

To: House Health and Human Services Committee  
Chairperson: Representative Hawkins

From: Kathleen Selzler Lippert, JD Executive Director  
Kansas State Board of Healing Arts

Date: February 5, 2018

Subject: HB 2471 PT Compact  
  
Neutral (verbal and written)

The Kansas State Board of Healing Arts (KSBHA) appreciates the opportunity to provide testimony on HB 2471. The KSBHA presently licenses and regulates multiple health care professions. The mission of the KSBHA is to safeguard the public and strengthen those who practice the healing arts.

HB 2471 creates the Physical Therapy (PT) Compact and authorizes criminal history record checks for the PT profession.

HB 2471 and the provisions of the PT Compact provide for pure reciprocity with other compact states. It does not require minimum state standards or provide any specific exclusions for criminal conduct or licensure discipline if older than two years.

HB 2471 prohibits a compact state from including state specific requirements. Kansas Physical Therapy practice act currently requires a PT to have malpractice insurance; K.S.A. 65-2920. If HB 2471 is enacted, a PT who holds a PT Compact Privilege could not be required to have malpractice insurance. However, a PT who hold a Kansas PT License is required to have malpractice insurance. A Kansas PT, who was not part of the Compact would be held to a higher standard.

- Whether a specific medical profession should or should not be required to hold malpractice insurance is a policy decision under the jurisdiction of legislative authority.
- In recent years, the PT scope of practice has been expanded to include direct access and dry needling.

HB 2471 requires a compact state to complete a fingerprint criminal history check; however, the compact does not provide any limitations if a person has a criminal history. Further, the vast majority of states have not historically required criminal history checks for this profession. Thus, most compact privilege holders would not have been actually subject to a criminal history check prior to licensure in their home state.

**Health Professional Compacts**

	<b>Interstate Medical Licensure Compact (IMLC)</b>	<b>Enhanced Nurse Licensure Compact (eNLC)</b>	<b>Physical Therapy Licensure Compact</b>	<b>Notes</b>
<b>Applicable Health Profession</b>	MDs and DOs (Physician Only)	Registered Nurses (RNs) and Licensed Practical / Vocational Nurses (LPN / VN)	Physical Therapists and Physical Therapist Assistants	N/A
<b>Member States (as of January 2018)</b>	22	29	15	N/A
<b>Licensure Issuance Process / Model</b>	<b>Expedited Licensure [Gold Standard Reciprocity]</b> Each selected Compact Member State issues a full and unrestricted license. Any physician from a Compact state who <b><u>meets the qualifications of the Compact will be eligible for licensure in any other Compact state</u></b> and responsible for obeying all statutory laws and administrative rules of the state.	<b>Multistate Licensure [Pure Reciprocity]</b> A multistate license to practice registered or licensed practical/vocational nursing issued by a home state to a resident in that state <b><u>will be recognized by each party state as authorizing a nurse to practice</u></b> as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each party state.	<b>Compact Privilege (CP) [Pure Reciprocity]</b> An individual who meets the criteria may obtain a “Compact Privilege” in any other member state. The Compact Privilege authorizes the individual to practice in that state. The individual <b><u>must obtain a Compact Privilege in each member</u></b> state he or she wants to practice in. <ul style="list-style-type: none"> <li>• Some states have CE requirements lower than Ks.</li> <li>• Not all states verify <u>all</u> licenses</li> <li>• 16 states limit number of fails on national exam</li> </ul>	License to practice v. Privilege to practice <ul style="list-style-type: none"> <li>• A license is the document that represents the privilege to practice; unclear why this distinction is made.</li> <li>• Important distinction. If a person does not hold a Ks License, then not every Ks. requirement applies; like malpractice insurance or CE requirements.</li> </ul>
<b>Practice Occurs at the Location of the Patient:</b>	Yes	Yes	Yes	Important aspect and critical facet for compact

