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# Extensive Preparation Necessary for Successful Licensure Compact Legislation

*This article is based on a presentation by Justin Elliott, Director, State Government Affairs, APTA; Colmon Elridge III, Director of The Council of State Governments National Center for Interstate Compacts; Jonathan Jagoda, MPP, Director, Federal Government Relations, Federation of State Medical Boards; and Rick Masters, J.D., Special Counsel, National Center for Interstate Compacts, Council of State Governments, at the 2015 FSBPT Annual Meeting.*

This session highlighted the legislative strategies for implementing the Physical Therapy Licensure Compact (PTLC). Topics included how to evaluate your potential for success in your state, the importance of collaboration, what assistance is available, and how to get started. It also covered considerations in talking to legislators and what their concerns might be.

**Doing the Pre-work**

Any organization wishing to introduce occupational compact legislation to state legislatures must first educate themselves about the process and how the compact may work, who is likely to be the best champion for the legislation in the legislature, and what groups and individuals will support it and who will oppose. In short, have all their ducks in a row beforehand.

That was the advice of panelists discussing the upcoming FSBPT compact legislative push.

Examine who should be part of the pre-legislation conversation and what issues should be included in the conversation.

This compact legislation is common-sense legislation — a common-sense approach to meeting the needs of not only the consumer but also of the practitioner.

As the FSBPT state boards begin to have conversations about compacts, it's extraordinarily important to build the farm team. Conversations need to happen internally within the boards, allied organizations, and practitioners. The worst thing that can happen is that boards present their legislation and all of a sudden all those people thought to be in your corner, aren't. And not only are they not, but they make a vigorous defense of why they are not. So having those conversations, building that farm team, making sure the net is cast as wide as need be, is important to legislative success. That net includes economic developers who understand that a healthy workforce is good business.

Here are some points that should be part of the conversation:

First is that compacts are not new and they're not scary things. Every state at some time has taken a compact out on a date and married it. Yes, there are things about this compact that are different, there are things about it that are particular to our practice. But, although this is not a one-size-fits-all fix, the road is pretty well-traveled.

The second thing is that early adoption may seem intimidating because no one wants to take the first step if things are going to go horribly wrong. Conversely, though, being an early adopter gives you a seat at the table where you can make the decisions in terms of rules and bylaws and governing structure of the regulatory body.

Third, portability of licensure matters for many reasons, but it especially matters for military spouses and practitioners who live in border communities. For example, Kentucky borders eight states. The ability to live in Covington, Kentucky, and be able to practice not only in Covington but in Ohio or Indiana is an important economic tool, not to mention common sense.

Lastly, this is a public service. Seventeen percent of the nation is rural and an even higher percentage lives in areas considered by the federal government to be woefully underserviced in terms of their access to healthcare. Portability and the utilization of telehealth, then, is the building of a public service.

**The Legislative Process**

The legislative process works similarly in all states, though the players are different, and the issues differ from time to time. But the method by which one goes about it is similar. The first thing a legislator is going to ask is, "What does the state board think about it? Is the board of physical therapy that is responsible for regulating practice in this state for it or against it or in-between?" The answer to that question will have a lot to do with the outcome. It's also a good question to ask within your profession in your state.

Certainly, the American Physical Therapy Association (APTA) has come out in favor and in support of compacts and improving portability of licensees. In each state, the practitioners' point of view is as equally important as the board's view of it. If a group of practitioners or certain individuals who have influence with the legislature make their voices heard in opposition, proponents need to know who those people are. It's much easier to make a friend before the legislative process begins than to suddenly wake up to the fact that there's an opponent unknown to the proponents. So it's strategic to not only to decide who your friends are but also who your potential opponents are.

Proponents must decide if there are there outreach efforts, education, information, or other actions that can be taken to offset those opposed to the compact or those not sure about it. A lot of times people are in the latter category and just don't know enough to take a position. Many of those will look to you as a member of the board to answer their questions. That group may include legislators. While every state has adopted a couple dozen interstate compacts, that doesn't mean that all legislators are familiar with them. So a fair amount of education may be necessary.

One of the aspects of implementation The Council of State Governments (CSG) is working on is to convene a legislative briefing where there will be an opportunity to interact with legislators from interested states in an educational process. The Interstate Compacts 101-type presentation will reacquaint them with an instrument they might not know much about or in some cases may not have experienced before, as well as the practical aspects of how the compact works.

State boards are going to be the most credible advocates for the compact because boards represent the point of view of regulators in your state. It's also important to understand who the leaders and champions for this legislation might be. An ideal sponsor is one who typically sponsors physical therapy or other healthcare legislation. That's a person who's likely to be a stakeholder. Boards will want to be sure that person has all the information they need.

