NCIC Summit of the States:

The Nuts and Bolts – Administering Interstate Occupational Licensure Compacts

Physical Therapy Licensure Compact

perspectives of the
Kentucky Board of Physical Therapy
Timeline:
Physical Therapy Licensure Compact (PTLC)

2010: FSBPT Delegate Assembly requested options for Compact be explored
2013: FSBPT Delegate Assembly motion to support development of a Compact
2014 April - July: FSBPT Advisory Task Force met
2015 January - April: FSBPT Drafting Team met
2015 January - May: PTLC draft language completed; public call for comments
2015 October: PTLC model language finalized
2016: PTLC first introduced in state legislatures (AZ, MO, NJ, OR, TN)
2016 March 3: Oregon PTLC Signed into law
Kentucky
Physical Therapy Licensure Compact (PTLC)

2017 March 21: KY Governor Matt Bevin signed PTLC into law (KRS 327.300)
Kentucky becomes 9th state to join PTLC

2018 April 2: KY Governor Matt Bevin signed emergency legislation (KRS 327.310) authorizing KBPT’s access to CHRI and to Conduct National Criminal Background Checks

2019 March 20 (projected): KBPT to begin issuing PTLC privileges
STATUS OF COMPACT ADOPTION
2018 LEGISLATIVE SESSION

Compact Legislation Enacted (21)
Compact Legislation Awaiting Governor Signature (0)
Compact Legislation Passed One Chamber (0)
Compact Legislation Introduced (1)
Session Closed without passage (2)
Members of Kentucky Board of Physical Therapy (KBPT) were first introduced to the concept of an interstate compact model for physical therapy.

-- March 21, 2013

-- Serious reservations expressed

-- Reservations communicated to Federation of State Boards of Physical Therapy
Kentucky’s Historical Perspective (cont.)

-- KBPT held 18 regularly scheduled meetings between March 21, 2013, and May 19, 2016
-- Feasibility of adopting an interstate compact for physical therapy was specifically discussed in 17 of those 18 meetings
-- KBPT’s approach toward possible Compact adoption was methodical and evidence-based
-- KBPT fully recognized that this model for state-based professional regulation would be transformative in the manner by which physical therapy is delivered to consumers; thus, possible adoption of such an important initiative warranted careful examination and reflection
Projected Benefits

KPTA/Practice Perspective

-- Greater licensure portability
-- Fewer administrative hurdles to obtain licensure
-- Reduced costs associated with multi-state practice
-- Increased patient access to care/services
-- More efficient use of telehealth
-- Provides support to spouses of relocating military members
Projected Benefits (cont.)

KBPT/Regulatory Perspective

-- Facilitates and strengthens the exchange of licensure, investigative, and disciplinary information between states
-- Ensures (not simply encourages) the cooperation of states in the areas of licensure and regulation, and provides legal recourse (i.e., removal from the Compact) for noncompliance
-- Through “mutual recognition”, invests all member states with authority to hold licensees accountable for meeting all state practice laws in the state in which the patient is located at the time care is provided
-- Preserves the “state-based” model
Kentucky’s Telehealth Regulation  
201 KAR 22:160  
(eff. August 1, 2014)

Kentucky joined Alaska and Washington as the only states in the country with telehealth regulations specifically developed for physical therapy

Kentucky’s regulation addresses 3 primary categories:  
1. Patient Identity, Communication and Informed Consent  
2. Competence, Limits on Practice, Record Retention and Maintenance  
3. Compliance with State Law
Kentucky’s Telehealth Regulation
201 KAR 22:160 (cont.)

Compliance with State Law

Any credential holder utilizing telehealth to deliver physical therapy services must be licensed to practice physical therapy or otherwise authorized to practice physical therapy in the location the patient is physically present.
Kentucky’s Historical Perspective (cont.)

What is Truly Important?