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<b>Eligibility Criteria</b>	<p>A physician <u>must hold a full, unrestricted</u> medical license in a Compact Member State that is available to serve as a State of Principal Licensure (SPL) AND at least one of the below must apply:</p> <ol style="list-style-type: none"> <li>Primary residence is in the SPL</li> <li>At least 25% of practice of medicine occurs in the SPL</li> <li>Employer is located in the SPL</li> <li>SPL is state of residence for U.S. federal income tax purposes</li> </ol> <p>A physician must:</p> <ul style="list-style-type: none"> <li>- Have <u>graduated from an accredited medical school</u>, or a school listed in the International Medical Education Directory</li> <li>- <u>Successful completion of ACGME or AOA accredited graduate medical education</u></li> <li>- <u>Passed each component of the USMLE, COMLEX-USA, or equivalent in no more than three attempts</u></li> <li>- Hold a <u>current specialty certification</u> or time-unlimited certification by an ABMS or AOABOS board</li> <li>- <u>Must not have any history of disciplinary actions toward your medical license</u></li> <li>- <u>Must not have any criminal history</u></li> <li>- <u>Must not have any history of controlled substance actions toward license</u></li> <li>- <u>Must not currently be under investigation</u></li> </ul>	<p>An applicant must meet the requirements for licensure in the home state (state of residency)</p> <ol style="list-style-type: none"> <li><u>Have graduated from a board approved education program</u> or from an international education program</li> <li><u>Has passed an English proficiency examination</u> (applies to graduates of an international education program not taught in English or if English is not the individual's native language)</li> <li><u>Has passed an NCLEX-RN of NCLEX-PN examination</u> or predecessor exam</li> <li><u>Is eligible for or holds an active, unencumbered license</u> (i.e., without active discipline)</li> <li><u>Has submitted to state and federal fingerprints-based on criminal backgrounds checks</u></li> <li><u>Has no state or federal felony convictions</u></li> <li><u>Has no misdemeanor conviction related to the practice of nursing</u></li> <li>Is not currently a participant in an alternative program</li> <li>Is required to self-disclose current participation in an alternative program</li> <li>Has a valid United States Social Security number</li> </ol>	<p>The PT or PTA <u>must hold a full, unrestricted license</u> in their primary state of residence (home state) and:</p> <ol style="list-style-type: none"> <li><u>Have no encumbrance on any state license</u></li> <li><u>No adverse action against any license or compact privilege within the <b>previous 2 years.</b></u></li> <li><u>Meet any jurisprudence requirements of the remote state.</u></li> </ol>	<p>PT Compact does not set minimum standards for home state license qualifications.</p> <ul style="list-style-type: none"> <li>• Some states have CE requirements lower than Ks.</li> <li>• Not all states verify <u>all</u> licenses</li> <li>• 16 states limit number of fails on national exam</li> <li>• 9 states require fingerprint / background check</li> </ul> <p>Physician and nurse compacts set minimum standards, such as:</p> <ul style="list-style-type: none"> <li>• Graduated from accredited education program</li> <li>• Successfully passed nationally recognized examination</li> <li>• Passed background check; no felony convictions or misdemeanor convictions related to profession.</li> <li>• <u>Nursing:</u> <ul style="list-style-type: none"> <li>○ No active discipline,</li> <li>○ Not currently in "alternative" program</li> </ul> </li> <li>• <u>Physician:</u> <ul style="list-style-type: none"> <li>○ Hold nationally recognized specialty certification,</li> <li>○ No discipline; <b>ever</b>,</li> <li>○ No DEA action,</li> <li>○ Not currently under investigation.</li> </ul> </li> </ul>

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<b>If discipline after obtaining Compact license or privilege; then ...</b>	Not eligible to obtain future compact license	Unknown	PT Compact provides the Licensee shall lose their Compact privileges until the home state license is no longer encumbered and two (2) years have passed from the date of the adverse action. Then ... Licensee is eligible to obtain PT compact privilege.	However, the PT Compact does not require remediation specific to the issues in the underlying discipline and does not require evaluation to ensure person has maintained competencies to practice after being out of practice for 2 years.
<b>State Specific Criteria allowed under compact:</b>	Yes	Unknown	No	PT Compact prohibits states to require any additional conditions for compact privilege to practice. <ul style="list-style-type: none"> <li>• Ks requires PTs to hold malpractice insurance.</li> <li>• PT Compact would <u>prohibit</u> Ks from requiring PT holding Compact privilege from maintaining malpractice insurance as a condition to practice in Kansas.</li> </ul>
<b>Information sharing</b>	Allows compact states to share information and / or honor subpoenas	Unknown	Requires compact states to share all investigative information once probable cause for discipline is determined.	States have dramatically different confidentiality laws. For example, the Ohio board must discuss licensee health conditions [ <i>like depression or other conditions</i> ] in public session and all investigation materials are discoverable in real time. <ul style="list-style-type: none"> <li>• Ks allows regulatory boards to access peer review; but, peer review is never public or discoverable to promote Just Culture, disclosure, and practice or system improvements. If required to</li> </ul>

