

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Eighty-first Session
March 5, 2021**

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 8:00 a.m. on Friday, March 5, 2021, Online. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Pat Spearman, Chair
Senator Dina Neal, Vice Chair
Senator Melanie Scheible
Senator Roberta Lange
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Keith F. Pickard

GUEST LEGISLATORS PRESENT:

Senator Heidi Seevers Gansert, Senatorial District No. 15

STAFF MEMBERS PRESENT:

Cesar Melgarejo, Policy Analyst
Kim Cadra-Nixon, Committee Secretary

OTHERS PRESENT:

Neena Laxalt, Nevada Physical Therapy Board
Jennifer Nash, DPT, Vice Chair, Nevada Physical Therapy Board
Kelli May Douglas, Pacific Southwest Regional Liaison, Defense-State Liaison
Office, Office of the Assistant Secretary of Defense, U.S. Department of
Defense
Thomas Cantwell, Administrator, Physical Therapy Compact Commission
Charles Harvey, Executive Director, Nevada Physical Therapy Board
RJ Williams, American Physical Therapy Association

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CHAIR SPEARMAN:

We will open the hearing by introducing BDR 54-386.

BILL DRAFT REQUEST 54-386: Revises provisions relating to sign language interpreting and realtime captioning. (Later introduced as [Senate Bill 179](#).)

This is a Committee BDR sponsored on behalf of the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs.

I will accept a motion to introduce BDR 54-386.

SENATOR HARDY MOVED TO INTRODUCE BDR 54-386.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will now open the hearing on Senate Bill (S.B.) 100.

SENATE BILL 100: Enacts provisions governing the interstate practice of physical therapy. (BDR 54-153)

SENATOR HEIDI SEEVERS GANSERT (Senatorial District No. 15):

I am here today to introduce the presenters of this bill. We will begin with Neena Laxalt.

NEENA LAXALT (Nevada Physical Therapy Board):

We brought this bill forward in the form of S.B. No. 186 of the 80th Session. Although the bill passed in the Senate, it did not pass in the Assembly.

Nevada will benefit from joining the Physical Therapy Licensure Compact. I have submitted a document, PT Compact Frequently Asked Questions ([Exhibit B](#)).

The Physical Therapy Licensure Compact (PTLC) is a state-based solution to the challenges of interstate portability for physical therapists (PT) and physical therapists assistants (PTA). The PTLC improves patient access to physical

therapy services by giving eligible licenses to those licensed in participating states. This process is a faster alternative to traditional licensures while still retaining safeguards to the public.

The PTLC provides substantial benefits for military spouses and families transferring to Nevada. It is an easier process than traditional licensure.

The PT Compact is an agreement between member states. The Compact improves access to physical therapy services and provides an expedited process to practice in another member state.

The PTLC allows for a PT and a PTA who is licensed in one member state to apply for a compact privilege to practice in another member state. The Compact has 29 member states; 21 states are actively participating, and 8 states are finalizing procedures.

The PTLC preserves a state's regulatory and disciplinary authority over PTs and PTAs. Scope of practice is determined in the state where patients receive care. Physical therapists and PTAs working in Nevada must pass a jurisprudence exam to ensure an understanding of rules and regulations in the State.

JENNIFER NASH, DPT (Vice Chair, Nevada Physical Therapy Board):

I am a physical therapist and Vice Chair of the Nevada Physical Therapy Board. I am in support of S.B. 100.

We believe the enactment of PTLC would benefit the underserved residents of Nevada, especially those in rural and frontier areas. States bordering Nevada, such as Oregon, Arizona and Utah, are Compact members. Military spouses comprise only 4 percent of our licensees and would benefit from this program.

In a state of emergency or local crisis, jurisdictions will be able to get critically needed physical therapy services for residents.

The PTLC provides best practices for state control. In comparison to other compacts, PTLC notifies the Nevada Physical Therapy Board of licensees who have the privilege to practice in our State. The Compact Commission provides daily updates to our Board.

Any therapist with encumbrances or disciplinary actions against his or her license within the past two years cannot apply for a Compact privilege. If a privilege is revoked in one member state, privileges to practice in other states are also revoked. This measure preserves public safety.

