



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
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MANPOWER AND
RESERVE AFFAIRS

March 1, 2023

The Honorable Senator Jarrett Keohokalole
Chair, Senate Committee on Commerce and Consumer Protection
415 South Beretania St.
Honolulu, HI 96813

SUBJ: DoD Support – SB 668 SD1 (Relating to the Physical Therapy Compact)

Dear Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committees:

On behalf of the U.S. Department of Defense (DoD) and military families, I am writing to express support for the policy addressed in Senate Bill 668, which would allow the Governor to enter the State into the multi-state Physical Therapy Licensure Compact, enabling eligible physical therapists licensed in Hawaii to practice under a multi-state licensure privilege in other party states, and allow eligible physical therapists licensed in other party states to practice under the same privilege in Hawaii.

DoD has advocated for improved licensure and career portability for military Service members and their spouses for several years. Military spouses are disproportionately affected by state-specific professional licensing requirements that can cause delays and gaps in employment, with thirty-six percent requiring a state license to practice in their professions and an annual cross-state relocation rate over ten times higher than their civilian counterparts.

State policies enacting interstate licensure compacts, such as the Physical Therapy Licensure Compact (PTLC), relieve one of the many stressors of frequent military moves by enabling military spouses to transfer their licenses more quickly across state lines and obtain employment as soon as they relocate to a new state. These policies facilitate greater career sustainability for military spouses, improving their families' financial security and overall resilience.

Finally, interstate licensure compacts benefit not only military spouses, but also apply to all eligible professionals to include active-duty Service members, members of the reserve components, veterans, and civilians. By enacting the PTLC policy, Hawaii would have the opportunity to increase its healthcare workforce available to serve the local community while supporting military families. Twenty-eight states and the District of Columbia have enacted legislation to participate in the PTLC thus far, and eleven additional states including Hawaii have introduced legislation to enact this compact in 2023.

In closing, the Department of Defense is very appreciative of Hawaii's ongoing commitment and efforts to support members of the military and their families who sacrifice much in service to our country. Thank you for providing me the opportunity to provide comments in support of this policy proposal.

Sincerely,

A handwritten signature in black ink that reads "Kelli May Douglas".

Kelli May Douglas
Pacific Southwest Regional Liaison
DoD, Military Community & Family Policy
571-265-0075



February 28, 2023

RE: Senate Bill 668 public hearing

Chair Keohokalole and Members of the Senate Committee on Commerce and Consumer Protection:

The Physical Therapy Compact Commission (PTCC) is the governmental organization created by and consisting of 34 jurisdictions that chose to join the Physical Therapy Compact (PTC) by enacting the same model legislation the Hawaii legislature is now considering. The PT Compact's purpose is to increase consumer access to physical therapy services by reducing regulatory barriers to interstate mobility and cross-state practice all while maintaining the high standards of qualifications for physical therapy providers.

The Compact is designed to achieve the following objectives:

1. Increase public access to physical therapy services in the State of Hawaii by providing for the mutual recognition of other member state licenses;
2. Enhance the state of Hawaii's ability to protect the public's health and safety;
3. Support spouses of relocating military members;
4. Enhance the exchange of licensure, investigative, and disciplinary information between member states; and
5. Allow a remote state to hold a provider of services with a compact privilege in the State of Hawaii accountable to the state's practice standards.

To be eligible for a compact privilege under the terms and provisions of the Compact, the licensee must hold a license in the home state. Every state member must utilize a recognized national examination as a requirement for licensure pursuant to the rules of the Commission. Additionally, every state member must require continuing competence activities for renewal of licensure. For an applicant to access the national licensure examination, they must have completed an accredited or substantially equivalent academic program. Additionally, to be eligible for a Compact Privilege, licensees must be free of encumbrance on any state license and have not had any adverse action against any license or compact privilege within the previous 2 years.

The PTC addresses concerns about the challenges that the current model of licensure has regarding access to patient care. Although new care delivery models, ease of movement of consumers and providers, workforce issues, and new technologies brought opportunities for better consumer access, these opportunities often stopped at state borders. Decreased barriers to licensing and mobility may lead to improved access to care especially in rural or underserved areas.

