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BILL ANALYSIS



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House Bill 4066 (as passed by the House)
House Bill 4067 (Substitute H-1 as passed by the House)
Sponsor: Representative Jim Tedder
House Committee: Health Policy
Senate Committee: Health Policy

Date Completed: 2-13-18

CONTENT

House Bill 4066 would enact within the Public Health Code the Interstate Medical Licensure Compact, which establishes a process that allows physicians to become licensed in multiple states. Specifically, the Compact does the following:

- Allows a licensed physician who designates a Compact member state as his or her "state of principal license" and meets other eligibility criteria to apply for an expedited license that authorizes him or her to practice in all other member states.
- Requires the licensing board ("member board") in an applicant's state of principal license to issue an expedited license upon verification of the applicant's eligibility.
- Authorizes a member state to impose a fee for an expedited license issued or renewed through the Compact in that state.
- Prescribes conditions for the renewal of an expedited license granted in a member state.
- Provides for creation by the member states of the Interstate Medical Licensure Compact Commission to administer the Compact, and prescribes the Commission's membership as well as its powers and duties.
- Authorizes the Commission to collect an annual assessment from Compact member states to cover the Commission's administrative costs.
- Provides immunity from liability for officers and employees of the Commission.
- Requires the Commission to establish a database of all applicants for expedited licensure, as well as physicians who have been granted an expedited license, to facilitate sharing of information between member states regarding complaints and disciplinary action against licensees and applicants.
- Authorizes member boards to participate in joint investigations of licensed physicians.
- Provides that a subpoena issued by a member state is enforceable in other member states.
- Provides that any disciplinary action taken by any member board against a physician licensed through the Compact is deemed unprofessional conduct and may be subject to discipline by other member boards.
- Provides that, if a license granted by the member board in a physician's state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, all licenses issued to the physician by member boards automatically are placed on the same status.
- Provides that, if disciplinary action is taken against a physician by a member board other than the board in the state of principal license, any other member

- board may impose the same or lesser sanctions against the physician or pursue separate disciplinary action under its respective medical practice act.
- Requires automatic suspension for 90 days of all licenses issued to a physician by member boards, if a physician's license is revoked, surrendered or relinquished in lieu of discipline, or suspended, to permit all member boards to investigate the basis of the action.
- Requires the Commission to promulgate rules to achieve the Compact's purposes, and allows any person to petition for judicial review of a Commission rule.
- Requires the executive, legislative, and judicial branches of state government in each member state to enforce the Compact and take all actions necessary and appropriate to effectuate its purposes and intent.
- Requires the Commission to enforce the Compact, including through legal action against a member state in default.
- Provides for a determination by the Commission that a member state has defaulted on its obligations and responsibilities under the Compact, and prescribes procedures to be followed in an attempt to cure the default.
- Provides for the termination of a defaulting state's Compact membership, if all other means of securing compliance have been exhausted.
- Prescribes conditions that must be met in order for the Compact to take effect.
- Prescribes procedures for a member state's withdrawal from the Compact, as well as dissolution of the Compact in the event that membership drops to one state.

House Bill 4067 (H-1) would amend the Code to provide that an allopathic or osteopathic physician who held an expedited license under the proposed Compact would be considered a physician who was licensed under the Code; and would be authorized to engage in the practice of medicine, or osteopathic medicine and surgery, as applicable, under the Code.

The bills are tie-barred. Each bill would take effect 90 days after its enactment. The Compact would be enacted beginning 180 days after the effective date of House Bill 4066 and would be repealed three years after that date.

The provisions of the Compact contained in House Bill 4066 are described below in further detail.

Purposes

The Compact states, "In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the Interstate Medical Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The Compact creates another pathway for licensure and does not otherwise change a state's existing medical practice act. The Compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the Compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the Compact."

Eligibility

A physician must meet the eligibility requirements as defined in Section 2(k) to receive an expedited license under the terms and provisions of the Compact. Section 2 defines "expedited license" as a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the Compact. Section 2(k) defines "physician" as any person who meets all of the following conditions:

- Is a graduate of a medical school accredited by the Liaison Committee on Medical Education, the Commission on Osteopathic College Accreditation, or a medical school listed in the International Medical Education Directory or its equivalent.
- Passed each component of the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes.
- Successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association.
- Holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists.
- Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board.
- Has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction.
- Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, Federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license.
- Has never had a controlled substance license or permit suspended or revoked by a state or the U.S. Drug Enforcement Administration.
- Is not under active investigation by a licensing agency or law enforcement authority in any state, Federal, or foreign jurisdiction.

A physician who does not meet the requirements of Section 2(k) may obtain a license to practice medicine in a member state if he or she complies with all laws and requirements, other than the Compact, relating to the issuance of a license to practice medicine in that state.

Designation of State of Principal License

A physician must designate a member state as his or her state of principal licensure for purposes of registration for expedited licensure through the Compact, if he or she possesses a full and unrestricted license to practice medicine in that state and the state is any of the following:

- The physician's state of primary residence.
- The state where at least 25% of the physician's practice of medicine occurs.
- The location of the physician's employer.
- The state designated as state of residence for purpose of Federal income tax, if no state qualifies under any of the first three conditions.

A physician may redesignate a member state as state of principal license at any time, as long as the state meets the Compact's requirements.

The Interstate Medical Licensure Compact Commission (described below) is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

Application & Issuance of Expedited Licensure

A physician seeking licensure through the Compact must file an application for an expedited license with the member board of the state selected by the physician as the state of principal license. ("Member board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians as directed by the state government.) Upon receiving an application for an expedited license, the member board within the selected state must evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying his or her eligibility, to the Commission.

Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the Commission through rule, may not be subject to additional primary source verification where already primary source-verified by the state of principal licensure.