The PTLC improves access to physical therapy services. The centralized reporting database ensures an efficient application process. This application process takes 15 minutes compared to 2 months for a traditional license or license by reciprocity.

The Compact speaks to the need of Nevada's population. Physical therapists and physical therapist assistants help Nevadans reduce pain and gain strength, flexibility and balance which optimizes their function and quality of life.

Many older adults retire in this great State. We rank eleventh in the Nation for rate of elderly falls. We rank forty-fifth or fiftieth—depending on the resources, dated January 2020—of PTs per 100,000 population.

I ask for your support of S.B. 100.

KELLI MAY DOUGLAS (Pacific Southwest Regional Liaison, Defense-State Liaison Office, Office of the Assistant Secretary of Defense, U.S. Department of Defense)

I am with the Department of Defense (DoD) State Liaison Office. We work with state policy makers to resolve the top quality of life issues facing military service members and their families. I work with issues in Nevada, Utah, California, Arizona and Hawaii.

Addressing licensure issues for our military spouses has been a priority for the DoD for several years. This continues to be a critical focus of attention. The current administration supports these issues, and we will continue our work until we see widespread improvement.

Of married service members, 68 percent reported their spouse's ability to maintain a career impacts their decision to remain in the military; 77 percent of military spouses report they want or need to work.

Military spouses are disproportionately affected by state specific licensure requirements. These requirements cause delays and gaps in employment. The

unemployment rate for military spouses was 24 percent prior to the pandemic. We understand the pandemic has also disproportionately affected military spouses.

We found 34 percent of military spouses are in occupations requiring state licensure. These spouses relocate across state lines ten times greater than their civilian counterparts.

There are almost 10,000 military spouses in Nevada. Of these spouses, 5,400 are married to active duty members and 4,500 are spouses of Nevada National Guard and reserve members.

Spouses of service members separating from the military are generally not covered under state-specific laws. Since compacts cover all practitioners within a profession, compacts such as PTLC can support others within the military community. The PTLC will support residents of Nevada who are transferred out of state to continue working as physical therapists in other compact states.

The DoD is supporting eight compacts this year; the National Defense Authorization Act (NDAA) provided funds to DoD to support future compacts and more are expected in the future. Additionally, NDAA directed military services to include specific metrics around quality of life in their basing decision-making models. Many federal grant programs in the State also require these metrics for applicants.

Licensing reciprocity is a required element for basing decision-making in the military. Each service branch is required to report its licensure evaluation models to the Secretary of Defense and Congress.

The Air Force has conducted its first round of evaluations and rated Nevada "yellow" for licensure portability. In February, the Office of the Secretary of Defense reported to Governor Steve Sisolak that Nevada only partially met our criteria for supportive licensure portability policies.

In summary, state policies that enhance existing licensure by enabling spouses to more quickly transfer their licenses and obtain employment in the new state will relieve one of the stressors of frequent military moves. These policies facilitate greater career sustainability for military spouses by improving their families' financial security and overall resilience.

The DoD views compacts, such as PTLC, as the long-term gold standard for providing true reciprocity because they allow military spouses to work in Nevada and all states without delay.

I have submitted a support letter ([Exhibit C](#)) and appreciate the opportunity to support the policy reflected in S.B. 100.

SENATOR SEEVERS GANSERT:

We have submitted a proposed amendment ([Exhibit D](#)), clarifying language regarding the Compact.

SENATOR NEAL:

Do the references in section 2, Article IV, subsection 1, paragraph (b), as well as paragraph (d), relate only to physical therapy licenses?

THOMAS CANTWELL (Administrator, Physical Therapy Compact Commission):

When the Compact is referring to any adverse action against any license, we are referring to licenses by PTs or PTAs. The PTLC does not track any other licenses.

SENATOR NEAL:

How does section 2, Article VI, subsection 5, paragraph (b), relate to conflict of law provisions?

MR. CANTWELL:

The state where an incidence occurs has jurisdiction. In regard to conflict of law, the scope of practice in the state where the PT is practicing governs the practitioner. States can share investigative information. The jurisdiction under the Compact is the same as someone with a license in one state and residency in another state.

