors elected or  
29 appointed to act on behalf of, and within the powers granted to them  
30 by, the commission.

31 (9) "Home state" means the member state that is the licensee's  
32 primary state of residence.

33 (10) "Investigative information" means information, records, and  
34 documents received or generated by a physical therapy licensing board  
35 pursuant to an investigation.

36 (11) "Jurisprudence requirement" means the assessment of an  
37 individual's knowledge of the laws and rules governing the practice  
38 of physical therapy in a state.

1 (12) "Licensee" means an individual who currently holds an  
2 authorization from the state to practice as a physical therapist or  
3 to work as a physical therapist assistant.

4 (13) "Member state" means a state that has enacted the compact.

5 (14) "Party state" means any member state in which a licensee  
6 holds a current license or compact privilege or is applying for a  
7 license or compact privilege.

8 (15) "Physical therapist" means an individual who is licensed by  
9 a state to practice physical therapy.

10 (16) "Physical therapist assistant" means an individual who is  
11 licensed/certified by a state and who assists the physical therapist  
12 in selected components of physical therapy.

13 (17) "Physical therapy" has the same meaning given in RCW  
14 18.74.010. "Physical therapy practice" and "the practice of physical  
15 therapy" have the same meaning given to "practice of physical  
16 therapy" in RCW 18.74.010.

17 (18) "Physical therapy compact commission" or "commission" means  
18 the national administrative body whose membership consists of all  
19 states that have enacted the compact.

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

23 (20) "Remote state" means a member state other than the home  
24 state, where a licensee is exercising or seeking to exercise the  
25 compact privilege.

26 (21) "Rule" means a regulation, principle, or directive  
27 promulgated by the commission that has the force of law.

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

### 31 **ARTICLE III - STATE PARTICIPATION IN THE COMPACT**

32 (1) To participate in the compact, a state must:

33 (a) Participate fully in the commission's data system, including  
34 using the commission's unique identifier as defined in rule;

35 (b) Have a mechanism in place for receiving and investigating  
36 complaints about licensees;

37 (c) Notify the commission, in compliance with the terms of the  
38 compact and rules, of any adverse action or the availability of  
39 investigative information regarding a licensee;

1 (d) Fully implement a criminal background check requirement,  
2 within a time frame established by rule, by receiving the results of  
3 the federal bureau of investigation record search on criminal  
4 background checks and use the results in making licensure decisions  
5 in accordance with subsection (2) of this Article;

6 (e) Comply with the rules of the commission;

7 (f) Utilize a recognized national examination as a requirement  
8 for licensure pursuant to the rules of the commission; and

9 (g) Have continuing competence requirements as a condition for  
10 license renewal.

11 (2) Upon adoption of this statute, the member state shall have  
12 the authority to obtain biometric-based information from each  
13 physical therapy licensure applicant and submit this information to  
14 the federal bureau of investigation for a criminal background check  
15 in accordance with 28 U.S.C. Sec. 534 and 42 U.S.C. Sec. 14616.

16 (3) A member state shall grant the compact privilege to a  
17 licensee holding a valid unencumbered license in another member state  
18 in accordance with the terms of the compact and rules.

19 (4) Member states may charge a fee for granting a compact  
20 privilege.

#### 21 **ARTICLE IV - COMPACT PRIVILEGE**

22 (1) To exercise the compact privilege under the terms and  
23 provisions of the compact, the licensee shall:

24 (a) Hold a license in the home state;

25 (b) Have no encumbrance on any state license;

26 (c) Be eligible for a compact privilege in any member state in  
27 accordance with subsections (4), (7), and (8) of this Article;

28 (d) Have not had any adverse action against any license or  
29 compact privilege within the previous two years;

30 (e) Notify the commission that the licensee is seeking the  
31 compact privilege within a remote state(s);

32 (f) Pay any applicable fees, including any state fee, for the  
33 compact privilege;

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

36 (h) Report to the commission adverse action taken by any  
37 nonmember state within thirty days from the date the adverse action  
38 is taken.

1 (2) The compact privilege is valid until the expiration date of  
2 the home license. The licensee must comply with the requirements of  
3 subsection (1) of this Article to maintain the compact privilege in  
4 the remote state.

5 (3) A licensee providing physical therapy in a remote state under  
6 the compact privilege shall function within the laws and regulations  
7 of the remote state.

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

16 (5) If a home state license is encumbered, the licensee shall  
17 lose the compact privilege in any remote state until the following  
18 occur:

19 (a) The home state license is no longer encumbered; and

20 (b) Two years have elapsed from the date of the adverse action.

