

## FEDERATION OF STATE MEDICAL BOARDS

### Interstate Medical Licensure Compact Language

## Introduction

On September 5, 2014, the Federation of State Medical Boards (FSMB) released the final version of their proposal of interstate medical licensure compact (Compact) language. The FSMB should be commended on their efforts in directly addressing the licensure issue, which they have noted “could compound patient access problems associated with the national shortage of physicians.”<sup>1</sup> While not specifically directed at telehealth, the FSMB has acknowledged that the advances in health care delivery and practice patterns would necessitate consideration of creating pathways for licensure that do not currently exist. The goals of the compact are “to develop a comprehensive process that complements existing licensing and regulating authority of state boards, ensures the safety of patients and enhance the portability of a medical license, while providing a streamlined process that allows physicians to become licensed in multiple states.”<sup>2</sup>

Below is a summary of some of the highlights of the Compact and the potential impact it could have on telehealth. This paper is meant for information purposes only and is not meant as an endorsement or criticism of the language. The full document is available on the FSMB’s website at:

<http://fsmb.org/state-medical-boards/interstate-model-compact/>

## Compact Legislation

A minimum of seven states must agree to participate in the compact and enact into law the proposed language, as is, before it could go into effect. Once that has happened, an “Interstate Medical Licensure Compact Commission” would be created by the member states. Each member state would have two voting representatives who would serve as Commissioners. A state will be able to leave the Compact by repealing applicable changes related to their membership. The Interstate Commission would administer the Compact. Among the duties assigned to the Commission would be promulgating rules; issue advisory opinions concerning the interpretation of the Compact, its bylaws, rules and actions; enforcement of the Compact’s provisions; and other duties.

The Interstate Commission is authorized to develop rules regarding the application process and issuance of an expedited license. The Commission is also authorized to develop rules regarding fees for expedited licenses. (NOTE: In addition, the member state issuing an expedited license may impose a fee for a license issued or renewed through the Compact). The Commission may levy an annual assessment from each member state to cover its costs.

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## Application and Issuance of Expedited License

The FSMB was clear when crafting the Compact that it would focus more on streamlining the process of obtaining a medical license as opposed to having one license for multiple states, such as the Nurse Licensure Compact. Under this Compact, a physician must designate a state of principal license to register for an expedited license. The physician would file an application with the board of that principal license state.

That principal license state board will evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification that would either verify or deny the physician's eligibility. This letter will go to the Interstate Commission. Static qualifications such as verification of medical education and results of any medical or licensing examination are not subject to additional primary source verification if they have already been verified by the principal license state.

Applicants will need to complete the registration process that the Interstate Commission establishes to receive a license in another state that is a member of the Compact and pay all applicable fees. After verification of eligibility, a criminal background check and receipt of fees, the board of the member state the application is made to will issue an expedited license.<sup>3</sup>

The physician is subject to all laws, rules and regulations of the issuing member board and member state. The expedited license may be terminated if the physician does not maintain a license in the principal state without re-designating a new state of principal licensure.

## Coordinated Information

The Interstate Commission will establish a data base of all physicians licensed or who have applied for licensure through the Compact. Member boards must report any public action, disciplinary or investigatory information deemed necessary and proper by the Commission or complaints against physicians who have applied or received an expedited license through the Compact. Complaint and disciplinary information may be shared between member boards upon request. Information provided to the Interstate Commission is confidential.

## Joint Investigations and Discipline

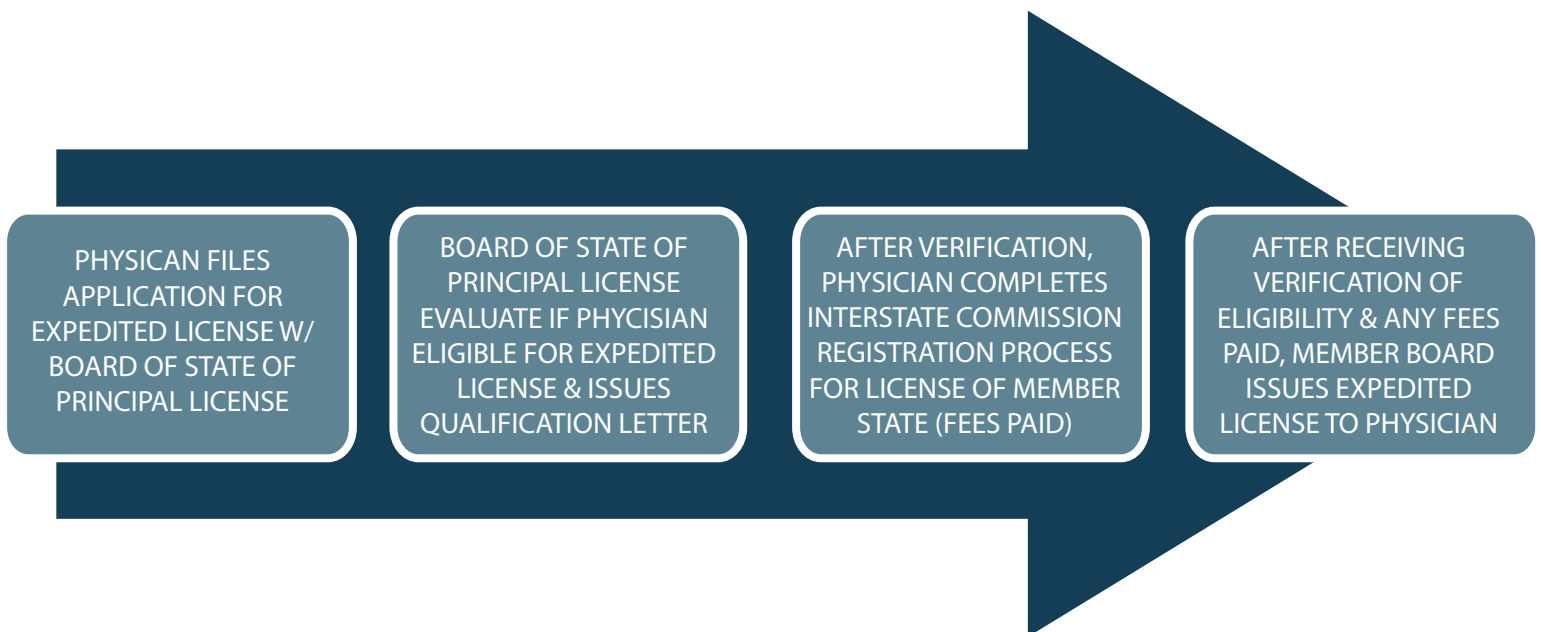
Participation in the Compact would open a physician up to investigations and discipline in multiple jurisdictions for an act that occurred in one state. For example:

- Member boards may participate in joint investigations of physicians.
- A subpoena issued by a member state is enforceable in other member states.
- Any disciplinary action taken by any member board against a physician licensed through the Compact may be subject to discipline by other member boards.
- If a physician's principal state license is revoked, surrendered or relinquished, all licenses issued to that physician by member boards are automatically placed, without further action necessary by any member board, on the same status. If the principal state license is reinstated, the other state licenses will remain encumbered until that state member board takes action to reinstate.

- If disciplinary action is taken against a physician by a member board that is not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided.
- If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended for an indefinite period of time, any license(s) issued to the physician by any other member board(s) shall be suspended, automatically and immediately without further action necessary by the other member board(s), for ninety (90) days upon entry of the order by the disciplining board, to permit the member board(s) to investigate the basis for the action. <sup>4</sup>

## Potential Impact on Telehealth

One of the major barriers around licensure for telehealth providers is how long the process takes to receive a license in another state. The Compact would help expedite the process by allowing static information such as medical education, results of examinations, etc., not have to have primary source verification again if they have already been primary source verified by the principal state of license. This does appear to help streamline some of the repetitive aspects of applying for a license, however the current basic structure outlined by the Compact language indicates the process would include several applications and entities:



It appears that two applications would still need to be completed by the physician in this proposed format. Depending on what is involved, the process could still be more streamlined than what a physician currently needs to do. However, it should also be noted that in this process, there is also the potential that two fees will need to be paid, one to the Interstate Commission and one to the member board to whom the physician is applying for a license<sup>5</sup>. It is also unclear whether a physician would need to repeat this process for each state board he or she wishes to obtain a license from or whether one application (and thus one fee paid) through the Interstate Commission would be sufficient for multiple licenses. These are details that would need to be considered by any Interstate Commission that is formed.

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## Due Process

Other areas that could raise questions are the joint investigations and discipline sections. Under the Compact language, if a physician has his or her license revoked in one state, other Compact member states may do the same, without further notice. If the revoked license is reinstated, the licenses in other states will remain encumbered until those state boards take action. If disciplinary action is taken by a member board not in the state of principal license, any other board “may deem the action conclusive as to the matter of law and fact decided, and:

- (i) impose the same or lesser sanction(s) against the physician;
- (ii) or pursue separate disciplinary action against the physician under its respective medical practice act, regardless of the action taken in other member states.”<sup>6</sup>

Such language indicates that a physician may have no recourse in disciplinary actions as the finding in one state is “conclusive as to the matter of law and fact decided.” Additionally,

“If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended for an indefinite period of time, any license(s) issued to the physician by any other member board(s) shall be suspended, automatically and immediately without further action necessary by the other member board(s), for ninety (90) days upon entry of the order by the disciplining board, to permit the member board(s) to investigate the basis for the action. A member board may terminate the automatic suspension of the license it issued prior to the completion of the ninety (90) day suspension period.”<sup>7</sup>

States would need to take into consideration whether these sections and other parts of the compact may conflict with their existing state laws and practices. Several unknowns remain as the Commission would need to create actual policy and processes once it has been formed. For example, while the process outlined in the Compact language appears to require two applications and has the potential for two fees involved, the process may be quicker and less expensive than what currently occurs. Though some may feel the FSMB did not go far enough with their Compact language, progress has been made. How much progress remains to be seen.

<sup>1</sup> Federation of State Medical Boards, “White Paper on Adoption of Multi-State Physician Licensure Compact”, July 2014, p 4.

<sup>2</sup> Federation of State Medical Boards, Interstate Medical Licensure Compact, Section 1. Purpose, p. 1.

<sup>3</sup> Ibid, Section 5, Application and Issuance of Expedited Licensure, p. 6.

<sup>4</sup> Ibid, Section 10, Disciplinary Actions, p. 9-10.

<sup>5</sup> Ibid, Section 6, Fees for Expedited Licensure, p. 6.

<sup>6</sup> Ibid, Section 10, Disciplinary Actions, p. 9-10.

<sup>7</sup> Ibid, Section 10, Disciplinary Actions, p. 10.