SENATOR NEAL:

Referring to section 2, Article VI, subsection 5, paragraph (c), are PTs independent contractors or does their liability come under vicarious liability? Is there a liability cap for PTs in statute? I ask this because the bill language implies PTs can be involved in alleged violations. How would the choice of law provisions work for tort?

MR. CANTWELL:

From the PTLC perspective, the language you referred to reflects language in statute. The boards can seek a financial remedy if ordered to do so by the courts. Ms. Nash may be able to explain the liabilities for PTs and PTAs.

MS. NASH:

I do not know the dollar value PTs are responsible for. Possibly Director Harvey may be able to answer this question.

CHARLES HARVEY (Executive Director, Nevada Physical Therapy Board):

I am unfamiliar with any dollar values in our statutes relating to this question.

SENATOR NEAL:

Are PTs considered private contractors in the Compact agreement? Is their liability considered a vicarious liability?

MR. HARVEY:

I must refer this question to Mr. Cantwell.

MR. CANTWELL:

I am unable to answer this question. I believe proceedings will be the same under the Compact as under statute. The language is meant to be broad to allow application of state statutes where the legal proceedings occur.

SENATOR NEAL:

I want to be sure the Compact language is refined and will apply to the statutes in our State.

SENATOR SEEVERS GANSERT:

According to Mr. Cantwell's statement, the Compact defers to state regulations. Perhaps Ms. Nash or Mr. Harvey can comment about a PT with a state license not under a Compact.

MS. NASH:

Once Senator Neal rephrased her question, I understood. Yes, the licensee under Compact privilege would have the same liabilities as a resident licensee. Some PTs are offered liability insurance from their employer, and some PTs are private contractors responsible for their own insurance. I believe the same would be true for a Compact privilege holder.

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CHAIR SPEARMAN:

We will refer Senator Neal's question to our legal counsel.

SENATOR PICKARD:

We have a broad scope of practice for PTs in Nevada. How do we ensure applicants from another state are competent to perform physical therapy services in our State?

MR. CANTWELL:

The PT would operate under the scope of practice where the patient is receiving care. The licensee is required to take a jurisprudence exam to understand the regulations in the State. The Board oversees regulations for resident and Compact privilege licensees.

SENATOR PICKARD:

Would a PT licensed under Compact privilege be allowed to perform a therapy in which he or she was not trained? An example of therapy of this nature is dry needling.

Different states allow different types of therapies. How do we protect Nevadans from this type of situation?

MR. CANTWELL:

I will defer to Mr. Harvey.

MR. HARVEY:

A formal process is in place to allow PTs to practice dry needling. The board conducts inspections of facilities and practitioners. If a practitioner is found to be performing a practice in which they are not qualified, he or she would be notified to discontinue. Additionally, a formal investigation would take place.

We also have formal investigation procedures when notified of complaints.

SENATOR PICKARD:

Am I correct in understanding that responses to improper practice would be reactionary rather than proactive? Is there a comparison of training from the originating state to the training required in Nevada?

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MR. HARVEY:

Before practicing in Nevada, licensees would be required to take a jurisprudence examination. The examination includes questions in our Practice Acts, *Nevada Revised Statutes* 640 and *Nevada Administrative Code* 640. This would inform PTs of our specific regulations.

SENATOR PICKARD:

I am not as concerned with the Compact privilege licensees knowing statute as I am with the licensee knowing the competencies of the physical therapy practice in our State.

CHAIR SPEARMAN:

Why does the process to acquire a Compact privilege license take two months?

MR. HARVEY:

The criminal background check takes the majority of the time in processing an application. Once we receive the background check, we are able to process the application in two days.

CHAIR SPEARMAN:

Ms. Douglas, you mentioned in your testimony 68 percent of military spouses stated they need or want to work. Will you address the reason military spouses need to work?

MS. DOUGLAS:

Of married service members, 68 percent reported their spouse's ability to maintain a career impacts their decision to remain in the military; 77 percent of military spouses report they want or need to work. As in the civilian community, more and more families are deciding they need dual incomes to survive.

