



# Colorado Legislative Council Staff

HB17-1057

# FISCAL NOTE

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-0351

**Date:** January 25, 2017

**Prime Sponsor(s):** Rep. Winter; Liston  
Sen. Kerr; Gardner

**Bill Status:** House Health, Insurance, and Environment

**Fiscal Analyst:** Clare Pramuk (303-866-2677)

**BILL TOPIC:** INTERSTATE PHYSICAL THERAPY LICENSURE COMPACT

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019	FY 2019-2020
<b>State Revenue</b>		<b>\$252,495</b>	<b>\$158,177</b>
Cash Funds		252,495	158,177
<b>State Expenditures</b>	<b>\$133,949</b>	<b>\$81,047</b>	<b>\$156,033</b>
Cash Funds	132,386	75,520	150,506
Centrally Appropriated Costs	1,563	5,527	5,527
<b>TABOR Impact</b>		<b>\$236,453</b>	<b>\$157,366</b>
<b>FTE Position Change</b>	0.1 FTE	0.5 FTE	0.9 FTE
<b>Appropriation Required:</b> \$132,386 - Department of Regulatory Agencies (FY 2017-18)			
<b>Future Year Impacts:</b> Ongoing revenue and expenditure increase.			

## **Summary of Legislation**

This bill enacts the Interstate Physical Therapy Licensure Compact Act (compact) and requires the Governor to enter into the compact on behalf of Colorado. Under the compact, physical therapists and physical therapy assistants licensed or certified in a compact member state (home state) may obtain an expedited license or certificate allowing them to practice in another compact member state (remote state). The compact will be administered by the Physical Therapy Compact Commission (commission). Licensed physical therapists and certified physical therapy assistants in Colorado and other member states are granted "compact privileges," which allows them to practice as a physical therapist or work as a physical therapy assistant in another member state under the laws and rules of the remote state. To exercise the compact privilege, a licensee or certificate holder must:

- hold a license or certificate in the home state with no encumbrances;
  - be eligible for a compact privilege in any member state;
  - have no adverse actions within the previous two years;
  - notify the commission that compact privilege is being sought in a member state;
  - pay applicable fees;

- be aware of the laws and rules governing the practice of physical therapy in the remote state; and
- report adverse action taken by any non-member state within 30 days.

Member states are required to:

- participate fully in the commission's data system;
- have a mechanism for receiving and investigating complaints;
- notify the commission about adverse action or availability of investigative information regarding a licensee;
- fully implement a criminal background check requirement;
- comply with commission rules;
- use a recognized national examination as a licensure requirement;
- have continuing competency requirements; and
- share information about disciplinary actions and complaints at the request of another member state.

Physical therapists and physical therapy assistants licensed or certified under the compact are required to disclose detailed background information under the Michael Skolnik Medical Transparency Act of 2010.

### **Background and Assumptions**

Nationally, the compact becomes effective and binding upon enactment of the compact by at least ten states. The compact has been enacted in four states and is pending in six other states, including Colorado. The fiscal note assumes that the compact will be come into effect in FY 2017-18, and become operational in FY 2018-19.

The Division of Professions and Occupations in the Department of Regulatory Agencies (DORA) regulates physical therapist and physical therapy assistants. There are approximately 9,300 licensed physical therapists and certified physical therapy assistants in Colorado. The fiscal note assumes that 10 percent, or 930, will choose to participate in the compact in the first year and an additional 5 percent (47) will participate each year thereafter.

Currently, physical therapists and physical therapy assistants from other states can apply for licensure or certification by endorsement if they meet Colorado's requirements. Spouses of active military personnel authorized to practice in another state, can practice in Colorado during their first year of residency without seeking authorization from the division.

### **State Revenue**

***This bill will increase state cash fund revenue by \$252,495 in FY 2018-19, and \$158,177 in FY 2019-20.*** Of this, \$215,760 in FY 2018-19 and 156,320 in FY 2019-20 will be deposited into the Professions and Occupations Cash Fund in DORA, with \$36,735 in FY 2018-19 and \$1,857 in FY 2019-20 deposited into the Colorado Bureau of Investigations (CBI) Identification Unit Cash Fund in the Department of Public Safety (DPS). No revenue is expected for FY 2017-18.

**Background checks.** Payments for finger-print based criminal background checks will be made directly to the CBI. Of each fee of \$39.50, \$22.25 is retained by the CBI, and \$17.25 is passed through to the Federal Bureau of Investigation (FBI).

**Fee impact on physical therapists and physical therapy assistants.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Physical therapists and physical therapy assistants will be charged an annual fee to maintain compact privileges. These fee amounts are estimates only, actual fee calculations will be set administratively by DORA based on cash fund balance, estimated program costs, and the estimated number of physical therapists and physical therapy assistants subject to the fee. Table 1 below identifies the fee impact of this bill beginning in FY 2018-19.

<b>Table 1. Fee Impact on Physical Therapists and Physical Therapy Assistants</b>				
Type of Fee	Current Fee	Estimated Fee	Number Affected	Total Fee Impact
<b>FY 2018-19</b>				
Interstate Compact License		\$232	930	\$215,760
CBI Background Check	22.25		930	20,693
FBI Check (TABOR Exempt)	17.25		930	16,043
<b>Total</b>				<b>252,495</b>
<b>FY 2019-20</b>				
Interstate Compact License		160	977	156,320
CBI Background Check	22.25		47	1,046
FBI Check (TABOR Exempt)	17.25		47	811
<b>Total</b>				<b>158,177</b>

### TABOR Impact

This bill increases state revenue from fees, which will increase the amount of money required to be refunded under TABOR in FY 2018-19. TABOR refunds are paid out of the General Fund. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

### State Expenditures

***This bill will increase state cash fund expenditures in DORA by \$133,949 and 0.1 FTE in FY 2017-18, \$81,047 and 0.5 FTE in FY 2018-19, and \$156,033 and 0.9 FTE in FY 2019-2020, paid from the Division of Professions and Occupations Cash Fund.*** Workload is also expected to increase the Department of Personnel and Administration, and the DPS.

