

HOUSE BILL 1278

State of Washington 65th Legislature 2017 Regular Session

By Representatives Macri, DeBolt, Cody, Rodne, Wylie, Jinkins, Harris, Short, and Farrell

Read first time 01/16/17. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to enactment of the physical therapy licensure
2 compact; amending RCW 18.74.050, 18.74.090, 18.74.150, and 43.70.320;
3 adding new sections to chapter 18.74 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.74
6 RCW to read as follows:

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

PHYSICAL THERAPY LICENSURE COMPACT

ARTICLE I - PURPOSE

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

20 This compact is designed to achieve the following objectives:

- 1 (1) Increase public access to physical therapy services by
2 providing for the mutual recognition of other member state licenses;
3 (2) Enhance the states' ability to protect the public's health
4 and safety;
5 (3) Encourage the cooperation of member states in regulating
6 multistate physical therapy practice;
7 (4) Support spouses of relocating military members;
8 (5) Enhance the exchange of licensure, investigative, and
9 disciplinary information between member states; and
10 (6) Allow a remote state to hold a provider of services with a
11 compact privilege in that state accountable to that state's practice
12 standards.

13 **ARTICLE II - DEFINITIONS**

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

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

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

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

26 (4) "Compact privilege" means the authorization granted by a
27 remote state to allow a licensee from another member state to
28 practice as a physical therapist or work as a physical therapist
29 assistant in the remote state under its laws and rules. The practice
30 of physical therapy occurs in the member state where the patient/
31 client is located at the time of the patient/client encounter.

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

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

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

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

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

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

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

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

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

18 (14) "Party state" means any member state in which a licensee
19 holds a current license or compact privilege or is applying for a
20 license or compact privilege.

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

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

26 (17) "Physical therapy" has the same meaning given in RCW
27 18.74.010. "Physical therapy practice" and "the practice of physical
28 therapy" have the same meaning given to "practice of physical
29 therapy" in RCW 18.74.010.

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

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

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

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

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

4 **ARTICLE III - STATE PARTICIPATION IN THE COMPACT**

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

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

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

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

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

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

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

21 (g) Have continuing competence requirements as a condition for
22 license renewal.

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

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

31 (4) Member states may charge a fee for granting a compact
32 privilege.

33 **ARTICLE IV - COMPACT PRIVILEGE**

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

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

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

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

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

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

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

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

11 (h) Report to the commission adverse action taken by any
12 nonmember state within thirty days from the date the adverse action
13 is taken.

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

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

21 (4) A licensee providing physical therapy in a remote state is
22 subject to that state's regulatory authority. A remote state may, in
23 accordance with due process and that state's laws, remove a
24 licensee's compact privilege in the remote state for a specific
25 period of time, impose fines, and/or take any other necessary actions
26 to protect the health and safety of its citizens. The licensee is not
27 eligible for a compact privilege in any state until the specific time
28 for removal has passed and all fines are paid.

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

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

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

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

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

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

3 (b) All fines have been paid; and

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

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

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

9 A licensee who is active duty military or is the spouse of an
10 individual who is active duty military may designate one of the
11 following as the home state:

12 (1) Home of record;

13 (2) Permanent change of station; or

14 (3) State of current residence if it is different than the
15 permanent change of station state or home of record.

16 **ARTICLE VI - ADVERSE ACTIONS**

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

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

22 (3) Nothing in this compact shall override a member state's
23 decision that participation in an alternative program may be used in
24 lieu of adverse action and that such participation shall remain
25 nonpublic if required by the member state's laws. Member states must
26 require licensees who enter any alternative programs in lieu of
27 discipline to agree not to practice in any other member state during
28 the term of the alternative program without prior authorization from
29 such other member state.

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

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

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

1 (b) Issue subpoenas for both hearings and investigations that
2 require the attendance and testimony of witnesses, and the production
3 of evidence. Subpoenas issued by a physical therapy licensing board
4 in a party state for the attendance and testimony of witnesses,
5 and/or the production of evidence from another party state, shall be
6 enforced in the latter state by any court of competent jurisdiction,
7 according to the practice and procedure of that court applicable to
8 subpoenas issued in proceedings pending before it. The issuing
9 authority shall pay any witness fees, travel expenses, mileage, and
10 other fees required by the service statutes of the state where the
11 witnesses and/or evidence are located; and

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

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

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

22 **ARTICLE VII - ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT**
23 **COMMISSION**

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

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

27 (b) Venue is proper and judicial proceedings by or against the
28 commission shall be brought solely and exclusively in a court of
29 competent jurisdiction where the principal office of the commission
30 is located. The commission may waive venue and jurisdictional
31 defenses to the extent it adopts or consents to participate in
32 alternative dispute resolution proceedings.