21 (6) Once an encumbered license in the home state is restored to  
22 good standing, the licensee must meet the requirements of subsection  
23 (1) of this Article to obtain a compact privilege in any remote  
24 state.

25 (7) If a licensee's compact privilege in any remote state is  
26 removed, the individual shall lose the compact privilege in any  
27 remote state until the following occur:

28 (a) The specific period of time for which the compact privilege  
29 was removed has ended;

30 (b) All fines have been paid; and

31 (c) Two years have elapsed from the date of the adverse action.

32 (8) Once the requirements of subsection (7) of this Article have  
33 been met, the licensee must meet the requirements in subsection (1)  
34 of this Article to obtain a compact privilege in a remote state.

35 **ARTICLE V - ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

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

39 (1) Home of record;

- 1 (2) Permanent change of station; or  
2 (3) State of current residence if it is different than the  
3 permanent change of station state or home of record.

4 **ARTICLE VI - ADVERSE ACTIONS**

5 (1) A home state shall have exclusive power to impose adverse  
6 action against a license issued by the home state.

7 (2) A home state may take adverse action based on the  
8 investigative information of a remote state, so long as the home  
9 state follows its own procedures for imposing adverse action.

10 (3) Nothing in this compact shall override a member state's  
11 decision that participation in an alternative program may be used in  
12 lieu of adverse action and that such participation shall remain  
13 nonpublic if required by the member state's laws. Member states must  
14 require licensees who enter any alternative programs in lieu of  
15 discipline to agree not to practice in any other member state during  
16 the term of the alternative program without prior authorization from  
17 such other member state.

18 (4) Any member state may investigate actual or alleged violations  
19 of the statutes and rules authorizing the practice of physical  
20 therapy in any other member state in which a physical therapist or  
21 physical therapist assistant holds a license or compact privilege.

22 (5) A remote state shall have the authority to:

23 (a) Take adverse actions as set forth in subsection (4) of  
24 Article IV of this compact against a licensee's compact privilege in  
25 the state;

26 (b) Issue subpoenas for both hearings and investigations that  
27 require the attendance and testimony of witnesses, and the production  
28 of evidence. Subpoenas issued by a physical therapy licensing board  
29 in a party state for the attendance and testimony of witnesses,  
30 and/or the production of evidence from another party state, shall be  
31 enforced in the latter state by any court of competent jurisdiction,  
32 according to the practice and procedure of that court applicable to  
33 subpoenas issued in proceedings pending before it. The issuing  
34 authority shall pay any witness fees, travel expenses, mileage, and  
35 other fees required by the service statutes of the state where the  
36 witnesses and/or evidence are located; and

37 (c) If otherwise permitted by state law, recover from the  
38 licensee the costs of investigations and disposition of cases  
39 resulting from any adverse action taken against that licensee.

1 (6)(a) In addition to the authority granted to a member state by  
2 its respective physical therapy practice act or other applicable  
3 state law, a member state may participate with other member states in  
4 joint investigations of licensees.

5 (b) Member states shall share any investigative, litigation, or  
6 compliance materials in furtherance of any joint or individual  
7 investigation initiated under the compact.

8 **ARTICLE VII - ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT**  
9 **COMMISSION**

10 (1) The compact member states hereby create and establish a joint  
11 public agency known as the physical therapy compact commission:

12 (a) The commission is an instrumentality of the compact states.

13 (b) Venue is proper and judicial proceedings by or against the  
14 commission shall be brought solely and exclusively in a court of  
15 competent jurisdiction where the principal office of the commission  
16 is located. The commission may waive venue and jurisdictional  
17 defenses to the extent it adopts or consents to participate in  
18 alternative dispute resolution proceedings.

19 (c) Nothing in this compact shall be construed to be a waiver of  
20 sovereign immunity.

21 (2)(a) Each member state shall have and be limited to one  
22 delegate selected by that member state's licensing board.

23 (b) The delegate shall be a current member of the licensing  
24 board, who is a physical therapist, physical therapist assistant,  
25 public member, or the board administrator.

26 (c) Any delegate may be removed or suspended from office as  
27 provided by the law of the state from which the delegate is  
28 appointed.

29 (d) The member state board shall fill any vacancy occurring in  
30 the commission.

31 (e) Each delegate shall be entitled to one vote with regard to  
32 the promulgation of rules and creation of bylaws and shall otherwise  
33 have an opportunity to participate in the business and affairs of the  
34 commission.

35 (f) A delegate shall vote in person or by such other means as  
36 provided in the bylaws. The bylaws may provide for delegates'  
37 participation in meetings by telephone or other means of  
38 communication.

1 (g) The commission shall meet at least once during each calendar  
2 year. Additional meetings shall be held as set forth in the bylaws.

