

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 652

(Senator Young)

Education, Health, and Environmental Affairs

Health and Government Operations

Interstate Physical Therapy Licensure Compact

This bill enters Maryland into the Interstate Physical Therapy Licensure Compact for physical therapists. The bill establishes (1) specified procedures and requirements for physical therapists to obtain and maintain a compact privilege to practice physical therapy in a member state; (2) the composition, powers, and responsibilities of the Physical Therapy Compact Commission; and (3) requirements related to the oversight, dispute resolution, and enforcement of the compact.

Fiscal Summary

State Effect: The State Board of Physical Therapy Examiners can likely handle the bill's requirements with existing resources, as discussed below. Any impact on revenues is anticipated to be minimal.

Local Effect: The bill does not directly affect local government operations or finances.

Small Business Effect: Potential minimal. Physical therapists who currently operate small businesses, or who are employed by small businesses, may seek to obtain a license through the compact in order to practice physical therapy in other member states.

Analysis

Bill Summary: Generally, the purpose of the compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The compact intends to preserve the regulatory authority of states to protect public health and safety through the current system of state licensure.

Requirements of Participation

To participate in the compact, a state must:

- participate in the commission's data system;
- have a mechanism in place for receiving and investigating complaints;
- notify the commission of any adverse action or the availability of investigative information regarding a licensee;
- implement a specified criminal background check requirement;
- comply with the rules of the commission;
- utilize a recognized national examination as a requirement for licensure; and
- have continuing competence requirements as a condition for license renewal.

A member state must grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules. A member state *may* charge a fee for granting a compact privilege, and the State Board of Physical Therapy Examiners *must* charge a fee for granting a compact privilege.

Compact Privilege

In order to exercise the compact privilege under the compact, the licensee must meet specified requirements, including (1) hold a license in the home state; (2) have no encumbrance on any state license; (3) be eligible for a compact privilege in any member state; (4) have not had any adverse action against any license or compact privilege within the previous two years; (5) notify the commission that the licensee is seeking the compact privilege within a remote state(s); (6) pay any applicable fees; (7) meet any jurisprudence requirements established by the remote state(s); and (8) report to the commission adverse action taken by any nonmember state within 30 days from the date the adverse action is taken.

The compact privilege is valid until the expiration date of the home license. A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. If a home state license is encumbered, the licensee must lose the compact privilege in *any* remote state until (1) the home state license is no longer encumbered and (2) two years have elapsed from the date of the adverse action. If a licensee's compact privilege in *any remote state* is removed, the individual must lose the compact privilege in *any remote state* until (1) the specific period of time for which the compact privilege was removed has

ended, (2) all fines have been paid, and (3) two years have elapsed from the date of the adverse action.

Adverse Actions

A home state must have exclusive power to impose adverse action against a license issued by the home state. A home state may take adverse action based on the investigative information of a remote state, so long as the home state follows its own procedures for imposing adverse action. However, any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.

Physical Therapy Compact Commission

The commission is an instrumentality of the compact states. Each member state must have one delegate selected by that member state's licensing board. The delegate must be a current member of the licensing board, who is a physical therapist, physical therapist assistant, public member, or the board administrator. The commission must meet at least once during each calendar year and must:

- establish bylaws;
- promulgate uniform rules, according to specified procedures, which must have the force and effect of law and must be binding in all member states;
- appoint committees;
- establish and elect an executive board; and
- perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.

Data System

The commission must provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states. Notwithstanding any other provision of state law to the contrary, a member state must submit a specified uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission.

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

Oversight, Dispute Resolution, and Enforcement

The executive, legislative, and judicial branches of state government in each member state must enforce the compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent.

If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact, the commission must (1) provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and/or any other action to be taken by the commission and (2) provide remedial training and specific technical assistance regarding the default. If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states.

Construction and Severability

The compact must be liberally construed so as to effectuate the purposes of the compact and the provisions of the compact must be severable.

Current Law/Background: Generally, in Maryland, an individual must be licensed by the State Board of Physical Therapy Examiners to practice physical therapy or limited physical therapy in the State. Licensure is not required for (1) a student who is supervised directly by a licensed physical therapist in a board-approved physical therapy educational program or (2) a physical therapy aide, if the physical therapy aide is subject to the rules and regulations adopted by the board, performs only procedures that do not require the professional skills of a licensed physical therapist or a licensed physical therapist assistant, and performs procedures only under the direct supervision of a licensed physical therapist who personally is present in the area where the procedures are performed. All licensed individuals must submit to a criminal history records check in order to qualify for licensure.

According to the board, there are currently 8,928 physical therapists and physical therapist assistants licensed to practice in Maryland. Of those, 2,811 list addresses that are outside of the State. The board's special fund ended fiscal 2018 with a balance of \$1.0 million.

According to the Physical Therapy Compact Commission, the commission came into existence on April 25, 2017, when the tenth state passed enabling legislation and joined the commission. Twenty-one states have enacted compact legislation, including West Virginia. As of February 2019, only nine states (Iowa, Mississippi, Missouri, New Hampshire, North Dakota, Oregon, Tennessee, Texas, and Utah) are actively issuing and accepting compact privileges. To date, 130 compact privileges have been issued to a total of 100 physical therapists and physical therapist assistants in these states. An additional

five states are considering compact enabling legislation during their 2019 legislative session.

State Revenues: The board estimates that special fund revenues decrease significantly as a result of the 2,811 physical therapists and physical therapist assistants licensed to practice in Maryland who list addresses in other states electing to become licensed in their home state and working in Maryland under a compact privilege. However, the Department of Legislative Services (DLS) notes that, to date, most neighboring states, including Delaware, Pennsylvania, and Virginia, have not enacted compact enabling legislation, and none of the surrounding states are currently issuing compact privileges. Even so, DLS notes that, to date, only 130 compact privileges have been issued by the nine states actively issuing and accepting compact privileges. Thus, DLS advises that the number of individuals opting to become licensed in their home state and practicing in Maryland under a compact privilege is likely to be minimal and, thus, have a negligible impact on revenues.

Additionally, DLS notes that the bill *requires* the board to charge a fee for granting a compact privilege. Therefore, board revenues increase minimally from such a fee. Furthermore, individuals not currently licensed in Maryland may seek a compact privilege in order to work across state lines and pay the associated fee. Ultimately, any impact on board special fund revenues is anticipated to be minimal unless a significant number of applications are received.

State Expenditures: As DLS estimates that the number of individuals who will seek a compact privilege to work in Maryland is likely be minimal, any impact on board expenditures can likely be absorbed with existing resources. If applications increase significantly, any additional administrative impact can be covered by the fee established by the board for each compact privilege issued and renewed, as required under the bill. The board advises that it does not foresee additional costs for data systems related to participation in the licensure compact.

Additional Information

Prior Introductions: None.

Cross File: HB 648 (Delegate Bagnall, *et al.*) - Health and Government Operations.

Information Source(s): Maryland Department of Health; Physical Therapy Compact Commission; Department of Legislative Services

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