



**OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE**  
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MANPOWER AND  
RESERVE AFFAIRS

February 8, 2023

The Honorable Senator Joy A. San Buenaventura, Chair  
Committee on Health and Human Services  
415 South Beretania St.  
Honolulu, HI 96813

**SUBJ: Letter of Support – SB 668 (Relating to the Physical Therapy Compact)**

Dear Chair San Buenaventura, Vice Chair Aquino, and Members of the Committee:

On behalf of the U.S. Department of Defense (DoD) and military families, I am writing to express strong support for the policy addressed in Senate Bill 668.

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 ten times higher than their civilian counterparts. Accordingly, military spouses experience unemployment and underemployment at significantly higher rates than their civilian peers.

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, Chair San Buenaventura, for spearheading this effort and providing me the opportunity to provide comments in support of this policy proposal.

Sincerely,

A handwritten signature in cursive script that reads "Kelli May Douglas".

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



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## Testimony of the Department of Commerce and Consumer Affairs

Before the  
Senate Committee on Health and Human Services  
Friday, February 10, 2023  
1:00 p.m.

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

Chair San Buenaventura 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. RICO is charged with enforcing the licensing laws of various professional and trade industries in the State through the receipt, investigation and prosecution of, in this case, licensees who fall within the purview of the Board of Physical Therapy (Board). RICO defers to and supports the Board's position on the measure's policy, administration and implementation matters. RICO **offers comments** on provisions that could directly impact RICO's enforcement authority, practices and/or daily operations.

The purpose of this bill is to authorize the Governor to enter into the Physical Therapy Licensure Compact (Compact) on behalf of the State of Hawaii. The Compact is overseen by the Physical Therapy Compact Commission (Commission). Under the Compact, qualified physical therapists and physical therapist assistants are permitted to

practice in other Compact states under a practice privilege without the need to obtain another license.

1. Notice, fees, limited duration licensure, respecting privacy of treatment records and licensees under investigation. Key to effective administration and enforcement are: (a) notification to the licensing authority of ability to practice in the State through the application process; (b) payment of licensing fees at initial licensure and renewal to be able to adequately staff administration and enforcement functions, (c) limitation on the term of a license to ensure, at renewal, that the licensee is competent and credible still, and (d) respecting the privacy rights of practitioners under investigation as well as medical and treatment records of patients.

- There is no requirement that those wishing to practice pursuant to the Compact must make local application to the Board of Physical Therapy; there is only the requirement to notify the governing body (see page 8, at lines 15 – 16);
- There appears to be an ability on behalf of the Board to impose licensure fees (see page 8, lines 4 – 5, lines 17 – 18);
- Although renewals are implied in any licensure scheme, there does not appear to be any explicit provision addressing the expiration and renewal of the practice privilege or the ability to impose fees for the same; and
- The Compact indicates that “investigative information” pertaining to any licensee would be available to any other party state through the coordinated database (see page 26, lines 13 – 14), without regard to whether the information is highly sensitive and confidential, as in the case of 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 the implications of these, we note for the Committee that:

a. The governing body under the Compact is considered a “joint public agency” and an “instrumentality of the Compact states”; see page 13, lines 16 – 20; and

b. 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, see page 22, lines 4 – 7, and have any such assessments or fees paid through the Department’s compliance resolution fund. See page 23, lines 4 – 9.

3. Miscellaneous Issue – ambiguity re indemnification of Hawaii Board and RICO employees. 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 conflicts with provisions of existing state law.

Thank you for the opportunity to testify on this bill.

**Testimony of the Board of Physical Therapy**  
**Before the**  
**Senate Committee on Health and Human Services**  
**Friday, February 10, 2023**  
**1:00 p.m.**  
**Conference Room 225 and Via Videoconference**

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

Chair San Buenaventura and Members of the Committee:

My name is Rochelle Araki, Executive Officer, testifying for Cynthia Tamayo, the Chairperson of the Board of Physical Therapy (Board). The Board appreciates the intent 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 are currently not tracking, nor requiring their 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.