-- Kentucky is one of a minority of member boards which still require the completion of some period of **supervised clinical practice for all foreign-educated applicants**

-- This requirement is not included within the PTLC

-- Kentucky has maintained the value of establishing relatively high minimum levels of **mandatory continuing education** for its credential holders to help ensure public protection

-- While the PTLC requires that all member states have continuing competence requirements, no minimum levels were established
Kentucky’s Historical Perspective
What is Truly Important? (cont.)

Consequently, before Kentucky could entertain a paradigm shift relative to these positions, staff researched the requirements adopted by the member boards contiguous to Kentucky concerning foreign-educated applicants and continuing competence.

Kentucky also researched data supplied by FSBPT that tracked the number of physical therapists licensed in Kentucky and physical therapist assistants certified in Kentucky who have been and are presently licensed/certified in at least one other jurisdiction.
# How Mobile are Kentucky’s PTs and PTAs?

( eff. 04/25/16 )

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>Total licensed PTs</td>
<td>3,331</td>
<td></td>
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<tr>
<td>Of those, who also hold</td>
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<tr>
<td>an active license in at least</td>
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<td>30.8%</td>
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<tr>
<td>Total certified PTAs</td>
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<tr>
<td>Of those, who also hold</td>
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<td></td>
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<tr>
<td>an active certificate/license in</td>
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<td>24.7%</td>
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<tr>
<td>at least one other jurisdiction:</td>
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</table>
How Mobile are Kentucky’s PTs and PTAs? (cont.)

Historical/Lifetime Numbers

-- total licensed PTs: 6,488
-- are/were licensed in at least one other jurisdiction: 4,738 (73%)

-- total certified PTAs: 3,333
-- are/were certified/licensed in at least one other jurisdiction: 1,897 (57%)
Kentucky’s Historical Perspective
What is Truly Important? (cont.)

NPDB Guide to Reporting State Licensure Actions

Did your board take one or more actions against a practitioner as a result of a formal proceeding (such as a formal hearing, settlement agreement, consent order, etc.) that includes one of the following?:

-- An adverse action, including revocation, suspension, reprimand, censure or probation

-- Any other loss of a license or right to apply for/renew license by operation of law, voluntary surrender, or nonrenewal, etc. (excluding non-payment of fees, retirement, inactive status)
NPDB Guide to Reporting State Licensure Actions (cont.)

-- A dismissal or closure of a formal proceeding because the practitioner surrendered license or left jurisdiction

-- Any publicly available negative action or finding (includes a health care-related administrative fine or citation)

-- If one of the above applies, submit an Initial Adverse Action Report within 30 days of when the action was taken
Reporting State Licensure Actions (cont.)

February 6, 2015 – KBPT Received Two Adverse Action Report Notices

-- January 31, 2014
Order of Summary Suspension following an evidentiary hearing
PT engaged in sexual misconduct with at least 3 clients

-- May 11, 2014
Agreed Order of Voluntary Surrender
(Treated as Revocation of License)
Reporting State Licensure Actions (cont.)

-- February 6, 2015 – Open Records Request Submitted
-- February 12, 2015 – Certified Copies of Adverse Actions Received
-- February 26, 2015 – Special Meeting of KBPT. Voted to file:
  -- Board-Initiated Complaint
  -- Order Immediately and Temporarily Suspending License, effective 5:00 p.m. on February 28, 2015 (Saturday)
-- March 1, 2015 (Sunday) – Reported to NPDB
-- March 30, 2015 – Notice of Administrative Hearing
-- May 1, 2015 – Hearing Officer’s Recommended Order of Default
-- May 21, 2015 – KBPT’s Final Order: Revoking License
Seven Primary “Nuts and Bolts” of the PTLC

1. State Participation

2. Compact “Privilege”

3. Active Duty Military Personnel and Spouses

4. Compact Commission

5. Oversight, Dispute Resolution, and Enforcement

6. Effective Date, Withdrawal, and Amendment

7. Treatment of Adverse Actions
1. State Participation

For a state to participate in the PTLC, it must:

(1) Participate fully in the PTLC Commission’s database which will include licensure, disciplinary, and investigative information concerning licensees in all compact member states.