Participation in the PTC preserves the regulatory authority of the Hawaii Board of Physical Therapy to protect public health and safety through the current system of state licensure. By entering into a Compact with other states, unlike national licensure initiatives, Hawaii retains sovereign authority to determine the requirements for licensure in the state, as well as maintaining the state's scope of practice/work for any Physical Therapist (PT) or Physical Therapist Assistant (PTA) coming to Hawaii on a Compact Privilege, which is the legal equivalent of a license under the terms of the PTC.

The PTC administration and governance is handled by the PT Compact Commission. The PTCC is a joint public agency made up of representatives from each member state, independent of any professional association or national regulatory body. Hawaii, like all member jurisdictions, would be entitled to one voting delegate who, by rule, is required to be a current Hawaii Board of Physical Therapy member or administrator. The Compact Commission's responsibilities include verifying the applicant's eligibility for a Compact Privilege per the statute and rules and issuing the Compact Privilege with a unique Compact Privilege number. The members of the Compact Commission, including the Hawaii delegate, evaluate the need for an annual assessment to Compact members each year. Since the inception of the PT Compact, the Commission has voted to have \$0 in annual assessment.

The PTCC is also responsible for updating and maintaining the Rules, Bylaws, and Policies by which the Commission can effectively administer the requirements of the Compact. All amendments to PTCC Rules, Bylaws, and Policies must be passed by the majority of delegates. PTCC rules apply to governance of the PTC and not to the scope of practice of PTs and PTAs in the state.

I would like to also take an opportunity to clarify some of the testimony provided to the Senate Committee on Health and Human Services on February 10. In response to the testimony provided by Complaints and Enforcement Office of the Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs, I want to confirm that the Hawaii Board of Physical Therapy is permitted to charge a fee for the initial purchase AND renewal of a compact privilege under the model compact legislation. In addition, as noted in lines 4-5 of page 9 of the S.D. 1 version of the bill, the compact privilege is valid until the expiration date of the individual's home state license.

She is correct that an individual seeking a compact privilege in Hawaii would not apply to the Hawaii Board. Instead, the individual would submit the application to the PT Compact Commission. The Commission's database, based on the weekly licensure and disciplinary data submitted by member states, can determine if an individual is eligible for a compact privilege. If they are eligible, they will be permitted to purchase the compact privilege and the following day, the Compact Commission will email the board with the list of any compact privileges purchased the previous day. In addition, since the applications for a compact privilege are processed by the Compact and not the board, there should not be a need for any additional staff. Of the 28 members of the Compact who are currently actively issuing and receiving compact privileges, we are unaware of any state requiring additional staff to implement the Compact.

Regarding the sharing of investigative information, one of the great public protection benefits of the Compact is that investigative information can be legally shared between state boards when it otherwise might need to be kept confidential until a final decision has been made by the board. Rule 6.7 states that "A member state shall notify the Commission that investigatory information is available to party states when a member state has determined probable cause exists that the allegations against the licensee may constitute a violation of that member's state statute or regulations. The actual investigative information shall be shared directly with the party state and not through the Commission."

Regarding the indemnification issue, as noted above, the PT Compact has been enacted by 33 other states and the District of Columbia. This issue has not been a concern that was raised by these 34 jurisdictions.

In the testimony of the Board of Physical Therapy, the Board's Executive Officer notes that the board has been unable to share certain information about licensees. By enacting this bill, the board would have the statutory authority to share this information with the compact's database and improve public protection for consumers of physical therapy services. Under the Compact's rules, member states are

required to start using the FSBPT ID as the unique identifier instead of the Social Security Number within two years of joining the Compact.

The Executive Officer also noted that the Board does not currently have the legal authority to require licensure applicants to complete an FBI criminal background check. As she correctly noted, HRS sections 461J-6 and 846-2.7 should be amendment to allow for the FBI criminal background check.

