



Janet T. Mills
Governor

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
& FINANCIAL REGULATION
OFFICE OF PROFESSIONAL AND OCCUPATIONAL REGULATION



Joan F. Cohen
Commissioner

**TESTIMONY OF
PENNY VAILLANCOURT, DEPUTY COMMISSIONER
IN OPPOSITION TO L.D. 409**

"An Act to Enhance the Mobility of Licensed Massage Therapists Across State Lines"

Sponsored by Representative Holly Eaton

**BEFORE THE JOINT STANDING COMMITTEE ON
HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES**

Public Hearing: March 5, 2025, 10:00 AM

Good afternoon, Senator Bailey, Representative Mathieson, and Members of the Committee. My name is Penny Vaillancourt, Deputy Commissioner of the Department of Professional and Financial Regulation and I am here on behalf of the Office of Professional and Occupational Regulation ("OPOR") testifying in opposition to LD 409.

The Massage Therapy Program ("the Program"), is a professional licensing board within OPOR which is an umbrella agency that supports 38 licensing boards and programs. OPOR's sole purpose is to protect the health and welfare of Maine citizens. The Program protects the public by licensing massage therapy professionals who meet the minimum qualifications in statute, by investigating allegations of unprofessional conduct or incompetent practice, and by imposing sanctions when deemed appropriate.

LD 409 is model compact legislation developed by the Council of State Governments ("CSG") in partnership with the Department of Defense, and the Federation of State Massage Therapy Boards with a stated purpose to support mobility and reduce barriers to licensure portability. As is with other licensure compacts, states must enact the model compact legislation to participate.

The Massage Compact is in its very early stages. It has been adopted by only two (2) states (Ohio and Nevada) and compact legislation is pending in six (6) states, including Maine, New York, Connecticut, Montana, Virginia, and Arkansas. Seven states must join before the compact is effective and work can commence to develop rules, data systems, etc.

At this time, OPOR is opposed to taking on any additional compacts, especially those which have not yet been fully formed, for two primary reasons. First, there are statutory and technological challenges associated with implementing the licensure compacts Maine has already adopted. Secondly, OPOR underestimated the amount of time necessary to participate as commission

members and that commitment is redirecting resources away from our existing statutory responsibilities including license application processing and investigation of consumer complaints.

Since 2021, Maine has enacted seven (7) OPOR related compacts¹ and all but one are still in the initial stages of development and implementation requiring significant amounts of board member and staff time.

For example, the Dentist and Dental Hygiene Compact (DDH compact) was enacted in Maine last session and as the seventh state it established the minimum number of states necessary to convene the compact. As a member of the DDH Compact we are required to participate as a DDH Compact commission member. At the early stage of the compact, the commission member's role is to help get a compact up and running. On behalf of the Board, I serve as the DDH Compact commission member and so I can speak from personal experience as to the tremendous workload involved. As a Commission member I am required to review and vote on the following:

- development of bylaws,
- review of legislative updates,
- election of officers,
- development of rules on rulemaking,
- identification of a technology platform that aligns with OPORs licensing database,
- development of rules on “clinical assessments”,
- provide direction to compact staff to do research,
- report back to the Board of Dental Practice for direction/feedback,
- drafting legislation to authorize FBI background checks,
- coordinating with state and federal contacts on obtaining permission/training in conducting background checks, analyzing the impact that requiring a background check on all applications will have on existing licensure processes to name just a few.

In total, OPOR staff time with the DDH compact since its first meeting in August of 2024 has exceeded 100 hours and the commission has met only twice. This experience has highlighted not only the level of expertise needed to be at the table to help establish a compact, but that it is unrealistic for an OPOR board member or board manager to serve in that capacity. As a reminder, most OPOR board managers serve 6-9 boards.

In addition, this compact will create two tiers of licensure for massage therapy in Maine because it sets forth licensure requirements that are more restrictive than what is currently required for Maine licensure. Unlike Maine, the Compact requires passage of a national examination, continuing education as a condition to renew, and increases the minimum number of education hours from 500 to 625. Having two tier licensing requirements will not only create additional work for licensing staff to track but may create confusion for licensees.

¹¹ Psychology, Counseling, Speech Language Pathology, Occupational Therapy, Physical Therapy, Social Work, Dentist/Dental Hygiene

Additionally, increasing the minimum standards without identified public protection purposes is contrary to OPOR's work with this committee and the legislature to reduce barriers to licensure to enable otherwise qualified individuals to enter Maine's workforce.

Finally, there are financial considerations in adopting the compact which may result in increasing licensure fees for massage therapy licensees. We will need to hire additional OPOR staff, budget for compact costs assessed on each participating state, which is unknown at this time, and funding to support the technological and training necessary to fully implement the data and licensure component of the compact. This will include reconfiguring our ALMS data system to comply with the Compact's requirement to report and supply certain required information to a coordinated database accessible by the member states to facilitate information sharing. Of note, each of the licensing compacts has different data reporting requirements requiring different configurations.

In closing, I want to make clear that OPOR supports identifying and implementing opportunities to expand licensing flexibilities which could include joining licensure compacts, but to do so at the early stages of a new licensure compact is creating tremendous burdens on our small staff and impacting our ability to timely attend to our mission critical day-to-day operations of timely licensing and complaint investigations.