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

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

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

1 (c) Any delegate may be removed or suspended from office as
2 provided by the law of the state from which the delegate is
3 appointed.

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

6 (e) Each delegate shall be entitled to one vote with regard to
7 the promulgation of rules and creation of bylaws and shall otherwise
8 have an opportunity to participate in the business and affairs of the
9 commission.

10 (f) A delegate shall vote in person or by such other means as
11 provided in the bylaws. The bylaws may provide for delegates'
12 participation in meetings by telephone or other means of
13 communication.

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

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

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

18 (b) Establish bylaws;

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

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

22 (e) Promulgate uniform rules to facilitate and coordinate
23 implementation and administration of this compact. The rules shall
24 have the force and effect of law and shall be binding in all member
25 states;

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

30 (g) Purchase and maintain insurance and bonds;

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

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

38 (j) Accept any and all appropriate donations and grants of money,
39 equipment, supplies, materials, and services, and to receive,
40 utilize, and dispose of the same; provided that at all times the

1 commission shall avoid any appearance of impropriety and/or conflict
2 of interest;

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

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

9 (m) Establish a budget and make expenditures;

10 (n) Borrow money;

11 (o) Appoint committees, including standing committees comprised
12 of members, state regulators, state legislators or their
13 representatives, and consumer representatives, and such other
14 interested persons as may be designated in this compact and the
15 bylaws;

16 (p) Provide and receive information from, and cooperate with, law
17 enforcement agencies;

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

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

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

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

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

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

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

31 (b) The ex officio members will be selected by their respective
32 organizations.

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

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

36 (e) The executive board shall have the following duties and
37 responsibilities:

38 (i) Recommend to the entire commission changes to the rules or
39 bylaws, changes to this compact legislation, fees paid by compact

1 member states such as annual dues, and any commission compact fee
2 charged to licensees for the compact privilege;

3 (ii) Ensure compact administration services are appropriately
4 provided, contractual or otherwise;

5 (iii) Prepare and recommend the budget;

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

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

9 (vi) Establish additional committees as necessary; and
10 (vii) Other duties as provided in rules or bylaws.

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

14 (b) The commission or the executive board or other committees of
15 the commission may convene in a closed, nonpublic meeting if the
16 commission or executive board or other committees of the commission
17 must discuss:

18 (i) Noncompliance of a member state with its obligations under
19 the compact;

20 (ii) The employment, compensation, discipline, or other matters,
21 practices, or procedures related to specific employees or other
22 matters related to the commission's internal personnel practices and
23 procedures;

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

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

27 (v) Accusing any person of a crime or formally censuring any
28 person;

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

31 (vii) Disclosure of information of a personal nature where
32 disclosure would constitute a clearly unwarranted invasion of
33 personal privacy;

34 (viii) Disclosure of investigative records compiled for law
35 enforcement purposes;

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

1 (x) Matters specifically exempt from disclosure by federal or
2 member state statute.

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

7 (d) The commission shall keep minutes that fully and clearly
8 describe all matters discussed in a meeting and shall provide a full
9 and accurate summary of actions taken, and the reasons therefore,
10 including a description of the views expressed. All documents
11 considered in connection with an action shall be identified in such
12 minutes. All minutes and documents of a closed meeting shall remain
13 under seal, subject to release by a majority vote of the commission
14 or order of a court of competent jurisdiction.

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

18 (b) The commission may accept any and all appropriate revenue
19 sources, donations, and grants of money, equipment, supplies,
20 materials, and services.

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

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

33 (e) The commission shall keep accurate accounts of all receipts
34 and disbursements. The receipts and disbursements of the commission
35 shall be subject to the audit and accounting procedures established
36 under its bylaws. However, all receipts and disbursements of funds
37 handled by the commission shall be audited yearly by a certified or
38 licensed public accountant, and the report of the audit shall be
39 included in and become part of the annual report of the commission.

1 (7)(a) The members, officers, executive director, employees, and
2 representatives of the commission shall be immune from suit and
3 liability, either personally or in their official capacity, for any
4 claim for damage to or loss of property or personal injury or other
5 civil liability caused by or arising out of any actual or alleged
6 act, error, or omission that occurred, or that the person against
7 whom the claim is made had a reasonable basis for believing occurred
8 within the scope of commission employment, duties, or
9 responsibilities; provided that nothing in this subsection shall be
10 construed to protect any such person from suit and/or liability for
11 any damage, loss, injury, or liability caused by the intentional or
12 willful or wanton misconduct of that person.