3 (3) The commission shall have the following powers and duties:

4 (a) Establish the fiscal year of the commission;

5 (b) Establish bylaws;

6 (c) Maintain its financial records in accordance with the bylaws;

7 (d) Meet and take such actions as are consistent with the  
8 provisions of this compact and the bylaws;

9 (e) Promulgate uniform rules to facilitate and coordinate  
10 implementation and administration of this compact. The rules shall  
11 have the force and effect of law and shall be binding in all member  
12 states;

13 (f) Bring and prosecute legal proceedings or actions in the name  
14 of the commission, provided that the standing of any state physical  
15 therapy licensing board to sue or be sued under applicable law shall  
16 not be affected;

17 (g) Purchase and maintain insurance and bonds;

18 (h) Borrow, accept, or contract for services of personnel  
19 including, but not limited to, employees of a member state;

20 (i) Hire employees, elect or appoint officers, fix compensation,  
21 define duties, grant such individuals appropriate authority to carry  
22 out the purposes of the compact, and establish the commission's  
23 personnel policies and programs relating to conflicts of interest,  
24 qualifications of personnel, and other related personnel matters;

25 (j) Accept any and all appropriate donations and grants of money,  
26 equipment, supplies, materials, and services, and to receive,  
27 utilize, and dispose of the same; provided that at all times the  
28 commission shall avoid any appearance of impropriety and/or conflict  
29 of interest;

30 (k) Lease, purchase, or accept appropriate gifts or donations of,  
31 or otherwise to own, hold, improve, or use any property real,  
32 personal, or mixed; provided that at all times the commission shall  
33 avoid any appearance of impropriety;

34 (l) Sell, convey, mortgage, pledge, lease, exchange, abandon, or  
35 otherwise dispose of any property real, personal, or mixed;

36 (m) Establish a budget and make expenditures;

37 (n) Borrow money;

38 (o) Appoint committees, including standing committees comprised  
39 of members, state regulators, state legislators or their  
40 representatives, and consumer representatives, and such other

1 interested persons as may be designated in this compact and the  
2 bylaws;

3 (p) Provide and receive information from, and cooperate with, law  
4 enforcement agencies;

5 (q) Establish and elect an executive board; and

6 (r) Perform such other functions as may be necessary or  
7 appropriate to achieve the purposes of this compact consistent with  
8 the state regulation of physical therapy licensure and practice.

9 (4) The executive board shall have the power to act on behalf of  
10 the commission according to the terms of this compact.

11 (a) The executive board shall be comprised of nine members:

12 (i) Seven voting members who are elected by the commission from  
13 the current membership of the commission;

14 (ii) One ex officio, nonvoting member from a recognized national  
15 physical therapy professional association; and

16 (iii) One ex officio, nonvoting member from a recognized  
17 membership organization of the physical therapy licensing boards.

18 (b) The ex officio members will be selected by their respective  
19 organizations.

20 (c) The commission may remove any member of the executive board  
21 as provided in bylaws.

22 (d) The executive board shall meet at least annually.

23 (e) The executive board shall have the following duties and  
24 responsibilities:

25 (i) Recommend to the entire commission changes to the rules or  
26 bylaws, changes to this compact legislation, fees paid by compact  
27 member states such as annual dues, and any commission compact fee  
28 charged to licensees for the compact privilege;

29 (ii) Ensure compact administration services are appropriately  
30 provided, contractual or otherwise;

31 (iii) Prepare and recommend the budget;

32 (iv) Maintain financial records on behalf of the commission;

33 (v) Monitor compact compliance of member states and provide  
34 compliance reports to the commission;

35 (vi) Establish additional committees as necessary; and

36 (vii) Other duties as provided in rules or bylaws.

37 (5)(a) All meetings shall be open to the public, and public  
38 notice of meetings shall be given in the same manner as required  
39 under the rule-making provisions in Article IX of this compact.

1 (b) The commission or the executive board or other committees of  
2 the commission may convene in a closed, nonpublic meeting if the  
3 commission or executive board or other committees of the commission  
4 must discuss:

5 (i) Noncompliance of a member state with its obligations under  
6 the compact;

7 (ii) The employment, compensation, discipline, or other matters,  
8 practices, or procedures related to specific employees or other  
9 matters related to the commission's internal personnel practices and  
10 procedures;

11 (iii) Current, threatened, or reasonably anticipated litigation;

12 (iv) Negotiation of contracts for the purchase, lease, or sale of  
13 goods, services, or real estate;

14 (v) Accusing any person of a crime or formally censuring any  
15 person;

16 (vi) Disclosure of trade secrets or commercial or financial  
17 information that is privileged or confidential;

18 (vii) Disclosure of information of a personal nature where  
19 disclosure would constitute a clearly unwarranted invasion of  
20 personal privacy;

21 (viii) Disclosure of investigative records compiled for law  
22 enforcement purposes;

23 (ix) Disclosure of information related to any investigative  
24 reports prepared by or on behalf of or for use of the commission or  
25 other committee charged with responsibility of investigation or  
26 determination of compliance issues pursuant to the compact; or

27 (x) Matters specifically exempt from disclosure by federal or  
28 member state statute.

