

FSMB Releases Revised Draft Framework for Interstate Physician Licensure

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One of the largest hurdles to the growth of telehealth—the lack of a streamlined process for obtaining physician licensure in multiple states—is one step closer to being scaled. The Federation of State Medical Boards (“FSMB”) recently released a revised draft of its Interstate Medical Licensure Compact (“Compact”), which is designed to facilitate physician licensure portability and the practice of interstate telehealth.

Obtaining regulatory relief from burdensome licensing requirements is a chief priority among the telehealth providers and health care organizations facilitating this growing practice modality. Demand for physicians, whether in person or via electronic means, is experiencing a surge as millions more Americans become insured under the Affordable Care Act. As a result, more physicians are applying for medical licenses in multiple states—a costly and time-consuming process. Yet, without the proper licensure to practice medicine in a patient’s state of residence, physicians may be at regulatory risk. States have long required physicians who practice medicine and treat patients in their states to be licensed in their states, as this has been the only way for the individual states to monitor and discipline these individuals if the need arises. The Compact would help alleviate onerous state licensure requirements, while, at the same time, allowing much of the regulatory power governing physician licensure to remain with the states.

As Epstein Becker Green described in a February 2014 Client Alert titled “[Draft Framework for Interstate Medical Licensure Compact Released](#),” the Compact would create an additional pathway through which physicians could obtain expedited licensure in participating Compact states. The Compact would not replace traditional state-based licensure systems; rather, as stated in the draft, the Compact “complements the existing licensing and regulatory authority of state medical boards, ensures the safety of patients, and enhances the portability of a medical license. . . .” Specifically, the Compact would allow physicians to complete a single licensing application for all participating states that, once approved, would enable physicians to practice in any of those jurisdictions.

The expedited licensure process would be carried out as follows:

- Physicians would designate a “principal” state and file an application for expedited licensure with the board of medicine in their principal state.
- For purposes of evaluating a physician’s eligibility for expedited licensure, static qualifications (e.g., verification of medical education, graduate medical education, and results of medical or licensing examinations) would not be subject to additional primary source verification if they were already verified for purposes of principal state licensure.
- Physicians would complete the expedited licensure process established by the Interstate Medical Licensure Compact Commission, the body charged with administering the Compact, and pay any fees required by the board(s) of medicine in the participating state(s) in which the physicians are seeking licensure.
- Once a physician’s eligibility is verified and all fees are paid, the board(s) of medicine in the participating state(s) would issue the physician a full and unrestricted license to practice in that state.

The Compact offers guidance to states regarding various aspects of a streamlined physician licensure process, including licensure applications and renewals, designation of a “principal” state of licensure, coordination of information systems, and event disciplinary actions and dispute resolution processes.

FSMB’s work on the Compact began in 2013, after the FSMB House of Delegates unanimously approved a resolution during its 2013 annual meeting calling for the FSMB to “formally explore the creation of a new system that would utilize an ‘interstate compact’ to increase efficiency in the licensing of physicians who practice in multiple states.”¹ FSMB circulated the initial draft of the Compact in late 2013 and requested comments. FSMB received a variety of comments in response to the initial draft and also had the opportunity to discuss the initial draft with its member state medical boards and other attendees at FSMB’s 2014 Annual Meeting, which took place in late April. The Compact is on track for states to formally begin considering adoption and participation in early 2015.

The current draft of the Compact reflects changes based upon comments that FSMB received from its member state medical boards and other stakeholders over the past few months. Overall, comments to the initial draft were minor, with the most significant changes being made in the section regarding disciplinary actions. Specifically, the revised draft of the Compact provides that any disciplinary actions taken by any member state medical board against a physician licensed through the Compact would be deemed “unprofessional conduct” which, in turn, could subject the physician to

¹ Federation of State Medical Boards, Press Release, *Federation of State Medical Boards to Explore Use of Interstate Compact for Physician Licensure* (Apr. 23, 2013), available at <http://www.fsmb.org>.

discipline by other state medical boards. Furthermore, the revised draft of the Compact also includes disciplinary consequences for physicians whose licenses are revoked, surrendered, relinquished in lieu of discipline, or suspended for an indefinite period of time.

Adoption of the Compact will be a critical step toward resolving a major obstacle that has long constrained the interstate practice of telehealth. Numerous other legal and regulatory issues remain, but at least one major issue comes closer to being resolved.

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*This Client Alert was authored by **Amy F. Lerman** and **René Y. Quashie**. For additional information about the issues discussed in this Client Alert, please contact one of the authors or the Epstein Becker Green attorney who regularly handles your legal matters.*

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