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Sectional Analysis

Senate Bill 74 v. S

“An act relating to an interstate physical therapy licensure compact; relating to the licensure of physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants; and providing for an effective date.”

Section 1: Amends AS 08 (Business and Professions) .84 (Physical Therapists and Occupational Therapists) .010 (Creation and membership of board).

Page 1, line 5, through page 2, line 8: Adds implementation of the Interstate Physical Therapy Licensure Compact to the list of duties of the State Physical Therapy and Occupational Therapy Board.

Section 2: Amends AS 08 (Business and Professions) .84 (Physical Therapists and Occupational Therapists) .030 (Qualification for licensing).

Page 2, line 9, through line 28: Adds section (a)(4) which requires an applicant for a physical therapist and a physical therapist assistant license, who is not a graduate of a school located outside of the United States, to be fingerprinted and pay fees for a criminal background check.

Page 2, line 29, through page 3, line 16: Adds section (b)(4) which requires an applicant for an occupational therapist or occupational therapist assistant license, who is not a graduate of a school located outside of the United States, to be fingerprinted and pay fees for a criminal background check.

Section 3: Amends AS 08 (Business and Professions) .84 (Physical Therapists and Occupational Therapists) .032 (Foreign-educated applicants).

Page 3, line 17, through page 4, line 15: Adds section (a)(4) which requires an applicant for a physical therapist and a physical therapist assistant license, who is a graduate of a school located outside of the United States, to be fingerprinted and pay fees for a criminal background check.

Page 4, line 16, through page 5, line 10: Adds section (b)(8) which requires an applicant for an occupational therapist or occupational therapist assistant license, who is a graduate of a school located outside of the United States, to be fingerprinted and pay fees for a criminal background check.

Section 4: Amends AS 08 (Business and Professions) .84 (Physical Therapists and Occupational Therapists) .050 (Fees).

Page 5, line 11, through line 20: Adds fees for compact privileges to the list of fees the Department of Commerce, Community, and Economic Development may charge.

Section 5: Amends AS 08 (Business and Professions) .84 (Physical Therapists and Occupational Therapists) .150 (License required; exception).

Page 5, line 21, through line 29: Adds a privilege to practice to the list of exceptions under which someone not licensed in the state may practice physical therapy.

Section 6: Amends AS 08 (Business and Professions) .84 (Physical Therapists and Occupational Therapists) to add Article 3.A Interstate Physical Therapy Licensure Compact.

This section contains the uniform compact language adopted by all states entering the compact.

Page 6, line 1, through line 4: Introduction to compact language.

Page 6, line 5, through line 21: **Compact Section 1. Purpose.** Defines the purpose of the Interstate Physical Therapy Licensure Compact.

Page 6, line 22, through page 8, line 19: **Compact Section 2. Definitions:** Definition Section.

Page 8, line 20, through page 9, line 14: **Compact Section 3. State Participation in the Compact:** Explains requirements the state must meet to participate in the agreement.

Page 8, line 21, through page 9, line 6:

(a) The state must: (1) Participate in the Commission's data system, (2) have a mechanism for receiving and investigating complaints, (3) notify the Commission of adverse actions and share investigation information in regards to a licensee, (4) use a FBI records search for a criminal background check in making licensure decisions, (5) comply with the rules of the commission, (6) utilize a nationally recognized examination as a requirement for licensure, and (7) have a continuing competency requirement.

Page 9, line 7, through line 10:

(b) The state must have the authority to obtain biometric-based information, such as fingerprints, for applicants.

Page 9, line 11, through line 13:

(c) The state must grant a privilege to practice to a valid licensee.

Page 9, line 14

(d) The state may charge a fee for a privilege to practice.

Page 9, line 15, through page 10, line 28: **Compact Section 4. Compact Privilege:** Explains the requirements for obtaining a privilege to practice.

Page 9, line 16, through line 31:

(a) Set the terms which a licensee must meet in order to obtain a compact privilege.

Page 10, line 1, through line 3:

(b) A compact privilege expires when an underlying license expires.

Page 10, line 4, through line 5:

(c) A licensee operating in a remote state is subject to the laws of the remote state.

Page 10, line 6, through line 12:

(d) A licensee operating in a remote state is subject to the remote's states regulating authority. The remote state may remove a licensee's privilege to practice.

Page 10, line 13, through line 16:

(e) A licensee loses their compact privileges if their home state license is encumbered.