29 (c) If a meeting, or portion of a meeting, is closed pursuant to  
30 this provision, the commission's legal counsel or designee shall  
31 certify that the meeting may be closed and shall reference each  
32 relevant exempting provision.

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

1 (6)(a) The commission shall pay, or provide for the payment of,  
2 the reasonable expenses of its establishment, organization, and  
3 ongoing activities.

4 (b) The commission may accept any and all appropriate revenue  
5 sources, donations, and grants of money, equipment, supplies,  
6 materials, and services.

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

15 (d) The commission shall not incur obligations of any kind prior  
16 to securing the funds adequate to meet the same; nor shall the  
17 commission pledge the credit of any of the member states, except by  
18 and with the authority of the member state.

19 (e) The commission shall keep accurate accounts of all receipts  
20 and disbursements. The receipts and disbursements of the commission  
21 shall be subject to the audit and accounting procedures established  
22 under its bylaws. However, all receipts and disbursements of funds  
23 handled by the commission shall be audited yearly by a certified or  
24 licensed public accountant, and the report of the audit shall be  
25 included in and become part of the annual report of the commission.

26 (7)(a) The members, officers, executive director, employees, and  
27 representatives of the commission shall be immune from suit and  
28 liability, either personally or in their official capacity, for any  
29 claim for damage to or loss of property or personal injury or other  
30 civil liability caused by or arising out of any actual or alleged  
31 act, error, or omission that occurred, or that the person against  
32 whom the claim is made had a reasonable basis for believing occurred  
33 within the scope of commission employment, duties, or  
34 responsibilities; provided that nothing in this subsection shall be  
35 construed to protect any such person from suit and/or liability for  
36 any damage, loss, injury, or liability caused by the intentional or  
37 willful or wanton misconduct of that person.

38 (b) The commission shall defend any member, officer, executive  
39 director, employee, or representative of the commission in any civil  
40 action seeking to impose liability arising out of any actual or

1 alleged act, error, or omission that occurred within the scope of  
2 commission employment, duties, or responsibilities, or that the  
3 person against whom the claim is made had a reasonable basis for  
4 believing occurred within the scope of commission employment, duties,  
5 or responsibilities; provided that nothing herein shall be construed  
6 to prohibit that person from retaining his or her own counsel; and  
7 provided further, that the actual or alleged act, error, or omission  
8 did not result from that person's intentional or willful or wanton  
9 misconduct.

10 (c) The commission shall indemnify and hold harmless any member,  
11 officer, executive director, employee, or representative of the  
12 commission for the amount of any settlement or judgment obtained  
13 against that person arising out of any actual or alleged act, error,  
14 or omission that occurred within the scope of commission employment,  
15 duties, or responsibilities, or that such person had a reasonable  
16 basis for believing occurred within the scope of commission  
17 employment, duties, or responsibilities, provided that the actual or  
18 alleged act, error, or omission did not result from the intentional  
19 or willful or wanton misconduct of that person.

#### 20 **ARTICLE VIII - DATA SYSTEM**

21 (1) The commission shall provide for the development,  
22 maintenance, and utilization of a coordinated database and reporting  
23 system containing licensure, adverse action, and investigative  
24 information on all licensed individuals in member states.

25 (2) Notwithstanding any other provision of state law to the  
26 contrary, a member state shall submit a uniform data set to the data  
27 system on all individuals to whom this compact is applicable as  
28 required by the rules of the commission, including:

29 (a) Identifying information;

30 (b) Licensure data;

31 (c) Adverse actions against a license or compact privilege;

32 (d) Nonconfidential information related to alternative program  
33 participation;

34 (e) Any denial of application for licensure, and the reason(s)  
35 for such denial; and

36 (f) Other information that may facilitate the administration of  
37 this compact, as determined by the rules of the commission.

38 (3) Investigative information pertaining to a licensee in any  
39 member state will only be available to other party states.

1 (4) The commission shall promptly notify all member states of any  
2 adverse action taken against a licensee or an individual applying for  
3 a license. Adverse action information pertaining to a licensee in any  
4 member state will be available to any other member state.