Further, the following comments were raised by FSBPT regarding inconsistencies between this bill and their model legislation:

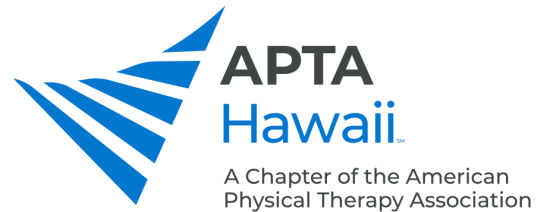
- Page 3, line 6: although the model language cites 10 USC Section 1209 and 1211, The word Section is incorrect, it should be cited as Chapter. The correct citation should be 10 USC **Chapter** 1209 and 1211.
- Page 7, line 8: reference to Section 3.B.4. should be corrected to read "in accordance with Section 3.B."
- Page 23, lines 4 to 9: This language does not mirror the model legislation. As the Committee may be aware, Compacts language must mirror the model legislation to ensure all jurisdictions are subject to the same requirements. Further, the Board requests clarification regarding this provision; it is unclear what this language is attempting to do.
- Page 25, lines 12 to 17: In comparing this bill to the model legislation, it appears that this language does not mirror the model legislation and addresses two separate topics, adoption of rules in the bill and data systems in the model language.

- Page 26, line 10: “6. Other information that may...” should be its own subparagraph.

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.



SB668, RELATING TO THE PHYSICAL THERAPY COMPACT  
Sen HHS Committee Hearing  
Friday, February 10, 2023- 1:00 PM  
Room 225 & Videoconference  
Position: SUPPORT

Dear Chair San Buenaventura, Vice Chair Aquino and HHS 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. We are in strong support of SB668 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.

PTs and PTAs wishing to take part in this are required to be licensed in a named home state. Licensing in Hawaii would not be required unless they decide to permanently name this as their home state at which time they would go through the licensing process here. Hawaii as part of the Compact would relieve some of the workload of our licensing bureau as fewer would need permanent or temporary licenses. Currently, there are 28 states in the compact with 12 more pending. You can refer to <https://ptcompact.org/> website for more information.

If you have any questions or concerns, feel free to contact me via [president.apta.hawaii@gmail.com](mailto: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





February 10, 2023

The Honorable Joy A. San Buenaventura, Chair  
The Honorable Henry J.C. Aquino, Vice Chair  
Senate Committee on Health and Human Services

Re: SB668 – Relating to the Physical Therapy Compact

Dear Chair San Buenaventura, Vice Chair Aquino, and Members of the Committee:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of SB668, which allows 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.

HMSA believes in strengthening access to quality health care services in the state of Hawaii. Participation in the compact can help, particularly in rural and underserved communities where the need is greatest. By creating an opportunity for providers who are already licensed in other states to practice in Hawaii, we can expand and support our current health care workforce while making it easier for Hawaii residents to access health care in the place they're located at the time when they need it.

We support Hawaii's participation in interstate compacts, and while broad participation would be ideal, we defer to DCCA for determining capacity and prioritization.

Thank you for the opportunity to testify on SB668.

Sincerely,

Dawn Kurisu  
Assistant Vice President  
Community and Government Relations



February 10, 2023

1 p.m.

Conference Room 225 and Via Videoconference

**To: Senate Committee on Health and Human Services**

**Sen. Joy A. San Buenaventura, Chair**

**Sen. Henry J.C. Aquino, Vice Chair**

**From: Grassroot Institute of Hawaii**

**Ted Kefalas, Director of Strategic Campaigns**

RE: SB668 — 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](#), 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.<sup>1</sup> This shortage is especially severe on Hawaii island, 82.2%, and Kauai, 90.0%.<sup>2</sup>

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.

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

<sup>2</sup> Ibid, pp. 19 and 23.

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

As discussed in an upcoming policy brief on medical licensing by the Grassroot Institute of Hawaii, 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.

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.<sup>4</sup>

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.”<sup>5</sup>

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.

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

<sup>4</sup> Karen Goldman, [“Options to Enhance Occupational License Portability.”](#) U.S. Federal Trade Commission, September 2018, p. 25.

<sup>5</sup> 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.”<sup>6</sup>

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

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<sup>6</sup> [“FAQs: What is an Interstate Compact?”](#) PT Compact, accessed Feb. 8, 2023.

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

Hearing Date: Friday, February 10, 2023

Time: 1:00 p.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, 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** 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.