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				provide to other Compact states, this would be accessible to public.
<b>Process</b>	The Application process is expedited by leveraging the physicians' existing information previously submitted in their SPL. The SPL will verify the physician's information and conduct a fresh background check. Once qualified, the Physician may select any number of Compact states for which they desire to practice.	Upon application for a multistate license, the licensing board in the issuing party shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of a license issued by another state and meets the additional requirements of a multistate license.	<p>Each member jurisdiction must provide licensure and disciplinary information weekly to PT Compact.</p> <p>The candidate applies through the PT Compact system which verifies his/her eligibility.</p> <p>Upon payment of both the Commission and State fee, the system issues the privilege. The Compact Commission then remits member states their portion of the fees.</p>	<p>Both physician and nursing compact require the home state to verify qualifications for compact eligibility; like, ensure</p> <ul style="list-style-type: none"> <li>• Minimum education</li> <li>• National testing requirements</li> <li>• Lack of criminal history</li> <li>• No current investigation</li> </ul> <p>Compact system for PT verifies applicant holds currently unencumbered or no discipline in last 2 years, license in home state</p>
<b>Background Check Required</b>	<p>Yes</p> <ul style="list-style-type: none"> <li>• Must not have any criminal history</li> <li>• Criminal history disqualifies person from Compact eligibility</li> </ul>	<p>Yes</p> <ul style="list-style-type: none"> <li>• Must not have any felony convictions</li> <li>• Must not have any misdemeanor convictions related to the practice</li> </ul>	<p>Member states must require a background check for licensure; but, individuals seeking a <u>Compact privilege do not have to go through a Criminal Background Check</u></p> <ul style="list-style-type: none"> <li>• Requires background check</li> <li>• A criminal history has no impact on PT Compact eligibility</li> </ul>	<p>PT Compact:</p> <ul style="list-style-type: none"> <li>• Home state must require background check</li> <li>• Only 9 States currently require Fingerprints</li> <li>• Ks not require fingerprints</li> <li>• Ks may start including background check; but, only those who are licensed after that point would it. [same for other jurisdictions]</li> <li>• Person with PT Compact Privilege may or may not have a criminal background check when originally licensed in home state.</li> </ul>

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				<ul style="list-style-type: none"> <li>PT Compact privilege does not exclude any person with felony criminal history or other criminal history.</li> </ul>
<b>Telemedicine authorized</b>	Yes	Yes	Yes	Compact privilege would authorize holder to practice any modality that is legal or in scope of practice for jurisdiction where patient care is provided.
<b>Commission composition</b>	<p>Two representatives from each adopting state. Commissioners must be either:</p> <ul style="list-style-type: none"> <li>- A physician member of a medical or osteopathic physician licensing board</li> <li>- A public member of such a board, or</li> <li>- An executive director or administrator of such a board.</li> </ul> <p>If a state has only one medical board, then both Commissioners must come from that board.</p> <p>If a state has two boards, a medical board, and an osteopathic board, then each board gets one seat.</p>	<p>One representative from each member state. The head of the state licensing board or designee shall be the administrator of the Compact for each party state.</p>	<p>One representative from each member state appointed by the licensing board. The delegate may be a PT, PTA or public member of the licensing board or a board administrator.</p> <p>One ex-officio delegate from the professional association (APTA)</p> <p>One ex-officio delegate from the FSBPT</p>	Similar composition; representation from each state
<b>Fees</b>	<p>\$700.00 fee PLUS the cost of a license(s) selected to practice.</p> <ul style="list-style-type: none"> <li>Compact is funded by practitioners</li> </ul>	<p><u>Each member state pays a \$6000 annual membership fee.</u> License fees vary by state. Licensees do not pay any fees directly to the Commission</p> <ul style="list-style-type: none"> <li>Compact is funded by \$6,000 annual assessment to state licensing boards.</li> </ul>	<p>\$45 to the PT Commission plus any fee set by the member state; and may assess fees to state board.</p> <ul style="list-style-type: none"> <li>Compact is funded by practitioners</li> <li>Compact may impose and assess fee to state licensing boards</li> </ul>	Different funding mechanisms.
<b>Number of States Initially</b>	7	26	10	

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<b>Required to “Activate” Compact</b>				
<b>Available to Providers Beginning In</b>	April 2017	January 2018	April 2018	
<b>Executive Director</b>	Marschall Smith	Jim Puento	Thomas J. (TJ) Cantwell	
<b>Chair</b>	Mark Bowden (Iowa)	Sue Tedford (AR)	Toy Costales (OR)	
<b>Website</b>	<a href="http://www.imlcc.org">www.imlcc.org</a>	<a href="http://www.nursecompact.com">www.nursecompact.com</a>	<a href="http://ptcompact.org/">http://ptcompact.org/</a>	

**Federation of State Boards of Physical Therapy  
Jurisdiction Licensure Reference Guide  
Topic: Initial License Requirements**

The table below lists the initial licensure requirements for PTs in each jurisdiction.