5 (5) Member states contributing information to the data system may  
6 designate information that may not be shared with the public without  
7 the express permission of the contributing state.

8 (6) Any information submitted to the data system that is  
9 subsequently required to be expunged by the laws of the member state  
10 contributing the information shall be removed from the data system.

#### 11 **ARTICLE IX - RULE MAKING**

12 (1) The commission shall exercise its rule-making powers pursuant  
13 to the criteria set forth in this Article IX and the rules adopted  
14 thereunder. Rules and amendments shall become binding as of the date  
15 specified in each rule or amendment.

16 (2) Notwithstanding subsection (1) of Article IX, the board shall  
17 review the rules of the commission. The board may reject or approve  
18 and adopt the rules of the commission as rules of the board. The  
19 state of Washington is subject to a rule of the commission only if  
20 the rule of the commission is adopted by the board and the rule does  
21 not violate any right guaranteed by the state Constitution or the  
22 United States Constitution.

23 (3) If a majority of the legislatures of the member states  
24 rejects a rule, by enactment of a statute or resolution in the same  
25 manner used to adopt the compact within four years of the date of  
26 adoption of the rule, then such rule shall have no further force and  
27 effect in any member state.

28 (4) Rules or amendments to the rules shall be adopted at a  
29 regular or special meeting of the commission.

30 (5) Prior to promulgation and adoption of a final rule or rules  
31 by the commission, and at least thirty days in advance of the meeting  
32 at which the rule will be considered and voted upon, the commission  
33 shall file a notice of proposed rule making:

34 (a) On the web site of the commission or other publicly  
35 accessible platform; and

36 (b) On the web site of each member state physical therapy  
37 licensing board or other publicly accessible platform or the  
38 publication in which each state would otherwise publish proposed  
39 rules.

1 (6) The notice of proposed rule making shall include:  
2 (a) The proposed time, date, and location of the meeting in which  
3 the rule will be considered and voted upon;  
4 (b) The text of the proposed rule or amendment and the reason for  
5 the proposed rule;  
6 (c) A request for comments on the proposed rule from any  
7 interested person; and  
8 (d) The manner in which interested persons may submit notice to  
9 the commission of their intention to attend the public hearing and  
10 any written comments.  
11 (7) Prior to adoption of a proposed rule, the commission shall  
12 allow persons to submit written data, facts, opinions, and arguments,  
13 which shall be made available to the public.  
14 (8) The commission shall grant an opportunity for a public  
15 hearing before it adopts a rule or amendment if a hearing is  
16 requested by:  
17 (a) At least twenty-five persons;  
18 (b) A state or federal governmental subdivision or agency; or  
19 (c) An association having at least twenty-five members.  
20 (9) If a hearing is held on the proposed rule or amendment, the  
21 commission shall publish the place, time, and date of the scheduled  
22 public hearing. If the hearing is held via electronic means, the  
23 commission shall publish the mechanism for access to the electronic  
24 hearing.  
25 (a) All persons wishing to be heard at the hearing shall notify  
26 the executive director of the commission or other designated member  
27 in writing of their desire to appear and testify at the hearing not  
28 less than five business days before the scheduled date of the  
29 hearing.  
30 (b) Hearings shall be conducted in a manner providing each person  
31 who wishes to comment a fair and reasonable opportunity to comment  
32 orally or in writing.  
33 (c) All hearings will be recorded. A copy of the recording will  
34 be made available on request.  
35 (d) Nothing in this Article IX shall be construed as requiring a  
36 separate hearing on each rule. Rules may be grouped for the  
37 convenience of the commission at hearings required by this Article  
38 IX.

1 (10) Following the scheduled hearing date, or by the close of  
2 business on the scheduled hearing date if the hearing was not held,  
3 the commission shall consider all written and oral comments received.

4 (11) If no written notice of intent to attend the public hearing  
5 by interested parties is received, the commission may proceed with  
6 promulgation of the proposed rule without a public hearing.

7 (12) The commission shall, by majority vote of all members, take  
8 final action on the proposed rule and shall determine the effective  
9 date of the rule, if any, based on the rule-making record and the  
10 full text of the rule.

11 (13) Upon determination that an emergency exists, the commission  
12 may consider and adopt an emergency rule without prior notice,  
13 opportunity for comment, or hearing, provided that the usual rule-  
14 making procedures provided in the compact and in this Article IX  
15 shall be retroactively applied to the rule as soon as reasonably  
16 possible, in no event later than ninety days after the effective date  
17 of the rule. For the purposes of this provision, an emergency rule is  
18 one that must be adopted immediately in order to:

19 (a) Meet an imminent threat to public health, safety, or welfare;

20 (b) Prevent a loss of commission or member state funds;

21 (c) Meet a deadline for the promulgation of an administrative  
22 rule that is established by federal law or rule; or

23 (d) Protect public health and safety.