To that end, we respectfully request that the Committee wait until compacts are up and running before considering whether a compact best serves the citizens and licensees of our state.

Again, thank you for the opportunity to comment. I would be happy to answer any questions now or at work session.

Launching the Compact in Your State

Louisiana's Guide

DATA COMPARISON

In order for a new member state to launch the Compact, they must first match their data with FSBPT's data. In Louisiana's case, our state does not allow the sharing of Social Security Numbers (SSN) with other entities.

- Comparison of internal data with that from FSBPT. Likely to require 1-2 weeks of attention.
- Data being compared is data with discrepancies/not matching FSBPT's data. You most likely will not need to match every single licensee file.
- Considerations:
 - How is your data currently stored?
 - Will you need access to data stored offsite or on microfilm/microfiche?
 - Accessing data not readily available may increase time for the data comparison step.

LAUNCHING THE COMPACT IN YOUR STATE

Louisiana's Guide

INTERNAL SYSTEMS REVIEW

It's important for a new member state to allot time in their launch preparation to assess their internal systems.

- Jurisprudence.
 - If the individual purchasing a Compact in your state must first pass your state's Jurisprudence exam, consider how they will access the exam. Is your website setup for users of all types (licensure applicants, licensees, etc.) to take the Jurisprudence through your website? Do you use the JAM? Will individuals seeking a Compact privilege have the same access? Do you need to create the ability for them to access it? Consider what changes may be necessary to your existing website/processes to make this possible and what the costs may be.
- Collecting Data.
 - Do you plan to collect any demographic data from the individual seeking a Compact in your state? Louisiana collects the home state address, worksite address (if established with the option for the individual to return and report it at a later date), FSBPT ID, email address, contact phone numbers, and start/end dates for their work placement, if relevant.
 - In addition to the Jurisprudence, what changes would your current website/systems need in order to collect whatever demographic data you require? In Louisiana, licensees have dashboards that they use to access the Jurisprudence exam and report contact information changes. Our state eventually created a watered down version of this for Compact holders as well to reduce confusion regarding access of the Jurisprudence and streamline the work processes for employees who oversee the data.
 - Depending upon the fluctuation of Compact purchases, the assigned employee may spend anywhere from 1-5 hours a week (on average) overseeing data once the state has joined and launched in the Compact.
 - Weekly reporting. Louisiana had an existing reporting feature built into our system which we used for our monthly reporting with FSBPT. With the Compact, we send the same report but increased the frequency to weekly. This did not create significant work but may differ for other states.

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PREPPING FOR COMMON OCCURRENCES/QUESTIONS

- Louisiana has found it ideal to designate a staff member to be the main contact within the office to answer all Compact related questions. We have found that individuals seeking a Compact may often ask questions directly to the state they are interested in purchasing a privilege to practice in but also we wish to be able to answer questions and provide guidance to our own licensees. In doing this, we've also added information to our website, creating a webpage just for the Compact.
- In Louisiana, the employee responsible for overseeing the data also oversees compliance with our Jurisprudence requirement. When we receive notification of a new Compact purchase, the employee then verifies that the individual created a dashboard, passed our jurisprudence exam, and reported their demographic information.
- Why does Louisiana collect home state/worksit data? The top reason is that should a complaint ever be filed against the Compact holder, our office has a starting place to begin an investigation. Ideally, we know where they were working in our state and, if they were a temporary contract position and not someone who lives near state border lines, for how long. Because many states' laws prohibit the sharing of investigative information prior to the closure of an investigation, it was important for Louisiana to have as much of our own data as possible to maintain our duty to protect the public.
- The most common Compact uses we see are: 1) travel therapists who are working a predetermined contract length, and 2) therapists who live near state lines and work at a site in the neighboring state. The Compact is perfect for both scenarios because in neither the therapist is relocating to a new state but traveling for work consistent with the Compact's rules.
- Louisiana collects the anticipated start and end dates for employment if the individual has or eventually establishes a Louisiana worksite. While this is helpful in the case of a possible complaint, it is also used administratively to review compliance with the Compact. Occasionally, we have seen an individual report start and end dates that indicate the individual is making a long-term move to our state. (One notable example was five years.) This is inappropriate because long-term moves require changes to mailing addresses and driver's licenses which would mean that our state has become the individual's new home state and they are required to be licensed here. In situations like this, we contact the individual to inform them and offer guidance on applying for a license. Having the home state and worksite addresses also can be an indicator of whether the person is attempting to use the Compact as a means of bypassing the licensure process when moving long-

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term. We never accuse when reaching out to these individuals, only request clarification. Most often we've found that when these situations happen, the individual does not have a good grasp of the Compact rules and is not intentionally trying to subvert them. By having the start/end dates and the worksite address, we can monitor the appropriate use of the Compact, the onus of which has been placed primarily on the states and not the Compact itself.

Occasionally, a Compact holder's temporary position is offered to them as a permanent position and they decide to relocate to our state. They would then need to begin the licensure process. Per Compact rules, the individual should be fine to continue to practice under their Compact privilege while they complete the licensure process. We generally advise that they do not update their FSBPT account with their new residence information prior to being issued their license as doing so will update their home state to Louisiana and subsequently cancel their Compact privilege which would make them ineligible to work until their license is issued.