
Postsecondary Education & Workforce Committee

HB 1437

Brief Description: Concerning the interstate massage compact.

Sponsors: Representatives Kloba, Ybarra, Leavitt, McEntire, Reeves, Jacobsen, Ryu, Caldier, Macri and Reed.

<p>Brief Summary of Bill</p> <ul style="list-style-type: none">• Enacts the Interstate Massage Compact.

Hearing Date: 1/25/23

Staff: Jim Morishima (786-7191).

Background:

Massage therapy is a health care service involving the external manipulation or pressure of soft tissue for therapeutic purposes. Massage therapists are licensed by the Department of Health (DOH). To be licensed as a massage therapist, an applicant must complete a course of study in an approved massage program, transfer program, or approved apprenticeship program, pass an examination, and be at least 18 years old.

The DOH may issue a massage therapy license to an applicant in another state if the other state's examination and educational requirements are substantially equivalent to Washington's. The applicant must also demonstrate a working knowledge of Washington's massage practice laws.

The Interstate Massage Compact (Compact) is an agreement between states that allows the interstate practice of massage therapy. As of January 1, 2023, no states have enacted the Compact.

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

Summary of Bill:

Compact Establishment.

The Interstate Massage Compact (Compact) is established, which allows licensed massage therapists to practice across state lines via a multistate license.

Compact Commission.

The Compact is administered by the Interstate Massage Compact Commission (Commission), which is a joint government agency established by the Compact's member states. The membership of the Commission consists of one delegate selected by each member state. The delegate must be the primary administrative officer of the state licensing authority or the officer's designee.

The Commission must establish an executive committee to act on behalf of the Commission consisting of seven voting commission members and up to two nonvoting members. The executive committee's duties include recommending changes to rules or bylaws, preparing a recommended budget, monitoring Compact compliance, and other duties provided in the bylaws.

The Commission must meet at least once a year. Most meetings of the Commission and the executive committee must be open to the public. The Commission must keep minutes of its meetings. The Commission may close meetings to the public to discuss certain matters, including noncompliance by member states, employment matters, litigation, disclosure of trade secrets, law enforcement investigative records, and matters specifically exempt from disclosure by federal or state law.

The Commission's enumerated powers include:

- establishing bylaws;
- establishing a code of conduct and conflict of interest policies;
- appointing committees, including standing committees composed of members, state regulators, state legislators, consumer representatives, and other interested persons; and
- performing other functions necessary or appropriate to achieve the purposes of the Compact.

The Commission must promulgate reasonable rules to effectively and efficiently achieve the purpose of the Compact. At least 30 days prior to voting on a rule, the Commission must file a notice of proposed rulemaking, conduct a public hearing, and allow the submission of written input. The Commission may enact emergency rules that must undergo the full rulemaking process no later than 90 days after their effective dates. Rules adopted by the Commission may be rejected within four years of enactment by a majority of the legislatures of the Compact states through statute or resolution.

The Commission may levy an annual assessment on Compact states and levy fees on licensees to

cover the costs of operations and activities.

Other Compact provisions relating to the Commission include provisions relating to:

- judicial proceedings against the Commission;
- financing the commission; and
- qualified immunity, defense, and indemnification of Commission members.

Data System.

The Commission must establish a coordinated database and reporting system containing information on licensure, adverse actions, alternative program participation, application denials, investigative information, and other information that may facilitate the administration of the Compact or the protection of the public. Member states must submit a uniform data set to the data system. The Commission must notify all member states of adverse actions taken against massage practitioners practicing in member states under the Compact. Member states may designate information that may not be shared without the states' permission. Any information that is subsequently required to be expunged by the laws of a member state must be removed from the system.

State Membership Requirements.

The Compact becomes effective when enacted by at least seven states. To be eligible for Compact membership, a state must:

- license and regulate the practice of massage therapy;
- accept passage of a national licensing examination as a criterion for massage therapy licensure;
- require licensees to satisfy educational requirements prior to being licensed to provide massage therapy services to the public;
- have continuing competence requirements for license renewal;
- implement procedures for requiring background checks and reports of disqualifying events;
- have a mechanism in place for receiving and investigating complaints about licensees;
- recognize a multistate license issued under the Compact;
- participate in the Commission's data system;
- notify the Commission of any adverse action or the availability of investigative information regarding a licensee; and
- comply with the rules of the Commission.

The Compact does not affect the requirements of a member state for the issuance of a single-state license.

Multistate License Qualifications.

To be eligible for a multistate license under the Compact, an applicant must:

- hold an active single-state license to practice massage therapy in the applicant's home state;
- have completed at least 625 clock hours of massage therapy education or the equivalent;
- pass a national licensing examination or the equivalent;
- submit to a background check;
- have not been found guilty of a felony within five years prior to the application;
- have not been found guilty of a misdemeanor within two years prior to the application;
- have not been found guilty at any time of kidnapping, human trafficking, human smuggling, sexual battery, sexual assault, or other category of offense specified by the Commission;
- have not had a massage therapy license revoked or surrendered in lieu of discipline;
- have no history of any adverse action within two years prior to the application; and
- pay required fees.

Active duty military personnel or their spouses must designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty.

The multistate license may be effective for a period of time concurrent with the renewal of the home state license.

Discipline.

A licensee practicing in a member state is subject to all scope of practice laws governing massage therapy in that state. The licensee is also subject to the state's licensing authority and courts.

Only the licensee's home state may take action against the licensee's multistate license. States may participate in joint investigations and the home state may take actions based on the investigations and factual findings of another member state. A remote state may take adverse actions on a licensee's authorization to practice, issue cease and desist orders, impose encumbrances, issue subpoenas, and recover costs from the licensee.

If adverse action is taken by the home state, the licensee loses the authorization to practice in all other states until all encumbrances have been removed. A disciplinary order must include a statement that the practitioner's privilege to practice is deactivated in all member states during the pendency of the order.

If an adverse action is taken by a remote state against a licensee's authorization to practice, the action applies to all authorizations in all member states. The licensee is not eligible for another multistate license until the time period of the removal has passed and all encumbrance requirements are satisfied.

The Compact does not override a member state's decision that participation in an alternative

program may be used in lieu of adverse action.

Oversight and Enforcement.

Upon request of a member state, the Commission must attempt to resolve disputes between Compact states and adopt rules regarding mediation and binding arbitration. The executive and judicial branches of the member states must enforce the Compact. If the Commission determines a state is in default, it must provide written notice to that state and provide it with remedial training and specific technical assistance regarding the default. In addition, the Commission may bring a legal action in federal court to enforce the Compact. After all other means of securing compliance have been exhausted, a defaulting state may be terminated from the Compact through a vote of the majority of member states.

Joining and Withdrawing.

The Compact comes into effect on the date when the seventh state joins. States may join the Compact by enacting the Compact's provisions into law. States that enact the Compact before the Compact comes into effect are subject to review after the effective date of the Compact. The Compact may be amended by enactments in all member states. A state may withdraw from the Compact by repealing its enacting statute, but the withdrawal is not effective until 180 days after the statute's repeal.

Conflict of Laws.

State laws in conflict with the Compact are superseded to the extent of the Compact. The Compact does not prevent the enforcement of any other law of a member state that is not inconsistent with the Compact. Lawful actions of the Commission, and permissible agreements between the Commission and the member states, are binding. If the Compact conflicts with the constitution of a member state, the Compact is ineffective to the extent of that conflict.

Appropriation: None.

Fiscal Note: Requested on January 19, 2023.

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