24 (14) The commission or an authorized committee of the commission  
25 may direct revisions to a previously adopted rule or amendment for  
26 purposes of correcting typographical errors, errors in format, errors  
27 in consistency, or grammatical errors. Public notice of any revisions  
28 shall be posted on the web site of the commission. The revision shall  
29 be subject to challenge by any person for a period of thirty days  
30 after posting. The revision may be challenged only on grounds that  
31 the revision results in a material change to a rule. A challenge  
32 shall be made in writing, and delivered to the chair of the  
33 commission prior to the end of the notice period. If no challenge is  
34 made, the revision will take effect without further action. If the  
35 revision is challenged, the revision may not take effect without the  
36 approval of the commission.

37 **ARTICLE X - OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

38 (1) Oversight. (a) The executive, legislative, and judicial  
39 branches of state government in each member state shall enforce this

1 compact and take all actions necessary and appropriate to effectuate  
2 the compact's purposes and intent. The provisions of this compact and  
3 the rules promulgated hereunder shall have standing as statutory law.

4 (b) All courts shall take judicial notice of the compact and the  
5 rules in any judicial or administrative proceeding in a member state  
6 pertaining to the subject matter of this compact which may affect the  
7 powers, responsibilities, or actions of the commission.

8 (c) The commission shall be entitled to receive service of  
9 process in any such proceeding, and shall have standing to intervene  
10 in such a proceeding for all purposes. Failure to provide service of  
11 process to the commission shall render a judgment or order void as to  
12 the commission, this compact, or promulgated rules.

13 (2) Default, technical assistance, and termination. (a) If the  
14 commission determines that a member state has defaulted in the  
15 performance of its obligations or responsibilities under this compact  
16 or the promulgated rules, the commission shall:

17 (i) Provide written notice to the defaulting state and other  
18 member states of the nature of the default, the proposed means of  
19 curing the default, and/or any other action to be taken by the  
20 commission; and

21 (ii) Provide remedial training and specific technical assistance  
22 regarding the default.

23 (b) If a state in default fails to cure the default, the  
24 defaulting state may be terminated from the compact upon an  
25 affirmative vote of a majority of the member states, and all rights,  
26 privileges, and benefits conferred by this compact may be terminated  
27 on the effective date of termination. A cure of the default does not  
28 relieve the offending state of obligations or liabilities incurred  
29 during the period of default.

30 (c) Termination of membership in the compact shall be imposed  
31 only after all other means of securing compliance have been  
32 exhausted. Notice of intent to suspend or terminate shall be given by  
33 the commission to the governor, the majority and minority leaders of  
34 the defaulting state's legislature, and each of the member states.

35 (d) A state that has been terminated is responsible for all  
36 assessments, obligations, and liabilities incurred through the  
37 effective date of termination, including obligations that extend  
38 beyond the effective date of termination.

39 (e) The commission shall not bear any costs related to a state  
40 that is found to be in default or that has been terminated from the

1 compact, unless agreed upon in writing between the commission and the  
2 defaulting state.

3 (f) The defaulting state may appeal the action of the commission  
4 by petitioning the United States district court for the District of  
5 Columbia or the federal district where the commission has its  
6 principal offices. The prevailing member shall be awarded all costs  
7 of such litigation, including reasonable attorneys' fees.

8 (3) Dispute resolution. (a) Upon request by a member state, the  
9 commission shall attempt to resolve disputes related to the compact  
10 that arise among member states and between member and nonmember  
11 states.

12 (b) The commission shall promulgate a rule providing for both  
13 mediation and binding dispute resolution for disputes as appropriate.

14 (4) Enforcement. (a) The commission, in the reasonable exercise  
15 of its discretion, shall enforce the provisions and rules of this  
16 compact.

17 (b) By majority vote, the commission may initiate legal action in  
18 the United States district court for the District of Columbia or the  
19 federal district where the commission has its principal offices  
20 against a member state in default to enforce compliance with the  
21 provisions of the compact and its promulgated rules and bylaws. The  
22 relief sought may include both injunctive relief and damages. In the  
23 event judicial enforcement is necessary, the prevailing member shall  
24 be awarded all costs of such litigation, including reasonable  
25 attorneys' fees.

26 (c) The remedies herein shall not be the exclusive remedies of  
27 the commission. The commission may pursue any other remedies  
28 available under federal or state law.