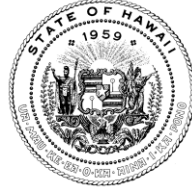
In regards to the request of the Hawaii Association for Justice for the committee to delete paragraph (G)(1) from Section 7 of the model language, if that amendment were to occur and the bill were enacted by the legislature, it is likely that it would be considered a material deviation from the model language, which could negatively impact the ability for Hawaii to be seated as a member of the PT Compact.

The final concern with the current version of the bill is the effective date of 12/31/2050. When a new state enacts the compact legislation, there can be a 12-24 month delay in that state becoming an active compact state. Our process understands that a state might not be ready to become active immediately upon the passage of the legislation. With an effective date 27 years in the future, I would question the benefits of enacting the legislation at this time. As we've done with other new member states, we work collaboratively with the board to make sure they are ready to become active, in some cases this has taken 3 years. With a delayed effective date until the end of 2050, none of this work can occur because the language has not yet gone into effect in state statutes.

Thank you for the opportunity to provide a statement in support of Hawaii becoming a member of the Physical Therapy Compact. The PTCC welcomes the opportunity to answer any questions from the Committee.

Respectfully Submitted,

Jeffrey M. Rosa
PT Compact Administrator



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce and Consumer Protection
Thursday, March 2, 2023
9:30 a.m.
Via Videoconference

On the following measure:
S.B. 668, S.D. 1, RELATING TO THE PHYSICAL THERAPY COMPACT

Chair Keohokalole and Members of the Committee:

My name is Ahlani Quiogue, and I am the Licensing Administrator for the Department of Commerce and Consumer Affairs' (Department), Professional and Vocational Licensing Division. The Department appreciates the intent of and offers comments on this bill.

The purpose of this bill is to allow the Governor to enter the State into the multi-state Physical Therapy Licensure Compact (Compact), which will allow a physical therapist licensed by a home state to practice under a multi-state licensure privilege in each party state. The bill requires the Department to adopt rules to implement and administer the Compact.

The Department appreciates the intent of this bill; however, it must ensure that any such measure does not impact its current budget requests. This measure, if passed out, would be an unfunded mandate that the Division is not fiscally prepared to

address. As related in the Board of Physical Therapy's testimony, at a minimum, general fund appropriations would be needed to allow the Division:

- a. To establish, recruit, and hire an office assistant V (OA-V) to process Compact-related license applications expeditiously. The sum of \$67,876 or so much thereof may be necessary to fund this position.
- b. To make the appropriate updates to its internal database. The required updates may take upwards of 500 support hours to create these new license types and the associated requirements. These hours would be added onto the already extensive daily work of the Division's developer, program analyst, and others outside of the division. Note that these updates would require additional support and maintenance outside of the budget request being made through Department of Commerce and Consumer Affairs' request. The sum of \$75,000 or so much thereof may be necessary to fund this request.

Further, the Division requests a delayed implementation date of July 1, 2025, to ensure that we are able to establish, require, and hire an OA-V, and to make the appropriate updates to the database and create applications.

Thank you for the opportunity to testify on this bill.



SB668SD1, RELATING TO THE PHYSICAL THERAPY COMPACT
Sen CPN Committee Hearing
Thursday, March 2,, 2023- 9:30 AM
Room 229 & Videoconference
Position: SUPPORT

Dear Chair Keohokalole, Vice Chair Fukunaga, and CPN Committee Members:

I am the president of the Hawaii Chapter of the American Physical Therapy Association (APTA Hawaii) which represents the profession of physical therapy in Hawaii. On behalf of APTA Hawaii, I am sending this testimony in strong support of SB668SD1 in which Hawaii would join a compact for physical therapists (PTs) and physical therapy assistants (PTAs) licensed in another state to practice in Hawaii.

There has been chronic shortage of PTs in the State owing in part to, up until recently, the absence of an academic program here. This shortage has impacted the delivery of proper rehabilitation services to the spectrum of our population, especially noted in our neighbor islands, as we treat patients who range from our keiki to kupuna. PTs and PTAs who are already properly licensed in other states would be able to quickly practice here in Hawaii. Instead of waiting for our licensing board to review applications who meet every other month, passage of this bill would unburden employers by having their newly hired employees readily available to treat patients. Consequently, this would facilitate access to necessary healthcare. Something which the COVID pandemic drove home as vital to a functioning healthcare system. Most urgent staffing situations do not rise to the level of an emergency declaration by the Governor.

