

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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