29 **ARTICLE XI - DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR**  
30 **PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND**  
31 **AMENDMENT**

32 (1) The compact shall come into effect on the date on which the  
33 compact statute is enacted into law in the tenth member state. The  
34 provisions, which become effective at that time, shall be limited to  
35 the powers granted to the commission relating to assembly and the  
36 promulgation of rules. Thereafter, the commission shall meet and  
37 exercise rule-making powers necessary to the implementation and  
38 administration of the compact.

1 (2) Any state that joins the compact subsequent to the  
2 commission's initial adoption of the rules shall be subject to the  
3 rules as they exist on the date on which the compact becomes law in  
4 that state. Any rule that has been previously adopted by the  
5 commission shall have the full force and effect of law on the day the  
6 compact becomes law in that state.

7 (3) Any member state may withdraw from this compact by enacting a  
8 statute repealing the same.

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

11 (b) Withdrawal shall not affect the continuing requirement of the  
12 withdrawing state's physical therapy licensing board to comply with  
13 the investigative and adverse action reporting requirements of this  
14 compact prior to the effective date of withdrawal.

15 (4) Nothing contained in this compact shall be construed to  
16 invalidate or prevent any physical therapy licensure agreement or  
17 other cooperative arrangement between a member state and a nonmember  
18 state that does not conflict with the provisions of this compact.

19 (5) This compact may be amended by the member states. No  
20 amendment to this compact shall become effective and binding upon any  
21 member state until it is enacted into the laws of all member states.

## 22 **ARTICLE XII - CONSTRUCTION AND SEVERABILITY**

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

35 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.74  
36 RCW to read as follows:

37 COMPACT PRIVILEGE—FEES. (1) The secretary, in consultation with  
38 the board, shall establish fees pursuant to RCW 43.70.250 for

1 physical therapists and physical therapist assistants seeking to  
2 practice in this state by use of compact privilege as defined in  
3 section 1 of this act. At the time of applying for compact privilege  
4 in this state, the applicant shall comply with established fee  
5 requirements.

6 (2) The fees established in subsection (1) of this section must  
7 be an amount sufficient to cover the state's monetary obligations as  
8 a member state to the physical therapy licensure compact.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.74  
10 RCW to read as follows:

11 The board shall not disseminate any criminal history information  
12 gained through a federal background check, ordered pursuant to  
13 section 1 of this act, the physical therapy licensure compact, to the  
14 physical therapy compact commission or another state or state  
15 licensure board.

16 **Sec. 4.** RCW 18.74.050 and 1996 c 191 s 59 are each amended to  
17 read as follows:

18 (1) The secretary shall furnish a license upon the authority of  
19 the board to any person who applies and who has qualified under the  
20 provisions of this chapter. At the time of applying, the applicant  
21 shall comply with administrative procedures, administrative  
22 requirements, and fees established pursuant to RCW 43.70.250 and  
23 43.70.280. No person registered or licensed on July 24, 1983, as a  
24 physical therapist shall be required to pay an additional fee for a  
25 license under this chapter.

26 (2) No fees collected pursuant to subsection (1) of this section  
27 may be used to meet the state's monetary obligations as a member  
28 state to the physical therapy licensure compact.

29 **Sec. 5.** RCW 18.74.090 and 2007 c 98 s 10 are each amended to  
30 read as follows:

31 (1) A person who is not licensed with the secretary of health as  
32 a physical therapist under the requirements of this chapter shall not  
33 represent him or herself as being so licensed and shall not use in  
34 connection with his or her name the words or letters "P.T.",  
35 "R.P.T.", "L.P.T.", "physical therapy", "physiotherapy", "physical  
36 therapist" or "physiotherapist", or any other letters, words, signs,  
37 numbers, or insignia indicating or implying that he or she is a

1 physical therapist. No person may practice physical therapy without  
2 first having a valid license. Nothing in this chapter prohibits any  
3 person licensed in this state under any other act from engaging in  
4 the practice for which he or she is licensed. It shall be the duty of  
5 the prosecuting attorney of each county to prosecute all cases  
6 involving a violation of this chapter arising within his or her  
7 county. The attorney general may assist in such prosecution and shall  
8 appear at all hearings when requested to do so by the board.

9 (2) No person assisting in the practice of physical therapy may  
10 use the title "physical therapist assistant," the letters "PTA," or  
11 any other words, abbreviations, or insignia in connection with his or  
12 her name to indicate or imply, directly or indirectly, that he or she  
13 is a physical therapist assistant without being licensed in  
14 accordance with this chapter as a physical therapist assistant.

15 (3) Subsections (1) and (2) of this section do not apply to an  
16 individual who is authorized to practice as a physical therapist or  
17 work as a physical therapist assistant by compact privilege as  
18 defined in section 1 of this act.