In terms of commerce and consumer protection, this physical therapy compact bill (SB668) would implement full criminal background checks, vetted by the Federal Bureau of Investigation. In regards to oversight, PTs and PTAs would be granted authorization by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules.

We have been in discussion about this bill with Jeff Rosa who is the PT Compact Administrator and sent written testimony for this bill. We support his testimony with the recommendations for the bill. We agree that the regulating board will not need to hire additional staff for administrative purposes to manage PTs and PTAs with Compact privilege as the PT Compact administration will handle all these responsibilities. Hawaii as part of the Compact would relieve some of the workload of our licensing bureau as fewer would need permanent or temporary licenses.

If you have any questions or concerns, feel free to contact me via president.apta.hawaii@gmail.com or phone 808-546-0937.

Thank you for your time and consideration,

Dr. Nicholas Bronowski, PT
President - APTA Hawaii
Board Certified Clinical Specialist in Orthopaedic Physical Therapy
Adjunct Faculty - Hawai'i Pacific University - Doctor of Physical Therapy Program

**TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) WITH COMMENT TO
SB 668 SD1**

Hearing Date: Thursday, March 2, 2023

Time: 9:30 a.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) providing **COMMENTS** to SB668 SD1, Relating to the recognition of the Physical Therapy Compact (the "Compact").

HAJ understands and appreciates the intent of the measure, however, we **oppose SB 668 SD1** as it would provide members, officers, executive director, employees and representatives of the commission **immunity from suit in their personal or official capacity for any claim for damage to or loss of property or personal injury or other civil liability** caused by arising out of any actual or alleged act, error or omission that occurred with the scope of employment. Under the Compact immunity from tort liability or civil liability resulting in death, injury to persons, or property damage except in cases of intentional or willful or wanton misconduct of that person. This language is overly broad and puts Hawaii residents at risk for injuries that could occur.

Specifically, Section (G)(1) on page 23-24 of the bill provides that:

“The members, officers, executive director, employees and representatives of the commission **shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act**, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities;

provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any **damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.**”

Primarily, our concern is that the bill grants overbroad immunity to officers or employees rendering aid pursuant to the Compact for **negligent acts**. The exceptions to immunity only apply to **intentional or willful or wanton misconduct while omitting negligent acts** that could harm our residents. For example, if an officer or employee rendering aid pursuant to the Compact commits negligent acts while rendering aid, they will be immune under this act – leaving no legal recourse for the individual who was harmed. This immunity would even apply if that same officer or employee, while driving, hits a pedestrian through a failure to exercise due care or negligent maintenance of a vehicle

The standard of care that should be applied in any given situation is based on the specific circumstance. Negligent acts cannot and should not be overlooked, without recourse for those harmed, especially for our residents. HAJ opposes this type of immunity for negligent acts or omissions to preserve the rights of our residents and individuals. While we support intergovernmental cooperation for teachers, it is not necessary to exempt our officers of the Compact from negligent conduct.

HAJ respectfully recommends the bill be amended to delete Section (7)(a) on page 33-34. Thank you for allowing us to testify regarding this measure. Please feel free to contact us should you have any questions or desire additional information.

Testimony of the Board of Physical Therapy

**Before the
Senate Committee on Commerce and Consumer Protection
Thursday, March 2, 2023
9:30 a.m.
Conference Room 229 and Via Videoconference**

**On the following measure:
S.B. 668, S.D. 1, RELATING TO THE PHYSICAL THERAPY COMPACT**

WRITTEN TESTIMONY ONLY

Chair Keohokalole and Members of the Committee:

My name is Cynthia Tamayo, and I am the Chairperson of the Board of Physical Therapy (Board). The Board appreciates the intent of and offers comments on this bill.

The purpose of this bill is to allow the Governor to enter the State into the multi-state Physical Therapy Licensure Compact, which will allow a physical therapist licensed by a home state to practice under a multi-state licensure privilege in each party state.

