

Date: March 18, 2016	POLICY BRIEF/ANALYSIS PREPARED FOR THE BOARD OF DIRECTORS	 OF NORTHERN LARIMER COUNTY
Staff: Brooke Bettolo		

HB16-1047— INTERSTATE MEDICAL LICENSURE PROGRAM

Concerning the adoption of an interstate compact to allow physicians to become licensed in multiple states through an expedited process.

Details

Bill Sponsors:	House – Buck(R), Winter (D) Senate – Newell (D), Roberts (R)
Committee:	House Health, Insurance, & Environment
Bill History:	02/04/2016 House Committee on Health, Insurance, & Environment Refer Amended to Finance
Next Action:	House Finance Committee Hearing—March 24

Bill Summary

This bill would allow Colorado to join Alabama, Idaho, Illinois, Iowa, Minnesota, Montana, Nevada, South Dakota, Utah, West Virginia, Wisconsin, and Wyoming in an interstate compact that would allow practicing physicians to obtain expedited out-of-state medical licenses.

Issue Summary/Background

With an increased demand on physicians due to an aging population, increased utilization of health care services, and expanded mechanisms for delivering care like telemedicine, some believe there is also a need for an interstate regulatory authority responsible for helping to reduce the administrative burden and time it takes for a physician to get licensed in a new state, and improving physicians' ability to practice in multiple states where there is a demand for their services, while still maintaining quality of care and protection for patients.¹

After earning a Doctor of Osteopathic Medicine degree or a Doctor of Medicine degree, aspiring physicians must pass a standardized national exam and submit various forms to the Medical Board of the state in which they would like to practice medicine to receive a license.² It takes approximately 60 to 90 days for a physician to become licensed in Colorado.³ Some states, like Texas, can process an application for a license in under 44 days.⁴ While this may seem like a reasonable amount of time to vet a potential physician, it can be an expensive and time-consuming venture for practicing physicians that are licensed in another state and have already gone through this process.⁵ One physician claims that it would cost \$1,000 and six months of paperwork to practice medicine in the bordering State of Kentucky, one mile from his or her office in Ohio.⁶ This wait time also impacts patients with terminal illnesses that cannot travel or wait through the licensure process to be seen by a physician from another state, especially those that are specialists.

Previously, the only method that the American Medical Association recommended to shorten the wait time for a medical license was to have the applicant personally contact and follow up with the medical schools,

¹Federation of State Medical Boards (2016).“Intestate Medical Licensure Compact” <http://www.licenseportability.org/>

² Learn How to Become.(2016) “Learn How to Become a Doctor” <http://www.learnhowtobecome.org/doctor/>

³ Colorado Department of Regulatory Agencies (2016) “Colorado Medical Board: Physician Licensing Requirements” https://www.colorado.gov/pacific/dora/Physician_Licensing_Requirements

⁴ Texas Medical Board (2016)<http://www.tmb.state.tx.us/page/texas-medical-license-faqs>

⁵ Student Doctor (2009) <http://forums.studentdoctor.net/threads/out-of-state-licensing-question.643424/>

⁶ Student Doctor (2009)<http://forums.studentdoctor.net/members/maceo.197121/>

Date: March 18, 2016	HB16-1047 INTERSTATE MEDICAL LICENSURE PROGRAM	Page 2
-----------------------------	---	--------

training programs, and appropriate hospitals to “motivate these institutions to verify credentials more expeditiously.”⁷ With the legislation proposed in this bill, Colorado physicians would have all of their important information downloaded to a database that can be accessed by all member states, therefore eliminating the time it takes to identify, complete, and send all of the required documents to the Medical Board of another state to apply for licensure. Member states will reserve the right to determine eligibility for licensure; the program will just make the licensee’s information more accessible to member states.⁸

