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Indicates New Matter

COMMITTEE REPORT

February 2, 2021

**S. 287**

Introduced by Senator Gambrell

S. Printed 2/2/21--S.

Read the first time January 12, 2021.

**THE COMMITTEE ON LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (S. 287) to amend Section 40‑45‑220, Code of Laws of South Carolina, 1976, relating to qualifications for licensure by the board of Physical Therapy Examiners, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, on page 2, by striking line 34 and inserting:

/as may be necessary to support the administrative action. The results of these criminal records checks must not be shared outside the department. /

Amend the bill further, as and if amended, on page 3, by striking line 15 and inserting:

/disclosed as may be necessary to support the administrative action. The results of these criminal records checks must not be shared outside the department. /

Amend the bill further, as and if amended, on page 3, by striking line 35 and inserting:

/support the administrative action. The results of these criminal records checks must not be shared outside the department.” /

Renumber sections to conform.

Amend title to conform.

THOMAS C. ALEXANDER for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill adds both a state and national criminal records check to the list of requirements that LLR may require for the licensure of physical therapists and physical therapy assistants.

**Department of Labor, Licensing and Regulation.** This bill adds that LLR may require physical therapists and physical therapy assistants to have a background check performed and submitted, at the expense of the applicant, with their applications for licensure. These operations can be conducted with existing staff and resources. Therefore, there will be no expenditure impact to LLR.

**State Law Enforcement Division.** The expenditure impact of this bill on SLED is pending, contingent upon a response from the agency.

**State Revenue**

This bill may increase the number of state criminal records checks that SLED is required to perform. Pursuant to Section 23-3-115(A), revenue generated by state criminal records checks performed by SLED up to an amount of $4,461,000 must be deposited in the General Fund. Any revenue over that amount is retained by SLED. The revenue impact of this bill on the general fund and the other funds of SLED is pending, contingent upon a response from the agency.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 40‑45‑220, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO QUALIFICATIONS FOR LICENSURE BY THE BOARD OF PHYSICAL THERAPY EXAMINERS, AND SECTION 40‑45‑240, RELATING TO APPLICANTS FOR LICENSURE BY ENDORSEMENT FOR LICENSEES FROM OTHER JURISDICTIONS, BOTH SO AS TO REQUIRE CERTAIN FINGERPRINT‑SUPPORTED STATE AND NATIONAL CRIMINAL RECORDS CHECKS FOR INITIAL LICENSURE APPLICANTS, TO PROVIDE THE RESULTS OF THESE RECORDS CHECKS MUST BE PROVIDED TO THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, TO AUTHORIZE THE STATE LAW ENFORCEMENT DIVISION TO RETAIN FINGERPRINTS FOR CERTAIN PURPOSES, TO PROVIDE APPLICANTS MUST BARE RELATED COSTS, AND TO PROVIDE THE DEPARTMENT SHALL KEEP INFORMATION RECEIVED PURSUANT TO THIS ACT CONFIDENTIAL, SUBJECT TO AN EXCEPTION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑45‑220 of the 1976 Code is amended to read:

“Section 40‑45‑220. (A)(1) To be eligible for licensure as a physical therapist an applicant must:

(~~1~~a)(~~a~~i) be a graduate of a physical therapy educational program approved by the board;

(~~b~~ii) pass an examination administered or approved by the board; and

(~~c~~iii) speak the English language as a native language or demonstrate an effective proficiency of the English language in the manner prescribed by and to the satisfaction of the board; or

(~~2~~b)(~~a~~i) provide satisfactory evidence that his or her education is equivalent to the requirements of physical therapists educated in United States educational programs as determined by the board. If the board determines that an applicant’s education is not equivalent, it may require completion of additional course work before proceeding with the application process;

(~~b~~ii) speak the English language as a native language or demonstrate an effective proficiency of the English language in the manner prescribed by and to the satisfaction of the board;

(~~c~~iii) pass an examination administered or approved by the board;

(~~d~~iv) submit evidence satisfactory to the board on a form approved by the board of not less than one thousand clinical practice hours under the on‑site supervision of a licensed physical therapist in this State or in a state with licensure requirements equal to or more stringent than this State.

(2) In addition to other requirements established by law and for the purpose of determining an applicant’s eligibility for initial licensure as a physical therapist, the department may require a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division, and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. Costs of conducting a criminal history background check must be borne by the applicant. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as may be necessary to support the administrative action.

(B)(1) To be eligible for licensure as a physical therapist assistant an applicant must:

(~~1~~a) be a graduate of a physical therapist assistant program approved by the board;

(~~2~~b) pass an examination administered or approved by the board; and

(~~3~~c) speak the English language as a native language or demonstrate an effective proficiency of the English language in the manner prescribed by and to the satisfaction of the board.

(2) In addition to other requirements established by law and for the purpose of determining an applicant’s eligibility for initial licensure as a physical therapist assistant, the department may require a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division, and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. Costs of conducting a criminal history background check must be borne by the applicant. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as may be necessary to support the administrative action.

(C) The burden is upon the applicant to demonstrate to the satisfaction of the board and in the manner prescribed by the board that the applicant has the qualifications and is eligible for licensure.”

SECTION 2. Section 40‑45‑240(B) of the 1976 Code is amended by adding an item at the end to read:

“( ) when applying for initial licensure, submit to a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. Costs of conducting a criminal history background check must be borne by the applicant. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as may be necessary to support the administrative action.”

SECTION 3. This act takes effect upon approval by the Governor.

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