



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 862

PRINTERS NO. 976

PRIME SPONSOR: Barrar

COST / (SAVINGS)

FUND	FY 2020/21	FY 2021/22
Professional Licensure Augmentation Account	Minimal	Minimal

SUMMARY: Authorizes the Commonwealth of Pennsylvania to enter into the Physical Therapy Licensure Compact. This legislation would take effect immediately.

ANALYSIS: The legislation would create the Physical Therapy Licensure Compact Act. It would permit the Governor to enter into the Physical Therapy Licensure Compact with one or more U.S. states. The compact would have to be substantially similar in form to the model compact legislation issued by the Physical Therapy Compact Commission. In order to participate in the compact, states must adopt specific language. Key points of the model compact language are as follows:

Compact Rules: In order to participate in the compact, Pennsylvania must:

- Participate in the Commission's data system.
- Have a system in place for receiving and investigating complaints about licensees.
- Notify the Commission if any adverse action was taken against a licensee, or if an investigation is launched against a licensee.
- Use a recognized national examination for licensure.
- Conduct federal criminal background checks and use the results to make licensing decisions.
- Have continuing education requirements.
- Grant any compact privileges to anyone holding a valid license in another compact state.

Licensee Requirements: In order to enjoy compact privileges, a Pennsylvania resident must:

- Have a valid physical therapist license with no board-imposed limitations in Pennsylvania.
- Have not had any adverse licensing actions against him within the past two years.
- Notify the Commission that he is seeking compact privileges.

The individual may be required to demonstrate his knowledge of the laws and rules regarding physical therapy in the remote states in which he plans to practice.

Applicable Laws: When a Pennsylvania licensee is providing physical therapy in another compact state, the licensee must abide by the laws and regulations of the other state and is subject to the control of that state's regulating body. The following apply:

- The remote state would have the ability to remove a Pennsylvania licensee's compact privileges for that specific state or take other disciplinary actions.
- If an individual's Pennsylvania license has restrictions placed on it, the individual loses his compact privileges until the restrictions are removed and two years have passed since the date the restrictions were activated.
- If an individual loses his compact privileges in a remote state, privileges can be restored once the individual pays all fines and fees, the time restriction set in place by the remote state has expired, and two years have passed since the date of the adverse action.

Military: Active duty military licensees and licensees who are military spouses may designate any of the following as their home state as applicable:

- Home of record.
- Permanent change of station.
- State of current residence.

Adverse Actions: The following apply regarding disciplinary actions against a licensee:

- Pennsylvania would have the sole authority to take disciplinary action against Pennsylvania licensees.
- Pennsylvania would be able to take disciplinary action against one of its licensees based on an investigation conducted by another state.
- Compact states still have the right to impose alternative sanctions on licensees, so long as the licensee does not practice in any other compact state during the period of alternative sanction.
- Any compact state is permitted to investigate alleged violations of physical therapy laws and regulations by a licensee in any other member state.
- A remote state investigating a licensee for alleged violations has the ability to issue subpoenas and call witnesses and may recover costs of the investigation from the licensee.
- Compact states may conduct a joint investigation into alleged violations by a licensee.

Commission Structure: Each member state has one delegate selected by the state's licensing board who must be a current member of the licensing board who is a physical therapist, physical therapist assistant, public member, or the board administrator. Delegates can be removed according to state law and must be replaced if there is a vacancy. The Commission must elect seven of its members as the executive board. Key powers of the Commission include:

- Bringing and prosecuting legal actions or proceedings on behalf of the Commission.
- Purchasing and maintaining insurance and bonds.
- Hiring employees.
- Accepting donations and grants.

- Leasing and purchasing necessary real property and other items to effectuate the purpose of the Commission.

Finances: The Commission may charge an annual fee to each compact state, or may impose fees on other parties to cover its costs.

Data Collection and Sharing: The Commission is to establish and maintain a database system to keep information pertaining to licensure, disciplinary action and investigative information for licensees in compact states. The database will be accessible to the licensing authorities in the compact states. Each state is to submit such data to the Commission for inclusion in its database. Information about open investigations will be restricted to those states that are party to the investigation.

Rulemaking: The Commission's rulemaking is binding and has the force of law in all compact states. The following apply regarding the rulemaking process:

- A rule promulgated by the Commission can be invalidated if the legislatures in a majority of the compact states pass a law or resolution rejecting the rule within four years of its passage.
- 30 days prior to the meeting at which a rule will be considered, the Commission must post public notice of the rulemaking on its website, and all the compact states must also post notice of the rulemaking in the manner in which the states would typically post notice of proposed rules.
- Anyone may submit comments regarding the proposed rulemaking. Comments are to be made available to the public.
- A public hearing can be held regarding a proposed rule if more than 25 individuals request it, or if a state or federal governmental body or subdivision requests it.
- The Commission can promulgate an emergency rule if needed to protect the health, safety and welfare of the public meet federal deadlines or prevent a loss of funds.

Enforcement: The following apply:

- If the Commission determines a compact state has defaulted in its duties and responsibilities under the compact, the Commission will send notice to the state and all other compact states regarding the nature of the default, and will provide assistance to help the state remedy the default.
- If a state fails to correct the default, it can be removed from the compact by a vote of a majority of member states.
- A state determined to be in default can appeal the decision to the U.S. District Court of the District of Columbia, or whichever federal court in the district in which the Commission has its principal office.
- The Commission will provide for dispute resolution among the member states and is responsible for promulgating regulations for mediation and binding dispute resolution.

- The Commission can vote to initiate legal action in the United States District Court for the District of Columbia, or the federal district where the Commission has its principal offices, against a member state in default to enforce compliance with the provision of the compact.
- The member states can amend the compact.

FISCAL IMPACT: The Physical Therapy Licensure Compact is currently operational with member states actively issuing and accepting compact privileges. The Commission has the authority to levy and collect an assessment from each compact member state or impose fees to cover the cost of operations and activities of the commission. Currently, there is no assessment on the member state licensing boards. The Commission currently charges a \$45 fee which is on all licensees and certification holders in member states to support its administration and operational expenses. Member state licensing boards have the option to impose an additional fee charged for issuing each compact privilege. This fee to purchase compact privilege varies from state to state. A licensee or certification holder will pay an average of \$97 in additional fees per each member state if they choose to participate in interstate practice under the Commission's jurisdiction.

The Department of State anticipates minimal cost to implement the objectives of the compact so that they align with the portability of out-of-state licenses and the expansion of the process of issuing licenses by endorsement as mandated by Act 41 of 2019, which provided for licensee portability from other states. Any cost to the Department can be accommodated within its existing budget.

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House Appropriations Committee (R)

DATE: September 23, 2020

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.