The major proponent of this legislature is the Federation of State Medical Boards (FSMB), a nonprofit organization that represents the 70 medical and osteopathic boards of the United States and its territories.⁹ Their objective is to “promote excellence in medical practice, licensure, and regulation as the national resource and voice on behalf of state medical boards in their protection of the public,” by creating the Interstate Medical Licensure Program.¹⁰ The Program began in 2015—once seven states adopted it—and members are currently working to create the Interstate Compact. An interstate compact is defined as “A voluntary arrangement between two or more states that is designed to solve their common problems and that becomes part of the laws of each state.”¹¹ Colorado is currently a member of 30 interstate compacts.¹² The Interstate Commission, comprised of two representatives from each member state, is currently working to establish an administrative framework for the Compact.¹³ Next, the Commission will establish the rules and regulations for membership in the Compact, rules for conflict resolution, and fees associated with the operations of the Interstate Commission. Colorado would be able to become involved in this process and aid in making a streamlined process for out-of-state licensure.

The Compact:¹⁴

- Becomes effective when adopted by seven states (which occurred in 2015).
- Creates an Interstate Commission comprised of two representatives from each member state to oversee operation of the Compact.
- Provides for eligible physicians licensed in one Compact state to obtain an expedited license in another Compact state.
- Directs the Commission to maintain a database of licensed physicians, and disciplinary records involving licensed physicians from compact states.
- Provides for joint investigations and disciplinary actions by the Commission and the member states’ Medical Boards.
- Authorizes the Commission to levy and collect an annual assessment on member states to cover the cost of Commission operations that is subject to a yearly financial audit.
- Provides civil and liability immunity for Commission representatives and employees in the event of a lawsuit against the Interstate Commission.
- Reserves member states’ rights to determine eligibility for physician licensure, license fees, grounds for discipline, and continuing education requirements.

⁷ American Medical Association (2016) “Medical Licensure” <http://www.ama-assn.org/ama/pub/education-careers/becoming-physician/medical-licensure.page>

⁸ Federation of State Medical Boards (2016) “Intestate Medical Licensure Compact <http://www.licenseportability.org/#panel7>

⁹ Federation of State Medical Boards (2016) <https://www.fsmb.org/>

¹⁰ Federation of State Medical Boards (2016) <https://www.fsmb.org/>

¹¹ The Free Dictionary (2016) “Interstate Compact” <http://legal-dictionary.thefreedictionary.com/Interstate+Compact>

¹² Ballotpedia (2016) “Interstate Compacts by State” https://ballotpedia.org/Interstate_compacts_by_state#tab=Colorado

¹³ Federation of State Medical Boards “Intestate Medical Licensure Compact http://www.licenseportability.org/assets/pdf/NewCompactIntroductions_Jan2016_FINAL.pdf

¹⁴ Council of State Governments Knowledge Center (2016) “Interstate Medical Licensure Compact” <http://knowledgecenter.csg.org/kc/content/interstate-medical-licensure-compact>

- Allows the member states to withdraw from the program one year after repealing the statute which enacted the Compact into law.

Twelve states have enacted Interstate Medical Licensure: Alabama, Idaho, Illinois, Iowa, Minnesota, Montana, Nevada, South Dakota, Utah, West Virginia, Wisconsin, and Wyoming.¹⁵ Six other states have had this legislation introduced in the 2015 or 2016 legislative session: Alaska, Arizona, Kansas, New Hampshire, Washington, and Wyoming.¹⁶ Thirty-one state medical and osteopathic boards have publicly expressed support for the Compact, and it has been endorsed by a broad coalition of health care stakeholders, including the American Medical Association and the American Osteopathic Association.¹⁷

