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January 3, 2024

To: Hon. Lori Houghton, Chair
House Committee on Health Care

From: Lauren Layman, General Counsel, Office of Professional Regulation

Re: H. 247 – Occupational Therapy Licensure Compact

Dear Committee,

Thank you for the opportunity to testify about the Occupational Therapy Licensure Compact.

Since this is our first opportunity to testify in your committee this session, we thought it would be a helpful to provide a couple of reminders about the Office of Professional Regulation and the concept of occupational licensure compacts before jumping into the details of the Occupational Therapy Licensure Compact.

The Office of Professional Regulation

As you may recall from last session, the Office of Professional Regulation (OPR) oversees 51 professions, from nurses to mixed martial arts contestants. OPR issues licenses based on qualifications established in statutes and rules. OPR also receives complaints about licensee conduct and, when warranted, investigates and prosecutes licensees for unprofessional conduct.

OPR's core mission is to protect the public. We also in recent years have been on the forefront of responding to workforce needs, adapting during COVID and emergencies like this summer's floods, and pursuing progressive occupational licensure policy, such as occupational licensure compacts.

Occupational Licensure Compacts

Compacts are contracts between states. There are many compacts in our lives. An example familiar to all of us is the Driver License Compact. Per this compact, a driver from one state is allowed to drive in all other states without first obtaining a separate driver license in that state.

Most compacts have the concept of a "home state." This is the state where the licensee lives, votes, etc. When someone has a license in their home state, they are eligible to practice in all other states that are members of that compact. Some compacts immediately allow any licensee from member states to practice in all other member states. Other compacts require licensees from a member state to apply for

a privilege or license to practice in other member states. This latter construction can sometimes be accompanied by an additional licensing fee.

Compacts are effective tools in occupational licensure. They solve some of the mobility challenges to having a license because they allow someone to practice in a state that they don't live in or to begin practice immediately when they move to a new state. They also enable telehealth across state lines when both states are members of the compact.

Compacts almost always have a revenue impact because it removes the requirement for an out-of-state practitioner to get a Vermont license. This is a relevant factor when you are a small state where people can easily travel across state lines to work.

Compacts also affect the enforcement process. Vermont retains jurisdiction over everyone who is practicing in Vermont – physically or via telehealth. This means that under a compact we could be investigating and prosecuting a person who is not a Vermont licensee. OPR has also been focused on any provision in a compact that mandates reciprocal discipline. We do not want to be forced to discipline a Vermont licensee because they provided an abortion or gender-affirming care in another state. Act 15 of 2023 addressed this concern by requiring Vermont's occupational compact delegates to seek amendments and exceptions to rules, directives, bylaws, and agreements so as to permit Vermont to choose not to take disciplinary action against compact licensees who have been disciplined elsewhere for providing gender-affirming or reproductive health care services. OPR takes this obligation seriously and has emphasized this concern in compact commission meetings.

Occupational Therapy Licensure Compact

OPR's Position

As with most occupational licensing compacts, OPR generally supports adoption of the Occupational Therapy Licensure Compact. We have long endorsed policies that facilitate interstate mobility for licensees and reduce barriers to all seeking to provide qualified, safe care to Vermonters.

At the same time, the funding impact of adopting multiple licensing compacts is significant. OPR is hopeful that we can find a path forward on the funding so that it does not become an impediment to adopting good policy that benefits professionals and patients.

Background

- Facilitates interstate practice for occupational therapists (OTs) and occupational therapy assistants (OTAs).
 - OTAs must practice under the supervision of an OT in the state in which they are practicing or an OT with a Compact privilege to practice in that state.
- Developed by the American Occupational Therapy Association (AOTA) and the National Board for Certification in Occupational Therapy (NBCOT) in conjunction with the Council of State Governments (CSG).
- Adopted by 28 states so far, including New Hampshire and Maine.

are anticipating a loss of of \$28,000 to \$38,000 every biennial cycle. Over the course of time, this is a significant revenue loss. The ability to charge a fee for the privilege to practice in Vermont should offset some of this loss.

- OPR will also have some costs, approximately \$10,000, to modify our licensing system to accommodate this new pathway to licensure.
- States must also pay an annual fee to participate in the Compact. The fee is set annually by the Compact Commission. No fees have been charged yet for this Compact. |