<b>PT Summary: Jurisdiction Requirements for Initial Licensure</b>	
SSN	41
Fingerprint	9
Insurance	1
Minimum Age	17
Criminal Records Check	15
Federal records check only	0
Jurisdiction records check only	4
Both	11

STATE	SSN	Fingerprint	Insurance	Minimum Age	Criminal Record Checks	Federal Records Check	Jurisdiction Records Check
AL	Yes				No		
AK	Yes				No		
AZ	Yes				No		
AR	Yes			21	No		
CA	Yes	✓			Yes	✓	✓
CO	Yes				No		
CT	Yes		✓		No		
DE	No Data Provided						
DC	Yes	✓		18	Yes	✓	✓
FL	Yes			18	No		
GA	Yes				No		
HI	Yes			18	No		
ID	No			21	No*		



**Federation of State Boards of Physical Therapy  
Jurisdiction Licensure Reference Guide  
Topic: Retaking NPTE**

The table below lists the requirements for retaking the National Physical Therapy Exam (NPTE) for each jurisdiction.

<b>Summary</b>	
<b>Number of attempts on NPTE limited?</b>	
Yes	16
No	27
<b>Number of attempts allowed before remedial coursework</b>	
One	0
Two	7
Three	5
Board discretion	0
No requirement for remedial coursework after failing NPTE	3
Other	2

STATE	Number of Attempts Limited?	Total Attempts Allowed	Allowed to Fail Once before Remedial Coursework Required	Allowed to Fail Twice before Remedial Coursework Required	Allowed to Fail Three Times before Remedial Coursework Required	Decision under Board Discretion	No Remedial Coursework Requirement	Other
AL	Yes	3					✓	
AK	Yes	3			✓			
AZ	No							
AR	No							
CA	No							
CO	No							
CT	No Data Provided							
DE	No Data Provided							

**Federation of State Boards of Physical Therapy  
Jurisdiction Licensure Reference Guide  
Topic: Retaking NPTE**

The table below describes how the total number of NPTE attempts is defined for each jurisdiction.

<b>Summary: Limits on number of times NPTE can be taken</b>	
Number of NPTE attempts in jurisdiction	4
Number of NPTE attempts in jurisdiction per year	2
Number of NPTE attempts in all jurisdictions	4
Other	4

STATE	Limit Attempts in Jurisdiction	Limit Attempts in Jurisdiction/Year	Limit Attempts in all Jurisdictions	Other	Comments
AL	✓				
AK		✓			The exam must be passed within 12 months from the first exam. The applicant is allowed to take the exam 2 more times if they fail the first time. After failing the test 3 times, they can then reapply to take the exam with a new application.
AZ					
AR					
CA					
CO					
CT					
DE	No Data Provided				

**Federation of State Boards of Physical Therapy  
Jurisdiction Licensure Reference Guide  
Topic: Licensure Endorsement**

The table below lists the licensure requirements for already-licensed PTs and PTAs applying for licensure in another jurisdiction.

<b>Summary</b>	
Number of jurisdictions requiring license verification from:	
All jurisdictions in which a license was ever held	36
All jurisdictions in which current licenses are held	4
<b>Any one jurisdiction in which a license has been held</b>	<b>4</b>
Jurisdictions requiring the verification be sent from specific source	
Directly from the jurisdiction	37
From the applicant	2

STATE	License verification required from other jurisdictions?	License Verification required from:			Source		
		All jurisdictions in which a license has ever been held	All jurisdictions in which current licenses are held	Any one jurisdiction in which a license has been held	Jurisdiction	Applicant	Comments
AL	Yes		✓		✓		
AK	Yes	✓			✓		
AZ	Yes	✓			✓		
AR	Yes		✓		✓		
CA	Yes	✓			✓		
CO	Yes	✓					The applicant must list all licenses held in other states on their application. We will request verification from the applicant if needed.
CT	Yes	✓			✓		
DE	Yes	✓					