Proponents

- AARP
- American Association of Pharmaceutical Scientists
- American Medical Association
- American Osteopathic Association
- Center for American Progress¹⁸
- Children’s Hospital Colorado
- Colorado Health and Hospital Association
- Colorado Psychiatric Society
- Colorado Medical Society
- Denver Health
- Federation of State Medical Boards
- Healthier Colorado
- Kaiser Permanente
- MS Society (CO-WY Chapter)
- National Stroke Association
- Peak Vista Community Health Network
- University of Colorado Health
- Potentially Telehealth proponents: American Well , the Mayo Clinic, the American Medical Association and the American Academy of Pediatrics
- Potentially those that supported interstate nursing licensure¹⁹

Opponents

- Association of American Physicians and Surgeons
- Potentially those that fear state’s rights will be infringed
- Journal of American Physicians and Surgeons²⁰
- Ohio State Medical Association

¹⁵ Federation of State Medical Boards “Intestate Medical Licensure Compact <http://www.licenseportability.org/#panel3>

¹⁶ Association of American Physicians and Surgeons (2015) http://www.aapsonline.org/index.php/site/article/will_moc_trojan_horse_strip_your_medical_license/, Federation of State Medical Boards (2016) “Intestate Medical Licensure Compact <http://www.licenseportability.org/#panel3>

¹⁷ Federation of State Medical Boards “Intestate Medical Licensure Compact http://www.licenseportability.org/assets/pdf/NewCompactIntroductions_Jan2016_FINAL.pdf

¹⁸ Health Affairs Blog (2014) “Doctors Without State Borders: Practicing Across State Lines” <http://healthaffairs.org/blog/2014/02/18/doctors-without-state-borders-practicing-across-state-lines/>

¹⁹ National Council of State Boards of Nursing (2016) “Nurse Licensure Compact” <https://www.ncsbn.org/nurse-licensure-compact.htm>

²⁰ PR Newswire <http://www.prnewswire.com/news-releases/interstate-medical-licensure-compact-will-not-ease-physician-shortage-states-journal-of-american-physicians-and-surgeons-300136950.html>

- The Association of American Physicians and Surgeons

Discussion

Arguments in Support of the Proposal

- Reduce Administrative burdens to the practice of medicine for Colorado Medical Boards:
Currently, Colorado Medical Boards review each candidate to determine if they are eligible for licensure. The Medical Boards must perform background checks, contact medical schools and past employers, and ensure the physicians have met all of Colorado's requirements for licensure.²¹ The timeliness of this process is influenced by incomplete forms, lack of response from schools and employers, as well as holiday and vacation time for state employees, which takes place when the highest volume of applications for licensure are received.²² This bill would allow staff to utilize checks that have already been performed by other states, thus saving significant amounts of time.
- Reduce Administrative burdens to the practice of medicine for Physicians:
Physicians will be spared the majority of the tedious process of applying for licensure, since all of their eligibility documents will already exist in the database. As a result, the physicians will neither have to contact previous schools or examination boards to receive proof of graduation or test scores, nor will they have to gather, fill out, and send the forms detailing that information to all interested parties. Physicians will have their records accessible to member states instantaneously, so that they may apply for licensure quickly, and begin their practice of medicine as soon as possible.
- Increased access to health care services:
Physicians whose administrative burden is lowered can spend more time treating patients, and when the length of the process is shortened, they can be more quickly assigned to duties in other states . This carries implications for telehealth, since more physicians from more places will be able to assist patients all over the nation, especially those in rural areas that may not have access to certain health professionals.

Arguments in Opposition to the Proposal

- Mandatory enrollment in the Maintenance of Certification for member physicians:
Some organizations have suggested that the Interstate Medical Licensure Program will require participation in the Maintenance of Certification (MOC) program, a highly controversial program in the medical community. The MOC encourages physicians to become updated to the current best practices of at least one of the 24 approved medical specialty boards of the American Board of Medical Specialties (ABMS) and any of the 18 approved medical specialty boards of the American Osteopathic Association (AOA) on a regular basis.²³ Proponents of the MOC believe it is an opportunity for physicians to engage in lifelong learning, while critics claim that the MOC was created primarily as a money-making scheme for the ABMS and the AOA.²⁴ The Federation of State Medical Boards, which generated this program, claims that the Compact does not mention the MOC, and that it only requires physicians to adhere to existing renewal and continuing medical education requirements of their home