Page 10, line 17, through line 19:

(f) Sets terms by which a licensee can regain a compact privilege after their license is encumbered.

Page 10, line 20, through line 26:

(g) If a licensee loses their compact privilege in a remote state, they will lose their compact privilege in all other remote states until the conditions in this section are met.

Page 10, line 27, through line 28:

(h) A licensee must meet the requirements in section (4)(g) and (4)(a) to regain a compact privilege.

Page 10, line 29, through page 11, line 4: Compact Section 5. Active Duty Military Personnel or their Spouses: Explains what counts as a home state for active duty military members and their spouses.

Page 11, line 5, through page 12, line 11: Compact Section 6. Adverse Actions: This section explains how the compact, home, and remote states will conduct and report adverse actions. As well as the consequences for a physical therapist or physical therapist assistant who receives adverse actions.

Page 11, line 6, through line 7:

(a) A home state has exclusive power to imposes adverse action against a license issued in the home state.

Page 11, line 8, through line 10:

(b) A home state may take action based on the investigation of a remote state, but it must follow its own rules and procedures.

Page 11, line 11, through line 16:

(c) Member states may use an alternative program to disciplinary action. A licensee must agree to not practice in another member state while in the alternative program unless they obtain authorization from the remote state.

Page 11, line 17, through line 20:

(d) A member state may investigate a licensee or privilege to practice holder's violations in other member states.

Page 11, line 21, through page 12, line 4:

(e) A remote state may

- (1) Take adverse action as laid out in Section 4(d) against a privilege to practice in the remote state.
- (2) Issue subpoenas in the course of their investigations.
- (3) Recover costs of the investigation from the licensee.

Page 12, line 5, through page 12, line 11:

(f) Joint investigations:

- (1) Member states may participate in joint investigations.
- (2) Member states shall share information regarding investigations in compliance with the Compact.

Page 12, line 12, through page 18, line 12: Compact Section 7. Establishment of the Physical Therapy Compact Commission: This section lays out parameters for the Physical Therapy Compact Commission.

Page 12, line 14, through line 23:

(a) The Compact member states have established the Physical Therapy Compact Commission. Creation of this commission is not a waiver of sovereign immunity.

Page 12, line 24, through page 13, line 10:

(b) Each member state is entitled to one delegate selected from the state licensing board by the state licensing board. They are entitled to a vote regarding creation of rules and bylaws and must be allowed to participate in the business of the commission. The commission must meet at least once per year.

Page 13, line 11, through page 14, line 19:

(c) Describes the duties and powers of the Commission.

Page 14, line 20, through page 15, line 16:

(d) Describes the duties, powers, and composition of the Executive Board, as established by the Commission.

Page 15, line 17, through page 16, line 24:

(e) Describes parameters of meetings of the Commission.

Page 16, line 25, through page 17, line 15:

(f) Describes the how the Commission will be financed and how and what records must be kept. Requires the commission to be audited yearly by a certified or licensed public accountant.

Page 17, line 16, through page 17, line 12:

(g) Defines when the Commission, its members officers, executive director, employees, or its representatives have immunity. Defines when the entities must be defended by the Commission and when they must be provided indemnification by the commission.

Page 18, line 13, through page 19, line 10: Compact Section 8. Data System This section denotes the requirement of sharing licensee information for all compact states. Notwithstanding any other provision of state law to the contrary, a compact state shall submit a uniform dataset to the Coordinated Database on all PTC physical therapist and physical therapist assistants to whom this compact is applicable as required by rules of the Commission. This database will allow for the expedited sharing of adverse actions against compact physical therapist and physical therapy assistants. The coordinated database information will be expunged by the law of the reporting compact state.

Page 18, line 14, through line 17:

(a) Requires the Commission to create and maintain a licensee database and reporting system for information on licensed individuals in member states.

Page 18, line 18, through page 18, line 29:

(b) Requires the member states to submit relevant data to the data base on all individuals to whom the Compact applies.

Page 18, line 30, though line 31:

(c) Requires data in the data system only be shared with party states.

Page 19, line 1, through line 4:

(d) Requires the Commission to notify any member states of any adverse action taken against a licensee (or person applying for a license).

Page 19, line 5, through line 7:

(e) Member states may designate certain information that may not be shared publicly without express permission of the contributing state.

Page 19, line 8, through line 10:

(f) Any information submitted that is required by law to be expunged must be removed from the system.