The Board appreciates the intent of the Compact as it will increase public access to physical therapy services.

The Board has two concerns regarding Hawaii's participation in the Compact as noted on section 3, page 6 of the bill:

A. To participate in the Compact, a state must:

(1) Participate fully in the Commission's Data System, including using the Commission's unique identifier as defined in the Rules.

The unique identifier is the licensee's Social Security Number or their Federation of State Board of Physical Therapy (FSBPT) ID number. We are unable to share licensee's confidential information such as their social security number and we do not maintain the FSBPT ID number. Furthermore, our database does not have a field to enter their FSBPT ID number. These changes can be made, but will take time and money to implement.

(4) Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation

record search on criminal background checks and use the results in making licensure decisions in accordance with Section 3.B.4.;

- A. *Upon adoption of this statute, the member state shall have the authority to obtain biometric -based information from each physical therapy licensure application and submit this information to the Federal Bureau of Investigation (FBI) for a criminal background check in accordance with 28 U.S.C. section 534 and 42 U.S.C. section 14616.*

There is no provision in the Board's statutes or administrative rules that require a criminal background check. Hawaii does not currently require applicants for licensure as a Physical Therapist or Physical Therapy Assistant to complete an FBI criminal background check. Language requiring applicants complete an FBI criminal background check would need to be added by amending Hawaii Revised Statutes (HRS) section 461J-6 and HRS section 846-2.7.

The Board appreciates the current draft's revision addressing comments raised by FSBPT regarding inconsistencies between this bill and their model legislation. The Board is requesting the below change per FSBPT's advice:

- Page 3, line 6: although the model language cites 10 USC Section 1209 and 1211, The word Section is incorrect, it should be cited as Chapter. The correct citation should be 10 USC **Chapter** 1209 and 1211.

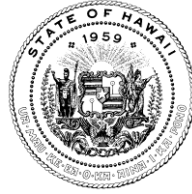
Should the Committee consider passing this bill, the Board in consultation with the Professional and Licensing Division (Division), respectfully requests the following to ensure proper implementation:

1. General fund appropriation to allow the Division:
 - a. To establish, recruit, and hire an office assistant V (OA-V) to process Compact-related license applications expeditiously. The sum of \$67,876 or so much thereof may be necessary to fund this position.
 - b. To make the appropriate updates to its internal database. The required updates may take upwards of 500 support hours to create these new license types and the associated requirements. These hours would be added onto the already extensive daily work of the Division's developer, program analyst,

and others outside of the division. Note that these updates would require additional support and maintenance outside of the budget request being made through Department of Commerce and Consumer Affairs' request. The sum of \$75,000 or so much thereof may be necessary to fund this request.

2. Minimally, a delayed implementation date of July 1, 2025, to ensure that:
 - a. In line with the request above, the Division would need the appropriate time to establish, recruit, and hire and OA-V.
 - b. The appropriate updates are made to the database and applications are created.

Thank you for the opportunity to testify on this bill.



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DIRECTOR | KA LUNA HO'OKELE

DEAN I HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Thursday, March 2, 2023
9:30 a.m.**

**On the following measure:
S.B. 668, S.D. 1, RELATING TO THE PHYSICAL THERAPY COMPACT**

WRITTEN TESTIMONY ONLY

Chair Keohokalole and Members of the Committee:

My name is Esther Brown, and I am the Complaints and Enforcement Officer of the Regulated Industries Complaints Office (RICO), which is an agency within the Department of Commerce and Consumer Affairs (Department). RICO **offers comments** on provisions of the measure that could impact RICO's enforcement authority, practice, or daily operations.

The bill authorizes the Governor to enter into the Physical Therapy Licensure Compact (Compact) on behalf of the State of Hawaii. The Compact allows qualified physical therapists and physical therapist assistants to practice in other Compact member states under a "practice privilege" and without the need to obtain another license locally.