²¹ American Medical Association (2016) "Medical Licensure" <http://www.ama-assn.org/ama/pub/education-careers/becoming-physician/medical-licensure.page>

²² American Medical Association (2016) "Medical Licensure" <http://www.ama-assn.org/ama/pub/education-careers/becoming-physician/medical-licensure.page>

²³ "Qualified Maintenance of Certification Program Incentive Entities for 2012" (PDF). Centers for Medicare and Medicaid Services. 2012. Retrieved 4 February, 2016.

²⁴ New England Journal of Medicine (2015) Boarded to Death — Why Maintenance of Certification Is Bad for Doctors and Patients" <http://www.nejm.org/doi/full/10.1056/NEJMp1407422>

state and whichever member states they choose to be licensed in, none of which require participation in the MOC.²⁵

- **Preempts State authority over practice of medicine:**
Section 24 of the bill states that “nothing herein prevents the enforcement of any other law of a member state that is *not inconsistent* with the Compact [emphasis added].” Upon close examination, this section could allude to preventing the enforcement of state laws that interfere with the Compact, which would violate States’ rights. However, shortly after that statement, the bill outlines that should any provision interfere with a state’s legislation or constitution, that particular provision will be rendered ineffective. The bill also states that it “does not otherwise change a state’s existing Medical Practice Act,” changes to which is also a topic of concern for critics.
- **Definition of “physician”:**
Several opponents are concerned with the definition of “physician” that is listed in the Compact. The bill defines a “physician” as anyone who “holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties, or the American Osteopathic Association’s Bureau of Osteopathic Specialists” which is not consistent with other state definitions.²⁶ According to the FSMB, “physician” was defined in such a way to meet the highest standards already in place for expedited licensure, and 80% of physicians in the U.S. currently meet that standard. For the remaining 20%, the licensees can still apply for licensure under the current process.²⁷ This will mean, however, that around 200,000 physicians would not be eligible under the compact, if it were adopted nationwide.

Potential Issues to Consider

- **Size of the commission**
The Compact stipulates that two representatives from each member state be appointed as commissioners to the Interstate Commission. Twelve states are currently members of the Interstate Medical Licensure Compact; therefore, the Commission has a Board of 24 members, which can be a cumbersome amount of people for making swift decisions. The Commission meets at least once annually, and telecommunication is allowed, but the time commitment for participating in the Commission could be unreasonable, since testimony from all representatives is encouraged.
- **Finance Powers**
The Interstate Commission has the authority to levy and collect annual assessments from each member state to cover the cost of operations and activities, but the amount is not specified. Colorado might be hesitant to commit to the Commission when that fee is unknown.
- **Withdrawal**
In order to withdraw from the Compact, a state must take legal action by repealing the statute which enacted the Compact, which will not take effect until one year after the withdrawal date. Additionally, the withdrawing state must send written notice to the governor of each member state and to the chairperson of the Interstate Commission within 60 days of initiating the withdrawal process, notifying them of the state’s intentions to leave the Compact.

²⁵ Federation of State Medical Boards “Intestate Medical Licensure Compact <http://www.licenseportability.org/#panel2>

²⁶ Snavely, Jeremy (2015) “The Interstate Medical Licensure Compact: Claims vs. Reality” <http://www.jpands.org/vol20no1/snavely.pdf>

²⁷ Snavely, Jeremy (2015) “The Interstate Medical Licensure Compact: Claims vs. Reality” <http://www.jpands.org/vol20no1/snavely.pdf>

About this Summary

This summary was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. For more information about this summary or the Health District, please contact Dan Sapienza, Policy Coordinator, at (970) 224-5209, or e-mail at dsapienza@healthdistrict.org