

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 446 (Senator Pugh, *et al.*)
Education, Health, and Environmental Affairs

Interstate Medical Licensure Compact

This bill enters Maryland into the Interstate Medical Licensure Compact for physicians. The bill establishes (1) specified procedures and requirements for physicians to obtain and maintain an expedited license to practice medicine in a member state and (2) the composition, powers, and responsibilities of the Interstate Medical Licensure Compact Commission.

The bill takes effect July 1, 2016, but is contingent on the enactment of substantially similar legislation in at least six other states.

Fiscal Summary

State Effect: Special fund expenditures increase to pay any annual assessment levied by the commission and for other activities associated with participation in the compact. Special fund revenues increase to the extent that out-of-state physicians choose to obtain, and maintain, an expedited license through the compact in order to practice medicine in the State, as discussed below. The timing and amount of any such increases cannot be reliably estimated at this time. Potential operational impact for the State Board of Physicians to comply with specified procedures, as discussed below.

Local Effect: The bill does not directly affect local government operations or finances.

Small Business Effect: Potential minimal. State physicians who currently operate small businesses, or who are employed by small businesses, may seek to obtain an expedited license through the compact in order to practice medicine in other member states; however, the validity of the expedited license is contingent on physicians' maintaining a valid State license as well.

Analysis

Bill Summary:

Interstate Medical Licensure Compact

The compact is established among the member states to provide a streamlined process that allows physicians to become licensed in multiple states, enhancing the portability of a medical license. The compact adopts the prevailing standard for licensure and requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards retain jurisdiction to impose adverse actions against physicians who are licensed through the compact to practice in the respective states.

The Executive, Legislative, and Judicial branches of state government in each member state must enforce the compact. The compact's provisions do not override existing state authority to regulate the practice of medicine. Failure to fulfill obligations under the compact may result in a state's default from membership. The compact becomes effective and binding upon the enactment of the compact into law by at least seven states.

States may also withdraw from the compact through a statutory repeal of the compact, but any such withdrawal cannot take effect until one year after the effective date of the legislation and specified notice requirements have been met. The withdrawing state is responsible for all dues, obligations, and liabilities incurred through the effective date of the withdrawal.

Interstate Medical Licensure Compact Commission

The commission consists of two voting representatives from each state who serve as commissioners. Commissioners must be allopathic or osteopathic physicians appointed to a member board; executive directors, executive secretaries, or similar executives of a member board; or a member of the public appointed to a member board. The commission must meet at least once each year. All meetings are open to the public, as are the commission's official records.

The commission must oversee and maintain the compact, promulgate rules for the compact's administration, issue advisory opinions (on the request of a member state or board), and enforce compliance with the compact. The commission must also pay for the expenses related to the commission's activities. The commission must annually report to the legislatures and governors of the member states on the commission's activities, including any financial audits and commission recommendations.

The commission may levy and collect an annual assessment from each member state to cover the cost of the operations and activities of the commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The commission must determine a formula for computing the aggregate annual assessment amount and promulgate a rule that is binding for all member states. The commission must be subject to a yearly financial audit.

Expedited License to Practice Medicine in Member State

Under the compact, a “physician” is any person who (1) graduated from a medical school accredited by specified organizations; (2) passed specified licensing examinations; (3) completed specified graduate medical education; (4) holds valid specialty certification; (5) possesses a full and unrestricted license to practice medicine issued by a member board; (6) has never been convicted, received, or deferred adjudication of any offense by a court; (7) has never had a license to practice medicine subjected to discipline, excluding actions related to nonpayment of fees; (8) has never had a controlled substance license or permit suspended or revoked; and (9) is not under active investigation by a licensing agency or law enforcement authority.

A physician must designate a member state of the compact as the state of principal license for purposes of registration for expedited licensure through the compact. To so designate, the physician must possess a full and unrestricted license to practice medicine in that state, and the state must be (1) the primary residence of the physician; (2) the state where at least 25% of the physician’s practice of medicine occurs; (3) the location of the physician’s employer; or (4) the state designated as the state of residence for federal tax purposes.

To obtain an expedited license to practice medicine in a member state, the physician must submit an application to the state of principal license’s medical board. The board must evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification to the commission. In evaluating a physician’s eligibility, the board must perform a criminal background check of the physician. A physician may appeal an eligibility decision with the board.

If found eligible, a physician must complete the commission’s registration process and pay any applicable fees (as set by the member state in which the physician seeks licensure). On receipt of verification from the commission and the applicable fees, the board of the member state in which the physician seeks licensure must then issue the expedited license. The expedited license must be valid to the same extent as a full and unrestricted license in that state. The expedited license’s validity is contingent on the physician maintaining a valid license in the state of principal license. To renew an expedited license, the physician must apply for renewal through the commission and pay any applicable fees, which are collected by the commission and paid to the member state.