RICO enforces the licensing laws of certain professional and trade industries in the state by investigating and prosecuting misbehaving licensees who fall within the purview of the Board of Physical Therapy (Board). RICO's prosecutorial effort results in disciplinary recommendations that are presented to the Board for final action. The Board,

therefore, sets industry policy and standards that are applied to regulate the industry through the issuance, denial or discipline of licenses that grant physical therapists the privilege to practice in our state. As the Board's investigator and prosecutor, therefore, RICO defers to and supports fully the Board's position on the measure's policy, administration and implementation.

1. Notice, fees, limited duration licensure, respecting privacy of treatment records and licensees under investigation. Some factors that are basic but important to enforcing a licensure regulatory scheme are: (a) direct notification by the applicant or licensee, to the licensing authority, of actual or intent to practice in Hawaii; (b) payment of licensing fees at initial licensure and renewals to fund and ensure a consistent and uninterrupted regulatory scheme, (c) setting the validity of the license to a definite period of time only to help ensure, through renewals, that the licensee is still competent and credible, and (d) respecting the privacy rights of practitioners under investigation as well as the confidentiality of medical and treatment records of patients.

- Notice. There is no requirement that those wishing to practice pursuant to the Compact make local application to the Board; there is only the requirement to notify the governing body, (SD1, page 8, lines 15 - 16);
- Fees. The measure appears to allow the imposition of licensure fees by the Board, (SD1, page 8, lines 4 – 5, lines 17 – 18);
- Definite period/renewals. There are some references to the term “renewal” in the bill itself, (SD1, page 4, line 2; page 7, line 14), and a renewal process is certainly implied for any licensure regulatory scheme to be effective. The bill, however, appears to lack a specific section that addresses the expiration and renewal process for the practice privilege, or the ability of the Board to impose renewal fees for the same; and
- Privacy of those under investigation and patient medical records. The Compact indicates that “investigative information” pertaining to any licensee would be available to any other party state through the coordinated database (SD1, page 26, lines 8 - 9), without regard to whether the information is highly sensitive and confidential, as in the case of medical

treatment records, or if the information is something the local licensee has a significant privacy interest in because it concerns an evaluation of their fitness to continue practicing.

2. Miscellaneous issue – instrumentality of the state & use of state resources and finances.

Though we do not fully understand their implication, we note for the Committee that:

- The governing body under the Compact is considered a “joint public agency” and an “instrumentality of the Compact states”; SD1, page 13, lines 17 - 19; and
- The governing body has the ability to “levy on and collect an annual assessment from each member state” or “impose fees” on other parties for operations and activities, SD1, page 22, lines 4 – 9.

3. Miscellaneous issue – ambiguity re indemnification of regulatory employees who may be compelled to ignore conflicting state law. The measure protects the governing body and its hired or retained agents and employees through immunity, limitation of liability, defend/indemnify and “hold harmless” provisions that run from page 23, line 10, through page 25, line 5, but on its face does not seem to cover the regulatory entities in Hawaii should a Hawaii employee attempt to comply with mandatory provisions or rules or bylaws of the Compact that now, or in the future, conflicts with state law. The possibility of a conflict is more than hypothetical because Compact legislation seem to operate on a preemptive principle that compels member states to ignore their own state laws, through language such as: “notwithstanding any other provision of state law to the contrary, a member state shall . . . “. The compulsory, preemptive language exists in this measure too, (see SD1, page 25, lines 12 – 13), though, unlike other proposed healthcare compact bills that have been introduced this Session, there appears to be some ability and discretion on the part of the Board to reject rules enacted by the governing body, per SD1, page 25, lines 6 -11; page 27, lines 9 - 11, and that unique ability could help to mitigate some of the compulsory or preemptive language in the measure.

Thank you for the opportunity to testify on this bill.



March 2, 2023

9:30 a.m.

Conference Room 229 and Via Videoconference

To: Senate Committee on Commerce and Consumer Protection

Sen. Jarrett Keohokalole, Chair

Sen. Carol Fukunaga, Vice Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

RE: SB668 SD1 — RELATING TO THE PHYSICAL THERAPY COMPACT

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [SB668 SD1](#), which would allow the governor to enter Hawaii into the Physical Therapy Licensure Compact.

If this bill is enacted, the Legislature will take an important step toward encouraging more physical therapists to practice in Hawaii.