There's a difference between a legislative sponsor and a legislative champion. Some legislators will carry a bill but not be all that committed to it one way or the other. A true champion is an elected official who actually believes in what it is they are trying to accomplish. They care enough about it to get up to speed so they can make effective presentations to their colleagues and committees and who assist other members of the legislature who have questions.

That may result in a phone call to you, saying, "I have a question here from a legislator about rulemaking and compacts. What do I tell him or who can we contact to answer that question?" CSG is one resource you can use to answer those questions, or you can put the legislators in touch with those who can give them the information they need.

Not only is it important to understand the legislation and what the compact does and how it works, but also what the reasons are that motivate the process. Be ready to tick off the list: License portability is even more important today because of the mobility of our population in general, including physical therapists. We all move pretty frequently in connection with our work and other responsibilities. Access to care is obviously an issue. We have patients who are underserved either because of geography or because of the Affordable Care Act, which has introduced millions of new patients who formerly were unable to get care or have access to care. Telemedicine and telehealth are other issues to consider.

The ability to diagnose and treat a patient remotely, where you never leave your office and they may not leave their home, but yet are being treated for some condition that constitutes the practice of physical therapy, is yet another drive that makes license portability even more important than it has been before. Understanding compacts in terms of what they do and that your state has enacted compacts in other areas is important for your legislators to know.

The CSG has a database of each compact that has been enacted by every state available. Every state has adopted on average a couple dozen of these instruments. Every state is also a member of at least three compacts in which similar governing structure and similar rulemaking authority has been granted to that compact-governing board. So if a legislator asks, "Have we done this before?" the answer is unequivocally, "Yes, we have and here are some examples, senator or representative." You can point them to chapter and verse where they can find this in your

existing state codes. That can reassure them in many cases.

Don't forget the governor's office, because once it passes the house and the senate you're going to have to have the governor sign it. If it didn't start out as part of the governor's package of legislation, you need to make sure the governor is aware this is coming to his or her desk so it will be reviewed appropriately.

**The medical boards' progress**

The Federation of State Medical Boards (FSMB) shared lessons learned and challenges they faced as they pushed to pass Interstate Medical Licensure Compacts in each state.

The FSMB faced similar concerns from its member boards and the physician community. FSMB and its member boards wanted to find a mechanism that would support license portability, expand access to care, and support telemedicine, while still ensuring state-based medical regulatory authority and the protection of the public.

In April 2013, FSMB delegates voted unanimously in support of a resolution directing the FSMB to work with special experts, including CSG, to study the feasibility of a compact model. FSMB pursued a very aggressive timeline. In the summer of 2013, FSMB put together a planning committee and then a task force to look at the guiding principles and foundational blocks necessary for state boards to support the compact model. Over the course of a year or so, a drafting team put together several iterations of model legislation, which were sent out to area stakeholders.

A model piece of legislation was finalized in September 2014 and released to the state medical boards and the state legislatures for their consideration. The FSMB model is a bit different than nurse licensure compact or FSBPT's proposed compact. The Interstate Medical Licensure Compact is more of an expedited endorsement process. Think of it as more like TSA pre-check. Basically, if you're a physician in good standing, a centralized clearinghouse will verify that you have met certain eligibility requirements and that you are safe to practice medicine. That puts you in front of the line a little faster. Once you've been issued a license in each of the states in which you wish to practice, you have to follow all the same rules and regulations and procedures as you would if you went the traditional state-by-state process. It's a testament to the process that health professions are moving toward compacts while maintaining a state-based regulatory system.

In 2015, it was introduced in 20 states. Thus far, it has been enacted in 11states. FSMB, its member boards, and CSG were very pleased with the 11 enactments. FSMB began with a seven-state threshold and were able to exceed it. There's a lot of interest out there for these compacts. With different organizations and member boards working on compacts at the same time, it will resonate with state legislatures. The first meeting of the compact commission, which is composed of the 11 member states themselves — FSMB is not a member — was scheduled for the end of October to begin the process of developing the rules and bylaws and technical infrastructure that will be necessary to support the compact.

Getting the compact introduced and passed didn't go without its challenges. FSMB was forced to respond to a lot of false information and myths being spread about the compact in the state legislatures and in the media. There was a very aggressive online social media campaign launched by opponents based entirely on some false pretenses. It was important to respond immediately. The FSMB issued a press release clarifying some of these myths and posted responses immediately on its website. It took a lot of work from member boards in the state legislatures as well as the medical societies and others, because state legislators started hearing some of the compact myths. It's important to get to them before they start hearing things that aren't necessarily true. Fortunately, a strong coalition of people was able to squash the myths.