(2) Agree to report all adverse actions to the Commission, but will be permitted to designate information that will not be accessible to the public without permission of the member state which submitted the information.
1. State Participation (cont.)

(3) Have an established mechanism for the intake and investigation of complaints against licensees

(4) Fully implement criminal background checks by receiving the results of an FBI record

(5) Utilize a recognized national examination (i.e., NPTE) as a requirement for licensure
1. State Participation (cont.)

(6) Have continuing competence requirements as a condition for license renewal

(7) Comply with the rules of the Commission
2. Compact “Privilege”

A PT/PTA who is licensed to practice in her/his home state will be authorized to practice in another member state (“remote state”) if that PT/PTA:

(1) Has no encumbrance on any state license

(2) Is not ineligible for remote state practice by virtue of having been disciplined for professional misconduct in any remote state
2. Compact “Privilege” (cont.)

(3) Has not had adverse action taken against any license/certificate or remote state practice privilege within the previous two years

(4) Notifies the Commission of the intent to seek the Compact privilege to practice/work within a remote state, pursuant to the Compact

(5) Pays all applicable fees associated with the Compact privilege
2. Compact “Privilege” (cont.)

(6) Satisfies all jurisprudence examination requirements established by the remote state in which the privilege is sought

(7) Notifies the Commission within 30 days of any adverse action taken against the license/certificate by a non-member state

A PT/PTA who is licensed by a member state and who meets (1) - (7), above, will be entitled to the Compact privilege
3. Active Duty Military Personnel and Spouses

A licensed PT/PTA who is active duty military, or is the spouse of a PT/PTA who is active duty military, may designate one of the following as their home state:

(1) Home of Record

(2) Permanent Change of Station (PCS)

(3) State of Current Residence, if different than the Home of Record or PCS
4. Compact Commission

Management of the PTLC is Administered by a Commission

PTLC authorizes the Commission to:
-- promulgate rules.
-- establish bylaws.
-- initiate legal proceedings in state and federal court.
-- hire staff.
4. Compact Commission (cont.)

-- One representative from each member state’s licensing board serves as a delegate on the Commission.

-- Each delegate is entitled to 1 vote re: promulgation of rules, bylaws, and participation in the affairs of the Commission.

-- Commission has a 9 member “Executive Board” comprised of:

-- 7 voting delegates

-- 1 ex-officio/non-voting member from a national PT association (i.e., APTA)

-- 1 non-voting member from the recognized membership organization of the physical therapy licensing boards (i.e., FSBPT)
4. Compact Commission (cont.)

Function of the Executive Board includes:
  -- recommending rule and bylaw changes
  -- preparing a budget / satisfying all financial obligations
  -- ensuring the appropriate provision of admin. services
  -- monitoring PTLC compliance
  -- establishing committees, as necessary
  -- recordkeeping

Commission’s delegates, members, staff, officers and representatives enjoy civil immunity with regard to their duties and responsibilities
5. Oversight, Dispute Resolution, and Enforcement

The PTLC requires each member state to:

-- enforce the terms of the PTLC
-- take needed action to effectuate the PTLC’s intent
-- provide to the Commission any service of process (i.e., civil summons)
-- agree that, upon default by the member state, and after other reasonable means of securing compliance have failed, its membership in the PTLC may be terminated upon majority vote of the delegates
5. Oversight, Dispute Resolution, and Enforcement (cont.)

-- agree to attempt to resolve disputes it may have with the Commission and with other states – member and non-member

-- agree to submit to mediation or binding arbitration, as the Commission has formalized by rule
6. Effective Date, Withdrawal, and Amendment

-- Each state’s Compact is effective upon becoming law.

-- PTLC did not begin to operate until the model compact language was passed into law by 10 states.

-- A member state may withdraw from the Compact by passing a statute that repeals the Compact in that state.

