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2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 180

(Delegate Bagnall)

Health and Government Operations

Education, Health, and Environmental Affairs

Interstate Medical Licensure Compact – Sunset Extension and Reporting

This bill extends the termination date for the Interstate Medical Licensure Compact (IMLC) from September 30, 2022, to June 30, 2030. Uncodified language requires the State Board of Physicians (MBP), by October 1, 2023, to report on the status of the compact, including (1) the number of Maryland licensees who have applied for licensure through the compact; (2) the number of Maryland licensees who have been approved for licensure through the compact; (3) the member states participating in the compact; and (4) recommendations on whether Maryland should continue participation in the compact and whether any statutory changes are needed to accomplish the goal of streamlining licensure for out-of-state physicians. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: MBP special fund revenues and expenditures relating to participation in IMLC are maintained beyond FY 2023, as discussed below. MBP can make the required report using existing budgeted resources.

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

Small Business Effect: Potential minimal.

Analysis

Current Law: Chapter 470 of 2018 entered Maryland into IMLC for physicians.

Interstate Medical Licensure Compact

The compact is established among 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 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. 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.

Subject to the requirements of the compact, the termination date of September 30, 2022, under Chapter 470 of 2018, serves as the required notice of withdrawal from the compact.

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 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) possesses a full and unrestricted license to practice medicine issued by a member board; (5) has never been convicted, received, or deferred adjudication of any offense by a court; (6) has never had a license to practice medicine subjected to discipline, excluding actions related to nonpayment of fees; (7) has never had a controlled substance license or permit suspended or revoked; and (8) 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 require the applicant to obtain a criminal background check in accordance with specified requirements. A member board may not disclose to the commission any information received from the FBI as part of a background check. 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. However, the automatic suspension must be waived unless the member board finds that emergency action is needed for public health or safety, in which case the licensee must be given written notice and an opportunity to be heard.

State Board of Physicians – Compact Authority

MBP must set fees for the issuance and renewal of licenses issued under the compact. The fees must be set to adequately cover the cost of maintaining the licensure program. Further, any annual assessment that is levied by the commission must be funded through an additional surcharge on each licensed compact physician and physicians who designate Maryland as the physician's state of principal license under the compact.

Within 30 days after receiving a request from MBP, a compact physician must provide verification that the compact physician satisfies the requirements for licensure in Maryland. However, a compact physician's refusal to provide such verification may not serve as a basis for denial of a license under the compact. Additionally, within 30 days after a compact license is renewed, a compact physician must submit specified license renewal information. "Compact physician" means a physician licensed under the compact.

MBP may discipline a licensed physician for (1) with the exception of the compact licensure process, violating any provision of the Maryland Medical Practice Act, any rule or regulation adopted by MBP, or any State or federal law pertaining to the practice of medicine or (2) failing to meet the qualifications for licensure in Maryland.

Non-compact Licensure in Maryland

An individual must be licensed by MBP to practice medicine. 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 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 (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. Chapters 217 and 218 of 2017 exempted these individuals from CHRC requirements.

Pursuant to Chapter 94 of 2016, a physician who is licensed by and resides in another jurisdiction and who is designated as a team physician by an athletic or sports team based outside the State is exempt from State licensing requirements, including the requirement to submit to a CHRC, under specified circumstances.

State Revenues: MBP advises that, from July 2019 to present, it received \$879,034 in revenues from IMLC licensure and renewal fees. This includes 522 physicians licensed in Maryland who requested a Letter of Qualification to join IMLC at a fee of \$300 each; 709 out-of-state physicians who applied for initial licensure through IMLC at a fee of \$790 each; and 334 physicians who renewed their licensure through IMLC (required on a biannual basis) at a fee of \$486. Thus, annual revenues for fiscal 2021 and 2022 can be approximated at \$350,000. However, it is unlikely that initial licensure will continue at the same pace moving forward. Assuming that those who have become licensed through IMLC will continue to renew, future ongoing revenues can be approximated to be *at least* \$172,000 annually. This estimate assumes that half of the out-of-state physicians licensed through IMLC, or approximately 355 physicians, will renew through IMLC each year at a fee of \$486.

State Expenditures: MBP advises that IMLC does not currently charge any fees to participate as a member state. However, MBP further advises that three permanent positions within MBP spend approximately 16 hours each per week (or 40% of their time) working on IMLC licensures: one licensure supervisor, one licensure analyst, and one lead licensure analyst. Thus, the total cost to MBP that can be attributed to IMLC is \$77,898 annually.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 386 (Senator Beidle) - Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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