13 (b) The commission shall defend any member, officer, executive
14 director, employee, or representative of the commission in any civil
15 action seeking to impose liability arising out of any actual or
16 alleged act, error, or omission that occurred within the scope of
17 commission employment, duties, or responsibilities, or that the
18 person against whom the claim is made had a reasonable basis for
19 believing occurred within the scope of commission employment, duties,
20 or responsibilities; provided that nothing herein shall be construed
21 to prohibit that person from retaining his or her own counsel; and
22 provided further, that the actual or alleged act, error, or omission
23 did not result from that person's intentional or willful or wanton
24 misconduct.

25 (c) The commission shall indemnify and hold harmless any member,
26 officer, executive director, employee, or representative of the
27 commission for the amount of any settlement or judgment obtained
28 against that person arising out of any actual or alleged act, error,
29 or omission that occurred within the scope of commission employment,
30 duties, or responsibilities, or that such person had a reasonable
31 basis for believing occurred within the scope of commission
32 employment, duties, or responsibilities, provided that the actual or
33 alleged act, error, or omission did not result from the intentional
34 or willful or wanton misconduct of that person.

35 **ARTICLE VIII - DATA SYSTEM**

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

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

5 (a) Identifying information;

6 (b) Licensure data;

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

8 (d) Nonconfidential information related to alternative program
9 participation;

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

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

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

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

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

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

26 **ARTICLE IX - RULE MAKING**

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

31 (2) If a majority of the legislatures of the member states
32 rejects a rule, by enactment of a statute or resolution in the same
33 manner used to adopt the compact within four years of the date of
34 adoption of the rule, then such rule shall have no further force and
35 effect in any member state.

36 (3) Rules or amendments to the rules shall be adopted at a
37 regular or special meeting of the commission.

38 (4) Prior to promulgation and adoption of a final rule or rules
39 by the commission, and at least thirty days in advance of the meeting

1 at which the rule will be considered and voted upon, the commission
2 shall file a notice of proposed rule making:

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

5 (b) On the web site of each member state physical therapy
6 licensing board or other publicly accessible platform or the
7 publication in which each state would otherwise publish proposed
8 rules.

9 (5) The notice of proposed rule making shall include:

10 (a) The proposed time, date, and location of the meeting in which
11 the rule will be considered and voted upon;

12 (b) The text of the proposed rule or amendment and the reason for
13 the proposed rule;

14 (c) A request for comments on the proposed rule from any
15 interested person; and

16 (d) The manner in which interested persons may submit notice to
17 the commission of their intention to attend the public hearing and
18 any written comments.

19 (6) Prior to adoption of a proposed rule, the commission shall
20 allow persons to submit written data, facts, opinions, and arguments,
21 which shall be made available to the public.

22 (7) The commission shall grant an opportunity for a public
23 hearing before it adopts a rule or amendment if a hearing is
24 requested by:

25 (a) At least twenty-five persons;

26 (b) A state or federal governmental subdivision or agency; or

27 (c) An association having at least twenty-five members.

28 (8) If a hearing is held on the proposed rule or amendment, the
29 commission shall publish the place, time, and date of the scheduled
30 public hearing. If the hearing is held via electronic means, the
31 commission shall publish the mechanism for access to the electronic
32 hearing.

33 (a) All persons wishing to be heard at the hearing shall notify
34 the executive director of the commission or other designated member
35 in writing of their desire to appear and testify at the hearing not
36 less than five business days before the scheduled date of the
37 hearing.

38 (b) Hearings shall be conducted in a manner providing each person
39 who wishes to comment a fair and reasonable opportunity to comment
40 orally or in writing.

1 (c) All hearings will be recorded. A copy of the recording will
2 be made available on request.

3 (d) Nothing in this Article IX shall be construed as requiring a
4 separate hearing on each rule. Rules may be grouped for the
5 convenience of the commission at hearings required by this Article
6 IX.

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

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

13 (11) The commission shall, by majority vote of all members, take
14 final action on the proposed rule and shall determine the effective
15 date of the rule, if any, based on the rule-making record and the
16 full text of the rule.

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

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

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

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

29 (d) Protect public health and safety.

30 (13) The commission or an authorized committee of the commission
31 may direct revisions to a previously adopted rule or amendment for
32 purposes of correcting typographical errors, errors in format, errors
33 in consistency, or grammatical errors. Public notice of any revisions
34 shall be posted on the web site of the commission. The revision shall
35 be subject to challenge by any person for a period of thirty days
36 after posting. The revision may be challenged only on grounds that
37 the revision results in a material change to a rule. A challenge
38 shall be made in writing, and delivered to the chair of the
39 commission prior to the end of the notice period. If no challenge is
40 made, the revision will take effect without further action. If the

1 revision is challenged, the revision may not take effect without the
2 approval of the commission.