-- However, the withdrawal will not take effect until 6 months after the repealing law has been enacted.
7. Adverse Action:
Home State, Remote State, License, and Privilege

Definitions

“Adverse action” – disciplinary action taken by a physical therapy licensing board based upon misconduct and/or unacceptable performance

“Encumbered license” – a license that a physical therapy licensing board has limited in any way
7. Adverse Action:
Home State, Remote State, License, and Privilege (cont.)

-- Only the home state has authority to take adverse action against the license issued by that home state

-- Once the Commission is notified that the home state has taken adverse action against a license issued by that home state, the privilege to practice/work in all other remote states is immediately withdrawn by operation of law, as the privilege is derivative (i.e., is granted only upon an unencumbered license)
7. Adverse Action: Home State, Remote State, License, and Privilege (cont.)

-- Only a remote state may directly take adverse action against the privilege to practice/work in that remote state.

-- Once the Commission is notified that adverse action has been taken against the privilege in a remote state, the privilege to practice/work in all other remote states is withdrawn by operation of law.
7. Adverse Action:
Home State, Remote State, License, and Privilege (cont.)

-- Any adverse action taken against a license or compact privilege automatically removes all privileges in all remote states until both of the following have occurred:
-- 2 years have passed since the adverse action was issued; and
-- any encumbrances have been removed

-- If a PT/PTA has the compact privilege withdrawn in all remote states, the PT/PTA maintains the ability to apply for a single state license to be issued by a remote state
Example #1

-- Tennessee, West Virginia, and Kentucky are member states
-- Rob lives/is licensed in Tennessee
-- Rob may practice in Tennessee (due to his license) and also practice in West Virginia and Kentucky (due to his privilege).
-- Rob moves to Kentucky
-- As the Compact requires that a PT must be licensed in her/his “home state” (i.e., “licensee’s primary state of residence”), Rob must now apply for/receive a Kentucky license in order to meet continuing eligibility for a privilege to practice in West Virginia
Example #2

-- Kentucky and West Virginia are member states
-- Ramona lives/is licensed in Kentucky
-- Ramona may practice in Kentucky (due to her license) and also practice in West Virginia (due to her privilege)
-- Ramona moves to Indiana – not a member state
-- Ramona may no longer practice in West Virginia on the privilege, as she is not entitled to a privilege under the PTLC when her home state is not a member state
-- As long as Ramona continues to live in Indiana, and as long as Indiana remains a non-member state, Ramona may continue to practice in Kentucky, but she may only practice in Indiana and/or West Virginia if she applies for and is granted a single state license
Example #3

-- Tennessee and Kentucky are member states
-- Avery lives/is licensed in Tennessee
-- Avery has a PTLC privilege in Kentucky
-- Avery fails to timely complete Tennessee’s continuing competency requirements, and Tennessee takes disciplinary action against his license
-- Avery’s privilege in Kentucky (and in all other party states) is withdrawn for 2 years
-- Avery still wants to practice in Kentucky
-- Avery may still apply for licensure in Kentucky, which may grant a single state license notwithstanding the disciplinary action taken in Tennessee
Example #4

-- Janice lives/is licensed in Kentucky, a member state
-- Janice has a PTLC privilege in Utah, Tennessee, and Mississippi
-- While working on her privilege in Utah, Janice is investigated / disciplined in Utah for submitting false claims
-- Utah notifies the Commission, and the Commission notifies Tennessee and Mississippi that Janice’s PTLC privilege has been withdrawn for 2 years
-- The Commission also notifies Kentucky, which takes action against Janice’s license for 3 years
-- Janice is now ineligible for a PTLC privilege in any member state for 3 years
Example #5

-- Kentucky, Missouri, and Arizona are member states
-- Patrick holds a current license in Ohio -- not a member state
-- Patrick is a military spouse where the:
  -- Permanent Change of Station (“PCS”) post is in Arizona
  -- Home of record is Kentucky
  -- Current residence is Ohio
-- Patrick wants to practice in Missouri and Arizona
-- Patrick may use Kentucky as his “home state”, apply
  for/receive a Kentucky license, and then receive the
  privilege in Arizona and Missouri
Questions..?
Discussion..?
Final Thoughts..?

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