19 **Sec. 6.** RCW 18.74.150 and 2013 c 280 s 1 are each amended to  
20 read as follows:

21 (1) It is unlawful for any person to practice or in any manner  
22 hold himself or herself out to practice physical therapy or designate  
23 himself or herself as a physical therapist or physical therapist  
24 assistant, unless he or she is licensed in accordance with this  
25 chapter or has unencumbered compact privilege as defined in section 1  
26 of this act.

27 (2) This chapter does not restrict persons licensed under any  
28 other law of this state from engaging in the profession or practice  
29 for which they are licensed, if they are not representing themselves  
30 to be physical therapists, physical therapist assistants, or  
31 providers of physical therapy.

32 (3) The following persons are exempt from licensure as physical  
33 therapists under this chapter when engaged in the following  
34 activities:

35 (a) A person who is pursuing a course of study leading to a  
36 degree as a physical therapist in an approved professional education  
37 program and is satisfying supervised clinical education requirements  
38 related to his or her physical therapy education while under direct  
39 supervision of a licensed physical therapist;

1 (b) A physical therapist while practicing in the United States  
2 armed services, United States public health service, or veterans  
3 administration as based on requirements under federal regulations for  
4 state licensure of health care providers; and

5 (c) A physical therapist licensed in another United States  
6 jurisdiction, or a foreign-educated physical therapist credentialed  
7 in another country, performing physical therapy as part of teaching  
8 or participating in an educational seminar of no more than sixty days  
9 in a calendar year.

10 (4) The following persons are exempt from licensure as physical  
11 therapist assistants under this chapter when engaged in the following  
12 activities:

13 (a) A person who is pursuing a course of study leading to a  
14 degree as a physical therapist assistant in an approved professional  
15 education program and is satisfying supervised clinical education  
16 requirements related to his or her physical therapist assistant  
17 education while under direct supervision of a licensed physical  
18 therapist or licensed physical therapist assistant;

19 (b) A physical therapist assistant while practicing in the United  
20 States armed services, United States public health service, or  
21 veterans administration as based on requirements under federal  
22 regulations for state licensure of health care providers; and

23 (c) A physical therapist assistant licensed in another United  
24 States jurisdiction, or a foreign-educated physical therapist  
25 assistant credentialed in another country, or a physical therapist  
26 assistant who is teaching or participating in an educational seminar  
27 of no more than sixty days in a calendar year.

28 **Sec. 7.** RCW 43.70.320 and 2015 c 70 s 39 are each amended to  
29 read as follows:

30 (1) There is created in the state treasury an account to be known  
31 as the health professions account. All fees received by the  
32 department for health professions licenses, registration,  
33 certifications, renewals, compact privileges, or examinations and the  
34 civil penalties assessed and collected by the department under RCW  
35 18.130.190 shall be forwarded to the state treasurer who shall credit  
36 such moneys to the health professions account.

37 (2) All expenses incurred in carrying out the health professions  
38 licensing activities of the department and implementing and  
39 administering the medical marijuana authorization database

1 established in RCW 69.51A.230 shall be paid from the account as  
2 authorized by legislative appropriation, except as provided in  
3 subsections (4) and (5) of this section. Any residue in the account  
4 shall be accumulated and shall not revert to the general fund at the  
5 end of the biennium.

6 (3) The secretary shall biennially prepare a budget request based  
7 on the anticipated costs of administering the health professions  
8 licensing activities of the department which shall include the  
9 estimated income from health professions fees.

10 (4) The fees received by the department from applicants for  
11 compact privilege under section 1 of this act must be used for the  
12 purpose of meeting financial obligations imposed on the state as a  
13 result of this state's participation in the physical therapy  
14 licensure compact.

15 (5) The secretary shall, at the request of a board or commission  
16 as applicable, spend unappropriated funds in the health professions  
17 account that are allocated to the requesting board or commission to  
18 meet unanticipated costs of that board or commission when revenues  
19 exceed more than fifteen percent over the department's estimated  
20 six-year spending projections for the requesting board or commission.  
21 Unanticipated costs shall be limited to spending as authorized in  
22 subsection (3) of this section for anticipated costs.

23 NEW SECTION. **Sec. 8.** Sections 1 and 2 of this act shall be  
24 known and cited as the physical therapy licensure compact."

**HB 1278** - S AMD  
By Senator Rivers

**ADOPTED 4/5/17**

25 On page 1, line 2 of the title, after "compact;" strike the  
26 remainder of the title and insert "amending RCW 18.74.050, 18.74.090,  
27 18.74.150, and 43.70.320; adding new sections to chapter 18.74 RCW;  
28 and creating a new section."

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