According to the Physician Workforce 2023 annual report, Hawaii has a 25.3% shortage of doctors specializing in physical medicine and rehabilitation.¹ This shortage is especially severe on Hawaii island, 82.2%, and Kauai, 90.0%.²

Attracting more physical therapists to practice in Hawaii requires a multipronged strategy that will address everything from Hawaii's high cost of living to the state's regulatory scheme for healthcare facilities. Perhaps most important is the need to reform licensing regulations for healthcare professionals.

¹ ["Annual Report on Findings from the Hawai'i Physician Workforce Assessment Project,"](#) University of Hawai'i System, December 2022, p. 17.

² Ibid, pp. 19 and 23.

One-fourth of all licensed workers in the U.S. work in healthcare.³ Their licenses can be difficult to obtain, are expensive and carry geographic or “scope of practice” limitations.

As discussed in the Grassroot Institute of Hawaii’s new policy brief on medical licensing, [“How changing Hawaii’s licensing laws could improve healthcare access.”](#) the state’s shortage of healthcare professionals makes its restrictions on healthcare workers who already hold licenses in other U.S. states seem redundant and self-defeating.⁴

As the Federal Trade Commission noted in a report on occupational licensing portability:

There is little justification for the burdensome, costly, and redundant licensing processes that many states impose on qualified, licensed, out-of-state applicants. Such requirements likely inhibit multistate practice and delay or even prevent licensees from working in their occupations upon relocation to a new state. Indeed, for occupations that have not implemented any form of license portability, the harm to competition from suppressed mobility may far outweigh any plausible consumer protection benefit from the failure to provide for license portability.⁵

In other words, though medical licensing is intended to protect the public, there is a point at which the level of regulation reduces the number of people in practice without an appreciable public benefit.

One study of licensing among medical professionals found that “licensing is associated with restricted labor supply, an increased wage of the licensed occupation, rents, increased output prices, and no measurable effect on output quality.”⁶

This is where we can benefit from the lessons learned during the coronavirus situation. The governor’s emergency modification to state licensing laws demonstrated a need to embrace license portability, making it a simple matter for a healthcare professional licensed in another state to practice in Hawaii.

³ Ryann Nunn, [“Improving Health Care Through Occupational Licensing Reform.”](#) RealClear Markets, Aug. 28, 2018

⁴ Malia Hill, [“How changing Hawaii’s licensing laws could improve healthcare access.”](#) Grassroot Institute of Hawaii, February 2023, pp. 5-7.

⁵ Karen Goldman, [“Options to Enhance Occupational License Portability.”](#) U.S. Federal Trade Commission, September 2018, p. 25.

⁶ Sean Nicholson and Carol Propper, [“Chapter Fourteen — Medical Workforce.”](#) in “Handbook of Health Economics, Vol. 2,” Elsevier, B.V., 2012, p. 885, cited also in the previously mentioned [FTC study](#), footnote #9, p3.

The interstate compact approach outlined in this bill would streamline licensing for physical therapists, making it easier for them to move from participating states to Hawaii without facing time-consuming, costly and redundant regulatory hurdles.

The state would retain its control over Hawaii licensure requirements, but would simultaneously increase the pool of physical therapists able to practice in Hawaii and shorten the time it would take for them to begin working here.

At present, the PT Compact includes [33 states](#). Almost a dozen other states have introduced legislation to join as well. Years of successful implementation testify to the safety and effectiveness of this approach to license reciprocity.

The PT Compact Commission states that “Compacts are the most powerful, durable and adaptive tools for ensuring cooperative action among states. Unlike federally imposed mandates that often dictate unfunded and rigid requirements, interstate compacts provide a state-developed structure for collaborative action, while building consensus among states and federal partners.”⁷

Joining the PT Compact would be an important step toward attracting more physical therapists to our state, thereby addressing our physician shortage and improving healthcare access for all.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas
Director of Strategic Campaigns,
Grassroot Institute of Hawaii

⁷ [“FAQs: What is an Interstate Compact?”](#) PT Compact, accessed Feb. 8, 2023.