The commission must establish a database of all licensees and all applicants for licensure through the compact. Boards of member states must report any public action or complaints, and any disciplinary or investigatory information, concerning a physician who has applied or received an expedited license to the commission. Boards must also share complaint or disciplinary information with other member boards upon request. Boards may report any nonpublic complaints, disciplinary, or investigatory information. All shared information is confidential, filed under seal, and used only for investigatory or disciplinary matters.

Member boards may participate with other member boards in joint investigations of physicians licensed by the member boards. Subpoenas issued by member states are enforceable in other member states. Member states may investigate violations of statutes authorizing the practice of medicine in any other member state in which the physician holds a license. Disciplinary action taken by a member board against a physician licensed through the compact is considered unprofessional conduct that may subject the physician to discipline by other member boards.

If the state of principal license revokes or suspends the physician's license, or the license is surrendered or relinquished in lieu of discipline, then all licenses issued to the physician by member boards must automatically be placed on the same status. Reinstatement of the physician's license by the state of principal license does not automatically reinstate the other licenses; the respective member boards must take action to reinstate the licenses. If a member board revokes or suspends a physician's expedited license, then all licenses issued to the physician by other member boards are automatically suspended for 90 days.

Current Law/Background: In Maryland, an individual must be licensed by the State Board of Physicians to practice medicine in the State. Pursuant to Chapter 34 of 2015, an individual must also submit to a criminal history records check (CHRC) as a qualification for licensure.

A physician licensed by and residing in another jurisdiction is exempt from State licensing requirements if the physician submits to a CHRC and is (1) consulting with a State licensed physician about a particular patient and does not direct patient care or (2) engaged in clinical training with a licensed physician under specified circumstances. Additionally, a physician who resides in and is authorized to practice medicine by any state adjoining Maryland and whose practice extends into Maryland is exempt from State licensing requirements if the physician submits to a CHRC and (1) the physician does not have an office or other regularly appointed place in Maryland to meet patients and (2) the same privileges are extended to licensed Maryland physicians by the adjoining state.

In 2013, the Federation of State Medical Boards (FSMB) organized a team of state medical board representatives and experts from the Council on State Governments to develop and draft a framework for an Interstate Medical Licensure Compact – a new licensing option

under which qualified physicians could seek to practice in multiple states through expedited licensure. The bill adopts this model legislation.

According to FSMB, under the proposed compact, participating state medical boards would retain their licensing and disciplinary authority but would agree to share information and processes that are essential to the licensing and regulation of physicians who practice across state borders. Participation in the compact is voluntary for both states and physicians. The goal of the compact is to significantly reduce barriers to the process of gaining licensure in multiple states at a time when telemedicine and access to health care is growing.

As of February 2016, 12 states have enacted the compact: Alabama, Idaho, Illinois, Iowa, Minnesota, Montana, Nevada, South Dakota, Utah, West Virginia, Wisconsin, and Wyoming. Additionally, 8 states (including Maryland) have introduced legislation in 2016 to consider the compact.

The U.S. Health Resources and Services Administration awarded a grant to support the establishment of the compact commission in July 2015. The commission (which consists of two representatives from each state that enacted the compact) began meeting to develop the compact's administrative framework in October 2015; the commission's third meeting is scheduled for March 2016.

State Fiscal Effect: The State Board of Physicians advises that there may be operational costs for the board to investigate and determine whether a State-licensed physician is eligible to obtain an expedited license through the compact as specified in the bill. The board also advises that it must investigate other eligibility requirements that are stricter and/or different than the requirements for licensure in the State (*e.g.*, educational requirements, criminal and disciplinary proceedings, specialty certifications). However, the board advises that the extent of this operational impact cannot be reliably estimated at this time.

Special fund revenues increase to the extent that out-of-state physicians seek to obtain an expedited license, and subsequently to renew an expedited license, to practice medicine in the State. Member states that issue expedited licenses may set fees for license issuance and may collect renewal fees through the commission. However, the number of out-of-state physicians that might seek licensure in the State through the compact (and, conversely, the number of State physicians seeking expedited licensure elsewhere) is likely dependent on which states ultimately enact the compact. The board advises that interest may be highest for states that geographically adjoin Maryland; of the 12 states that have enacted the compact, West Virginia is the only bordering state. Additionally, of the 7 other states that have so far introduced legislation in 2016, none border Maryland. (Pennsylvania introduced legislation in October 2015, but no further action has been taken.)

Special fund expenditures also increase to pay any annual assessment levied by the commission. The amount of any such assessment cannot be reliably estimated at this time. Other activities associated with participation further increase expenditures.

Additional Comments: The bill is contingent on the enactment of substantially similar legislation in at least 6 other states; however, 12 states have already enacted such legislation. Therefore, the bill takes effect July 1, 2016.

Additional Information

Prior Introductions: SB 252 of 2015 was withdrawn after receiving a hearing in the Senate Education, Health, and Environmental Affairs Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Federation of State Medical Boards, Department of Legislative Services

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md/jc

Analysis by: Sasika Subramaniam

Direct Inquiries to:
(410) 946-5510
(301) 970-5510