I am not stating the military is an anomaly, it is much like the civilian community where we see the increased need for families to have dual incomes. If military spouses are not able to work without undue delay, their future decision to stay in the military is affected. They may need to make decisions to facilitate greater financial stability.

CHAIR SPEARMAN:

I want to enter this into the record to put perspective into Ms. Douglas's testimony concerning the need of military spouses to work. The 2021 annual

starting salaries are: private E-1, \$20,170; private E-2 \$22,680; private first class, E-3 \$23,774; sergeant E-5 \$28,720 and staff sergeant, E-6 \$31,352. Officer pay for second lieutenant is \$38,260, captain \$51,019 and major \$58,024.

It is impossible for a private to live off less than \$2,000 per month in Las Vegas. Safe housing for a family in Las Vegas is not available on a private's salary.

We have another piece of legislation, asking our federal delegation to establish a 401(K) or retirement plan for spouses of those serving in the armed forces who move to be with their military spouse and never stay in one location long enough to vest in their retirement plans. The military spouse is able to have a pension plan, but the spouse does not. We need to take better care of our military personnel.

SENATOR NEAL:

In section 2, Article VI, subsection 6, paragraph (b) includes provisions to share investigative materials. Does this also include privileged materials?

MR. CANTWELL:

Privileged materials would be restricted to those materials allowed by the State. This is specified in the rules of PTLC.

SENATOR NEAL:

In section 2, Article X, subsection 2, paragraph (d), please clarify the terminate clause and the qualified immunity clause referred to in section 2, Article VII, subsection 7.

I am concerned the State would be responsible for all obligations and liabilities incurred through the date of termination, rather than after the date of termination.

MR. CANTWELL:

I will need to refer to our legal counsel on these questions. I believe the two different sections are referring to different things; qualified immunity relates to the officers and directors of the Compact. The question regarding "through the effective date" is not one we have been asked before.

The PTLC has not taken any action in 20 years. It is the goal of the Compact to keep states in the Compact.

CHAIR SPEARMAN:

I also wish to put on the record why it is important to take care of military spouses. It is not only the spouse following their military spouse from post to post, base to base, state to state and country to country, it is the fact we have two acknowledged conflicts. The spouse is left behind to take care of the family. If the spouse is away for longer than nine months, the family often elects to move back home where they have support from family members. This is much like civilians families seeking refuge for their family members.

We only have five veteran members in the Legislature, and I wish to share this information to gain greater understanding of military life.

RJ WILLIAMS (American Physical Therapy Association):

There is a growing need for physical therapists in our State. We have the lowest number of PTs per capita in our Nation.

Professional sports teams in Las Vegas have brought attention to our area and are drawing more people to Nevada. We need to increase the number of PTs in our State to serve both urban and rural areas.

Our neighboring states may provide PTs who may quickly gain access to licensing and provide care. It is essential to provide a safe and healthy alternative to manage pain and other disabilities.

We support military service and want to help spouses quickly gain licensure in our State. On behalf of myself, the physical therapists and the Association, we are in support of S.B. 100.

SENATOR SEEVERS GANSERT:

This bill will be beneficial to our veterans and their families. It will allow our citizens to have greater access to care.

SENATOR HARDY:

I fully support this bill that also provides a model we can explore for other licensures. I am pleased it also supports veterans and military personnel.

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SENATOR SETTELMAYER:

If you will entertain a motion, I will gladly give it.

CHAIR SPEARMAN:

Thank you Senator; I would like to wait until we receive answers from our legal counsel to Senator Neal's questions. I appreciate the support.

Remainder of page intentionally left blank; signature page to follow.

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CHAIR SPEARMAN:

We will now close the hearing on S.B. 100 and adjourn at 9:10 a.m.

RESPECTFULLY SUBMITTED:

Kim Cadra-Nixon,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
S.B. 100	B	1	Neena Laxalt / Nevada Physical Therapy Board	PT Compact Frequently Asked Questions
S.B. 100	C	1	Kelli May Douglas / U.S. Department of Defense	Support Letter
S.B. 100	D	1	Senator Heidi Seevers Gansert / Nevada Physical Therapy Board	Proposed Amendment