Page 19, line 11, through page 21, line 31: Compact Section 9. Rulemaking: This section describes the process for creating rules that will govern compact operations once the compact is accepted by the first ten states.

Page 19, line 12, through line 14:

(a) Allows the Commission to exercise rulemaking power. Rules are binding on the date specified in rule.

Page 19, line 15, through line 18:

(b) Allows a majority of legislatures of member states to reject a rule.

Page 19, line 19, through line 20:

(c) Specifies that rules or amendments must be adopted at a regular or special meeting of the commission.

Page 19, line 21, through line 29:

(d) Provides process for a Notice of Proposed Rulemaking as related to promulgation and adoption of a final rule or rules.

Page 19, line 30, through page 20, line 7:

(e) Specifies what the Notice of Proposed Rulemaking must include.

Page 20, line 8, through line 10:

(f) Requires the Commission to allow a person to submit public testimony and information on a rule which shall be made available to the public prior to adoption of a rule.

Page 20, line 11, through line 15:

(g) Requires the Commission to hold a public hearing prior to adoption of a proposed rule if one is requested by: at least 25 people, a state or federal subdivision or agency, or an association with at least 25 members.

Page 20, line 16, through line 31:

(h) Sets out parameters by which a public hearing must be held, noticed, and recorded.

Page 21, line 1, through 3:

(i) Requires the committee to consider all written and oral comments received on a rule.

Page 21, line 4, through line 6:

(j) Allows the Commission to proceed with promulgation of a rule with no public hearing if no request for a public hearing is received.

Page 21, line 7, through line 9:

(k) The Commission shall, based on majority vote of all members, take action on a rule and effective date based on the rulemaking record and the full text of the rule.

Page 21, line 10, through 21:

(l) Stipulates that certain rulemaking requirements may be waived in the case of an emergency, especially as those requirements pertain to public notice.

Page 21, line 22, through 31:

(m) Provides a process for fixing a scrivener's error in an adopted rule.

Page 22, line 1, through page 24, line 1: Compact Section 10. Oversight, Dispute Resolution, and Enforcement: This section details the oversight and enforcement of the compact by member states.

Page 22, line 2, through 15:

(a) Requires member state's executive, legislative, and judicial branches to enforce the Compact and rules of the Compact. Requires states to take judicial notice of the Compact and rules in any relevant judicial or administrative proceeding in a member state. Allows the Commission to receive service of process in any such proceeding.

Page 22, line 16, through 23, line 13:

(b) Sets a process by which a state may be terminated from the Compact if found in default of the Compact.

Page 22, line 14, through line 19:

(a) Requires the Commission to, upon request of a member state, attempt to resolve disputes related to the compact between member states or between member states and non-member states.

Page 22, line 20, through page 24, line 1:

(c) Allows the Commission to enforce the provisions and rules of the Compact.

Page 24, line 2, through line 30: Section 11. Date of Implementation of the Interstate Commission for Physical Therapy Practice and Associated Rules, Withdrawal, and Amendment: This section details when the Compact and rules become effective.

Page 24, line 5, through 10:

(a) This Compact becomes effective on the date of enactment in the tenth state.

Page 24, line 11, through 15:

(b) Any state which joins the Compact after the Compact's first adoption of rules is subject to rules already adopted by the Commission.

Page 24, line 16, through line 23:

(c) Provides information on how a state may withdraw from the Compact.

Page 24, line 24, through 27:

(d) Clarifies that nothing in this compact prohibits member states from making agreements with non-member states, so long as not in conflict with this compact.

Page 24, line 28, through 30:

(e) Sets process by which the Compact may be amended by member states.

Page 24, line 31, through page 25, line 9: Section 12. Construction and Severability: This section states that the compact shall be liberally construed to effectuate the purpose thereof. If this Compact is contrary to the constitution of any state member, the compact shall remain in full force and effect as to the remaining compact states.

Section 7: Amends AS 12 (Code of Criminal Procedure) .62 (Criminal Justice Information and Records Checks) .400 (National criminal history records checks for employment, licensing, and other noncriminal justice purpose).

Page 25, line 10, through page 27, line 15: Adds section (a)(23), adding physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants to the list of fingerprints that may be submitted to the FBI for a national criminal history check.

Section 8: Amends uncodified law. Sets transition language for physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants who are currently licensed who have not been fingerprinted. Allows them to continue to practice.

Section 9: Effective date. Sets an effective date for this legislation of July 1, 2024.