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

4 (1) Oversight. (a) The executive, legislative, and judicial
5 branches of state government in each member state shall enforce this
6 compact and take all actions necessary and appropriate to effectuate
7 the compact's purposes and intent. The provisions of this compact and
8 the rules promulgated hereunder shall have standing as statutory law.

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

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

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

22 (i) Provide written notice to the defaulting state and other
23 member states of the nature of the default, the proposed means of
24 curing the default, and/or any other action to be taken by the
25 commission; and

26 (ii) Provide remedial training and specific technical assistance
27 regarding the default.

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

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

1 (d) A state that has been terminated is responsible for all
2 assessments, obligations, and liabilities incurred through the
3 effective date of termination, including obligations that extend
4 beyond the effective date of termination.

5 (e) The commission shall not bear any costs related to a state
6 that is found to be in default or that has been terminated from the
7 compact, unless agreed upon in writing between the commission and the
8 defaulting state.

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

14 (3) Dispute resolution. (a) Upon request by a member state, the
15 commission shall attempt to resolve disputes related to the compact
16 that arise among member states and between member and nonmember
17 states.

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

20 (4) Enforcement. (a) The commission, in the reasonable exercise
21 of its discretion, shall enforce the provisions and rules of this
22 compact.

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

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

35 **ARTICLE XI - DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR**
36 **PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND**
37 **AMENDMENT**

38 (1) The compact shall come into effect on the date on which the
39 compact statute is enacted into law in the tenth member state. The

1 provisions, which become effective at that time, shall be limited to
2 the powers granted to the commission relating to assembly and the
3 promulgation of rules. Thereafter, the commission shall meet and
4 exercise rule-making powers necessary to the implementation and
5 administration of the compact.

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

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

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

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

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

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

27 **ARTICLE XII - CONSTRUCTION AND SEVERABILITY**

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

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

3 COMPACT PRIVILEGE—FEES. (1) The secretary, in consultation with
4 the board, shall establish fees pursuant to RCW 43.70.250 for
5 physical therapists and physical therapist assistants seeking to
6 practice in this state by use of compact privilege as defined in
7 section 1 of this act. At the time of applying for compact privilege
8 in this state, the applicant shall comply with established fee
9 requirements.

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

13 **Sec. 3.** RCW 18.74.050 and 1996 c 191 s 59 are each amended to
14 read as follows:

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

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

26 **Sec. 4.** RCW 18.74.090 and 2007 c 98 s 10 are each amended to
27 read as follows:

28 (1) A person who is not licensed with the secretary of health as
29 a physical therapist under the requirements of this chapter shall not
30 represent him or herself as being so licensed and shall not use in
31 connection with his or her name the words or letters "P.T.",
32 "R.P.T.", "L.P.T.", "physical therapy", "physiotherapy", "physical
33 therapist" or "physiotherapist", or any other letters, words, signs,
34 numbers, or insignia indicating or implying that he or she is a
35 physical therapist. No person may practice physical therapy without
36 first having a valid license. Nothing in this chapter prohibits any
37 person licensed in this state under any other act from engaging in
38 the practice for which he or she is licensed. It shall be the duty of

1 the prosecuting attorney of each county to prosecute all cases
2 involving a violation of this chapter arising within his or her
3 county. The attorney general may assist in such prosecution and shall
4 appear at all hearings when requested to do so by the board.

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

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

15 **Sec. 5.** RCW 18.74.150 and 2013 c 280 s 1 are each amended to
16 read as follows:

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

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

28 (3) The following persons are exempt from licensure as physical
29 therapists under this chapter when engaged in the following
30 activities:

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

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

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

6 (4) The following persons are exempt from licensure as physical
7 therapist assistants under this chapter when engaged in the following
8 activities:

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

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

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

24 **Sec. 6.** RCW 43.70.320 and 2015 c 70 s 39 are each amended to
25 read as follows:

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

33 (2) All expenses incurred in carrying out the health professions
34 licensing activities of the department and implementing and
35 administering the medical marijuana authorization database
36 established in RCW 69.51A.230 shall be paid from the account as
37 authorized by legislative appropriation, except as provided in
38 subsections (4) and (5) of this section. Any residue in the account

1 shall be accumulated and shall not revert to the general fund at the
2 end of the biennium.

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

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

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

20 NEW SECTION. **Sec. 7.** Sections 1 and 2 of this act shall be
21 known and cited as the physical therapy licensure compact.

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