Another challenge was managing a 50-state strategy, with a variety of abilities and willingness to engage among the boards. More than 30 state medical boards endorsed the compact and have either worked with their state legislature or want to see legislation introduced at some point very soon. Other boards are still observing and monitoring. Perhaps they're looking to join later down the road. In some states, the boards really drove it. They found sponsors in the legislature or had a bill pushed on their behalf. In other states, the boards really can't lobby the legislature. In those cases, they turned to the medical society or the hospital systems. Sometimes legislators just heard about the idea and thought it was great, especially if there are access-to-care issues in their districts.

Then there was the constant education of the member boards and their state legislatures on the compacts themselves. FSMB members and CSG were willing to jump on a plane and meet with state medical boards or state legislators or testify at a hearing, which was a very effective technique.

**Lessons Learned from FSMB**

The compact drafting and development process included boards, providers, other stakeholders. It helped to build a coalition for when the compact needed to be pushed in the state legislatures. The value of having local stakeholders advocating on your behalf in the state legislatures cannot be underestimated. Physical therapists calling their state legislators, calling the governor's offices, and working with the hospital systems was critical. Member boards were continuously updated and educated. During every meeting the FSMB hosted over the last couple of years, member boards were educated on the compact. FSMB hosted a series of webinars, regular email updates to its member boards, as well as board site visits.

Be prepared to modify your talking points on a regular basis. Conditions on the ground change a lot and they're different in every state.

**APTA's role with the PT licensure compact**

While noting that some members are advocating for a national licensure, APTA has taken the position that compacts are a better alternative. Members have been discussing it for the past 18 months — at the annual meeting and in discussions with chapter presidents, the house of

delegates, and chapter leadership — getting them prepared and having them think about incorporating this into their legislative agenda.

At the annual APTA State Policy and Payment Forum, the annual meeting where all the state chapter presidents, chapter executives, contract lobbyists, and state legislative chairs are assembled, APTA conducted a panel discussion to roll out the compact language. That was followed by a workshop with APTA lobbyists and legislative chairs to get them thinking about how they're going to lobby the issue in the state legislatures.

Compact information is available on the APTA website that links to the Federation website as well. But as enthusiastic as the chapters have been, they have been told not to move forward with legislation until they have the OK from their state board. As has been noted, the first question that's going to be asked is, "Is your state board OK with this?" Some states will face ferocious fights on other issues in 2016 and will not be able to push compact legislation.

There is also the option of floating a bill to test the waters, especially if a state legislature is in the beginning of a two-year session. APTA has contract lobbyists in all 50 states, except Hawaii. It has a grassroots system and is able to do targeted action alerts to get folks to make phone calls, emails, and tweets out to their state legislators. Beginning in 2016, it will have a new advocacy phone app by which people will be able to contact their state legislators on a variety of issues, including the compact. Many state chapters conduct lobby days, and the compact is an issue they can incorporate into those events. In addition, many members have good stories to tell. Legislators are going to want to know, "Why should I care about this?"

Here is the story of a woman who is a traveling PT. She has to carry 12 licenses in 12 different states and is at her wit's end because she can't keep it all straight. It's a huge burden. That's a good story to tell a state legislator. Patients have stories to tell, too. These are important to have in your pocket because, after asking if state boards are on board, the next question from legislators is going to be, "How is this going to help my constituents?"

Most state legislators know very little about healthcare, even less about physical therapy, and although compacts are not a new issue, many of them are not aware of state compacts. So the issue has to be framed on how compacts are going to help their constituents. Both patients and practitioners comprise their constituents. Patients will benefit from the portability and accessibility that the compact will bring. For physical therapists, it's going to make their lives a little bit easier by being able to have that portability.

Legislators also will ask why change is necessary, what's broken, what are we trying to fix here, why do we need this legislation. The fact is, healthcare is changing and we have to change with it. Our licensure system is based on a centuries-old system, and we can either keep this system, which will not keep up with the changes in healthcare, or we can be innovative and change it now so we can have a healthcare system for the 21st century.

Telehealth is huge. Telehealth will be the number one issue over the next 10 years. New PTs coming out of school today expect to be able to utilize telehealth is some form or fashion. The barriers to portability must be reduced and accessibility must be increased.

It's also important to say what the compact legislation is not. This is not a scope of practice battle. The legislation will not touch the definition of physical therapy, will not say PTs can do dry needling, spinal manipulation, or any other hot-button issues. This does not change the practice act one iota and it doesn't change the scope of practice. This is not a turf battle. All this does is create a new mechanism to manage interstate portability. Think of it as a driver's license. A driver licensed in one state can drive in another state — as long as the driver follows that jurisdiction's rules.

Political messaging will be different from state to state. Those in red states will want to emphasize that the compact decreases regulation, decreases paperwork, and increases accessibility. This is where chapter lobbyists will be helpful. While the talking points will be the same, the messaging may be different in California than in Virginia.

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