



Committee: Senate Education, Health, and Environmental Affairs Committee

Bill Number: Senate Bill 568

Title: Health Care Practitioners – Telehealth – Out-of-State Health Care Practitioners

Hearing Date: February 16, 2021

Position: Oppose

The Maryland Nurses Association (MNA) opposes *Senate Bill 568 – Health Care Practitioners – Telehealth – Out-of-State Health Care Practitioners*. We believe the legislation proposes the wrong model to expand access to health care services through out-of-state telehealth providers, although we appreciate the underlying intent.

Strength of the Interstate Licensure Compact Model

We encourage the Maryland General Assembly and other stakeholders to promote the model of interstate licensure compacts. Nurses have the oldest and most expansive interstate licensure compact. Maryland was the first state to join the Nurse Licensure Compact in 1999. Over 20 years later, the compact has grown to include 34 states with 10 additional states actively considering nursing compact legislation.

In the last few years, Maryland has demonstrated a rapid adoption of other licensure compacts including physicians and physical therapists. Just this year, the Maryland General Assembly is considering compact legislation regarding compacts for occupational therapy, speech therapy, psychologists, and professional counselors.

Interstate licensure compacts offer the following advantages:

- **Strong Consumer Protections:** Compacts contain comprehensive agreements about how state licensure boards will cooperate on disciplinary matters; and
- **Addresses Need for More Providers for In-Person and Telehealth Care:** Compacts offer a solution to address workforce shortages for in-person and telehealth care.

Challenges Posed by Senate Bill 568

The Maryland Nurses Association is concerned about the unintended consequences for Senate Bill 568 on consumers, nursing professionals, and our health care system more generally:

- **Risk to Consumer Safety:** The legislation does not provide the legal tools for Maryland health occupation boards to pursue disciplinary issues for providers across state lines.
 - Unlike interstate licensure compacts, the legislation does not provide for an agreement among states on how to cooperate on disciplinary issues; and
 - The legislation does not provide for a rap-back criminal history records check, where the board is notified of any new criminal charges. Rather, the legislation appears to rely on a one-time only check at the beginning of the registration period for an out-of-state telehealth practitioner.
- **Compromise Existing or Future Interstate Licensure Compacts:** The legislation is broad and encompasses all health occupations that are licensed or certified in Maryland. For nurses, we are concerned that the legislation jeopardizes Maryland's participation in the Nurse Licensure Compact, as compact rules generally govern how state recognize and license out-of-state providers. We would imagine that other health professions may have similar concerns.
- **No Continuity of Care Solutions for Marylanders:** Marylanders want to continue to see Maryland providers when they travel out-of-state. These Marylanders include college students attending out-of-state schools, adult children who move temporary to take care of aging parents, or individuals who travel frequently for work. The legislation does not offer any continuity of care solutions for Marylanders, as the bill's reach does not extend to other states. In contrast, interstate licensure compacts apply across all participating states.
- **Only Limited Continuity of Care Solutions for Visitors to Maryland:** The bill would allow visitors to Maryland to receive services from their home-state provider, but only if the provider meets the registration requirements under the legislation. Those requirements include obtaining a resident agent within Maryland.

A registered agent is an entity that can receive legal or governmental notices on behalf of the health care provider. This requirement is critical to ensure a Maryland licensure board can communicate with the out-of-state provider. However, it is important to recognize that securing a resident agent requires time and resources – probably outside of the reach of most private practitioners. This means that the bill will have only limited impact on supporting continuity of care for visitors to Maryland. For example, a college student at University of Maryland College Park will unlikely to be able to see their mental health professional from their

home state – unless that professional is part of an organization large enough to navigate the resident agent process.

- **Other Issues:** It is important to note that interstate licensure compacts usually take several years to develop, as there are many complex legal issues to address. Compacts are usually developed by a national organization, such as the Council of State Governments, who bring multiple stakeholder together to develop the compact.

This model proposed by this legislation is new to Maryland, and we have little experience from other states. Just Florida has adopted this model, and Florida is unique because of the large number of out-of-state visitors who live in Florida during the winter months.

We would highlight some other issues raised by the bill:

- **Supervision:** Some professions, such as certified nursing assistants, require supervision by another professional to practice. The bill does not contemplate supervision requirements for out-of-state practitioners who require supervision under Maryland law; and an even more complicated issue is how would Maryland address supervision requirements if the home-state and Maryland have different requirements.
- **Professions not recognized in Maryland:** The bill appears to allow any type of licensed or certified health care professional to practice telehealth in Maryland if meeting the appropriate board's registration requirements. What if a health profession is not recognized in Maryland law? It is not clear of how the bill addresses that issue.
- **Differing educational requirements:** For some professions, states may still diverge on educational requirements. The bill would leave Maryland boards without the discretion to turn down a registration applicant without the educational background required of Maryland providers. This arrangement could compromise the quality of care and patient safety for Marylanders.

Conclusion

Thank you for your consideration of our concerns about this legislation. We agree that Maryland must address the central question of licensure reciprocity as we move forward with telehealth. However, we do not believe this legislation offers an appropriate or sufficient model to improve access to care for Marylanders. If we can provide any additional information, please contact Robyn Elliott at relliott@policypartners.net or (443) 926-3443.