

Draft Framework for Interstate Medical Licensure Compact Released

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A significant barrier to the interstate practice of telehealth is closer to being broken down. The Federation of State Medical Boards (“FSMB”) recently completed and distributed a draft Interstate Medical Licensure Compact (“Compact”), which is designed to facilitate physician licensure portability and the practice of interstate telehealth. The Compact would create an additional licensure pathway through which physicians would be able to obtain expedited licensure in participating states. As the FSMB notes in the draft, the Compact “complements the existing licensing and regulatory authority of state medical boards, ensures the safety of patients, and provides physicians with enhanced portability of their license to practice medicine outside their state of primary licensure.”

Burdensome state licensure requirements have been a major impediment to the interstate practice of telehealth. A physician practicing telehealth is generally required to obtain a medical license in the state where the patient—not the physician—is located. As a consequence, physicians wishing to treat patients in multiple states need to obtain a license in each of those states in order to practice medicine lawfully, a lengthy and expensive process.

The Compact proposes to streamline the licensure process and allow physicians to efficiently obtain licensure in participating states. This expedited licensure process would be carried out as follows:

- Physicians designate a “home state,” which is (1) their state of primary residence, or (2) the state where at least 25 percent of their practice of medicine occurs, or (3) if no state qualifies under (1) or (2), the location of their employer.
- Physicians file an application for expedited licensure with the board of medicine of their home state, and the board determines their eligibility. For purposes of evaluating eligibility for expedited licensure, static qualifications—including verification of medical education, graduate medical education, and results of medical or licensing examinations—would not be subject to additional primary source verification where already verified for home state licensure.

- Physicians complete the registration process established by the Interstate Medical Licensure Compact Commission, the body charged with administering the Compact (“Commission”), and pay any fees required by the board of medicine of the participating state where they are seeking licensure in addition to any other fees established by the Commission.
- Once eligibility is verified and fees are paid, the board of medicine of the participating state will issue physicians a license to practice in that state.

To assuage patient safety concerns, the Compact allows a state to retain jurisdiction over physicians who choose to obtain licensure in that state through the Compact. Moreover, the Compact establishes a database of all physicians licensed through the Compact. Participating states would report any public action or allegations against physicians who have received or applied for licensure through the Compact.

The Compact shares some of the same features as the Nurse Licensure Compact (“NLC”), which was launched in 2000 to facilitate nurse mobility and improve access to care. The NLC allows registered nurses, licensed practical nurses, and vocational nurses¹ who live in states that have adopted the NLC to obtain a compact license, which permits them to practice in their home state as well as other participating NLC states. To date, 24 states have adopted the NLC.² Despite some similarities between the two initiatives, a key difference is in the process for obtaining multistate licensure. As explained, under the Compact, physicians have to submit an application, register, and pay certain fees to obtain licensure in other participating states. Nurses under the NLC, on the other hand, only need to declare that their home state is an NLC state, and the privilege to practice in other NLC states is automatically activated—no separate applications or fees are required. Physicians should keep in mind that there are affirmative steps that they need to take to obtain licensure in other Compact states (i.e., they are not entitled to practice in other Compact states simply by virtue of their state’s adoption of the Compact).

Participation in the Compact would be voluntary for both physicians and state medical boards. However, under the current draft, the Compact will only become effective and binding upon legislative enactment of the Compact by at least seven states. A bipartisan group of Senators and other federal legislators has publicly voiced support for the Compact,³ but it remains to be seen whether enough states will officially enact the Compact.

¹ Advanced practice registered nurses (“APRNs”) are not part of the NLC. A separate APRN Licensure Compact exists, but to date, only three states have adopted it. As part of an effort to improve participation, a revised version of the APRN Compact Model Legislation and Rules was released for public comment in early 2014. See NCSBN, *Call for Comment: APRN Compact*, <https://www.ncsbn.org/4912.htm> (last visited Feb. 18, 2014).

² NCSBN, *Nurse Licensure Compact*, <https://www.ncsbn.org/nlc.htm> (last visited Feb. 18, 2014).

³ Their letter of support to FSMB is available at http://coburn.senate.gov/public/index.cfm?a=Files.Serve&File_id=e657f9dd-4f56-42ac-9ed4-28082efe91eb.

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The adoption of the Compact by enough states will go a long way in helping resolve one of the issues that has limited the interstate practice of telehealth. To be sure, many other regulatory issues remain, but the Compact is a good first step.

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