***Division of Professions and Occupations, DORA.*** The division will be responsible for administering the compact for Colorado. Division costs are shown in Table 2 and described below.

**Personal services.** The division requires 0.1 FTE in FY 2017-18 for staff to begin working with the interstate commission, plan compact implementation, and develop rules. In FY 2018-19, the division requires 0.4 FTE which includes 0.1 FTE for a program manager, 0.2 FTE for a program technician, and 0.1 FTE for a criminal investigator. These staff will begin licensing of Colorado-based and out-of-state physical therapists and physical therapy assistants as well as performing outreach, investigating complaints both inside and outside of Colorado, and coordinating with licensing authorities in other states. In FY 2018-19 only, \$9,324 is required for temporary staff in DORA to handle the initial wave of applications and inquiries concerning the interstate compact (520 hours at an hourly rate of \$17.93). These costs are included in the personal services line of Table 2.

<b>Table 2. Expenditures Under HB17-1057</b>			
<b>Cost Components</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>	<b>FY 2019-20</b>
Personal Services	\$8,386	\$34,882	\$25,559
FTE - DORA	0.1 FTE	0.4 FTE	0.4 FTE
FTE - Law		0.1 FTE	0.5 FTE
Operating Expenses and Capital Outlay Costs		380	380
Compact Commission Dues		15,000	15,000
Information Technology Costs	120,000	9,000	9,000
Legal Services		14,258	98,567
Travel	4,000	2,000	2,000
Centrally Appropriated Costs*	1,563	5,527	5,527
<b>TOTAL</b>	<b>\$133,949</b>	<b>\$81,047</b>	<b>\$156,033</b>

\* Centrally appropriated costs are not included in the bill's appropriation.

**Operating expenses and capital outlay costs.** The division will have costs of \$380 per year beginning in FY 2018-19 for telephones and supplies.

**Information technology costs.** DORA will have information technology costs of \$120,000 in FY 2017-18 to purchase interfaces to the commission data system. The interfaces will export data from the division system and import data from the commission system. Three interfaces are required at a cost of \$40,000 each. Annual maintenance is \$3,000 per interface or \$9,000 per year beginning in FY 2018-19. Given that the commission system has not been created, this amount could change as system specifications are defined.

**Legal services.** The bill increases legal services costs in the division by \$14,258 in FY 2018-19, and by \$98,567 in FY 2019-20. These legal services are provided by the Department of Law. During the first year of compact implementation, FY 2018-19, the fiscal note assumes 150 hours and 0.1 FTE are required for rulemaking and general counsel. In the second year and beyond, 1037 hours and 0.5 FTE are required for legal services that involve cross-state enforcement actions, and at least one hearing before an administrative law judge in the Department of Personnel and Administration. Because adverse actions make an individual ineligible for compact privilege, the fiscal note assumes that complaints will be strongly disputed. If complaint-driven activity requires more legal services than estimated in the fiscal note, it is assumed DORA will request additional funding through the annual budget process.

**Compact dues.** As a compact member, Colorado must pay dues to the commission. The exact amount of dues owed is not known at this time and will depend on costs at the interstate commission and the number of participating states in the compact. At this time, based on other multi-state licensing compacts, the fiscal note estimates that dues will be \$15,000 per year beginning in FY 2018-19. It is possible that the commission may request dues be paid during FY 2017-18 while the commission is being established.

**Travel.** Each state in the compact is required to have one delegate. Assuming the commission holds an all-member meeting two times in FY 2017-18 and once per year in future years, travel costs and expenses are estimated to be \$4,000 in FY 2017-18, and \$2,000 per year in future years. Actual costs may vary depending on how often and the location where the commission meets.

**Department of Public Safety.** This bill will increase the workload of the CBI for fingerprint-based criminal history record checks beginning in FY 2018-19. The fiscal note assumes this can be accomplished within existing appropriations.

**Personnel and Administration.** The Office of Administrative Courts (OAC) hear cases for disciplinary actions against physical therapists and physical therapy assistants. This bill is expected to increase the workload for the OAC which will result in increased billed hours and common policy allocation to the DORA. The workload increase is expected to be minimal, and any necessary adjustments in appropriations will be requested through the annual budget process.

**Judicial Department, Trial Courts.** If a physical therapist or physical therapy assistant is barred from practicing in a member state or appeals a decision by the OAC, trial courts will see an increase in cases. These cases are expected to be rare and can be accomplished within existing appropriations.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

<b>Table 3. Centrally Appropriated Costs Under HB17-1057</b>			
<b>Cost Components</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>	<b>FY 2019-20</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$812	\$3,237	\$3,237
Supplemental Employee Retirement Payments	751	2,290	2,290
<b>TOTAL</b>	<b>\$1,563</b>	<b>\$5,527</b>	<b>\$5,527</b>

#### **Effective Date**

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed.

### **State Appropriations**

For FY 2017-18, DORA requires an appropriation of \$132,386 from the Division of Professions and Occupations Cash Fund and an allocation of 01. FTE. Of this amount, \$120,000 is reappropriated to the Office of Information Technology.

### **State and Local Government Contacts**

Information Technology  
Military Affairs  
Regulatory Agencies

Judicial Department  
Personnel

Law  
Public Safety