In the course of verifying eligibility, the applicable member board must perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, with the exception of Federal employees who have suitability determination in accordance with Federal regulations.

Appeal on the determination of eligibility must be made to the member state where the application was filed and will be subject to the law of that state.

Upon verification, physicians eligible for an expedited license must complete the registration process established by the Commission to receive a license in a member state of principal license, including the payment of any applicable fees. After receiving verification of eligibility, as well as any fees, a member board must issue an expedited license to the physician to practice medicine in the issuing state consistent with the medical practice act and all applicable laws and regulations of the issuing member board and member state.

An expedited license will be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within that state.

An expedited license obtained through the Compact must be terminated if a physician fails to maintain a license in the state of principal licensure for a nondisciplinary reason, without redesignation of a new state of principal licensure.

The Commission may develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

Fees for Expedited Licensure

A member state issuing an expedited license authorizing the practice of medicine in that state, or the regulating authority of the member state, may impose a fee for a license issued or renewed through the Compact. The Commission may develop rules regarding the fees; the rules, however, may not limit the authority of a member state or its regulating authority to impose and determine the amount of a fee.

Renewal & Continued Participation

A physician seeking to renew an expedited license granted in a member state must complete a renewal process with the Commission if the physician meets all of the following conditions:

- Maintains a full and unrestricted license in a state of principal license.
- Has not been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction.
- Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, Federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license.
- Has not had a controlled substance license or permit suspended or revoked by a state or the U.S. Drug Enforcement Administration.

Physicians must comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

The Commission must collect any renewal fees charged for the renewal of a license and distribute them to the applicable member board. Upon receiving a renewal fee, a member board must renew the physician's license.

Physician information collected by the Commission during the renewal process must be distributed to all member boards.

The Commission may develop rules to address renewal of licenses obtained through the Compact.

Coordinated Information System

The Commission must establish a database of all physicians licensed, or who have applied for licensure, under the Compact's expedited licensure provisions. Notwithstanding any other provision of law, member boards must report to the Commission any public action or complaints against a licensed physician who has applied for or received an expedited license through the Compact. Additionally, member boards must report disciplinary or investigatory information determined as necessary and proper by rule of the Commission. Member boards also may report any nonpublic complaint, disciplinary, or investigatory information not required by the Commission. Member boards must share complaint or disciplinary information about a physician upon request of another member board.

All information provided to the Commission or distributed by member boards must be confidential, filed under seal, and used only for investigatory or disciplinary matters.

The Commission may develop rules for mandated or discretionary sharing of information by member boards.

Joint Investigations

The Compact provides that licensure and disciplinary records of physicians are deemed investigative.

In addition to the authority granted to a member board by its respective medical practice act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

A subpoena issued by a member state will be enforceable in other member states.

Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

Disciplinary Actions

Any disciplinary action taken by any member board against a physician licensed through the Compact must be deemed unprofessional conduct that may be subject to discipline by other member boards, in addition to any violation of the medical practice act or regulations in that state.

If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards must be automatically placed on the same status without further action necessary by any member board. If the member board in the state of principal license reinstates the physician's license subsequently, a license issued to the physician by any other member board must remain encumbered until that board takes action to reinstate it in a manner consistent with that state's medical practice act.

If disciplinary action is taken against a physician by a member board other than the board in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and may impose the same or lesser sanctions against the physician so long as they are consistent with that state's medical practice act, or pursue separate disciplinary action against the physician under its respective medical practice act, regardless of the action taken in other member states.

If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license issued to the physician by any other member board must be suspended, automatically and immediately without further action necessary by other member boards, for 90 days upon entry of the order by the disciplining board, to permit the member boards to investigate the basis of the action under the medical practice act of that state. A member board may terminate the suspension before completion of the 90-day period in a manner consistent with the medical practice act of that state.

Interstate Commission

The Compact provides for creation by the member states of the Interstate Medical Licensure Compact Commission. The Compact states, "The purpose of the Interstate Commission is the administration of the Interstate Medical Licensure Compact, which is a discretionary state function."

The Commission must be a body corporate and joint agency of the member states and have all of the responsibilities, powers, and duties set forth in the Compact, as well as additional powers that may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the Compact.

The Commission must consist of two voting representatives appointed by each member state who will serve as commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state must appoint one representative from each member board. A commissioner must be one of the following:

- An allopathic or osteopathic physician appointed to a member board.
- An executive director, executive secretary, or similar executive of a member board.
- A member of the public appointed to a member board.

The Commission must meet at least once each year. A portion of the meeting must be a business meeting to address matters that properly come before the Commission, including the election of officers. The chairperson may call additional meetings, and must call for a meeting upon the request of a majority of the member states.

The Commission's bylaws may provide for meetings to be conducted by telecommunication or electronic communication.

Each commissioner participating at a Commission meeting will be entitled to one vote. A majority of the commissioners will constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws. A commissioner may not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who meets the Compact's requirements for commissioners.

The Commission must provide public notice of all meetings, and all meetings must be open to the public. The Commission may close a meeting, in full or in part, when it determines by a two-thirds vote of the commissioners present that an open meeting would be likely to do any of the following:

- Relate solely to the internal personnel practices and procedures of the Commission.
- Discuss matters specifically exempted from disclosure by Federal statute.
- Discuss trade secrets, commercial, or financial information that is privileged or confidential.
- Involve accusing a person of a crime, or formally censuring a person.
- Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.
- Discuss investigative records compiled for law enforcement purposes.
- Relate specifically to the participation in a civil action or other legal proceeding.

The Commission must keep minutes that fully describe all matters discussed in a meeting, and must provide a full and accurate summary of actions taken, including record of any roll call votes.

The Commission must make its information and official records, to the extent not otherwise designated in the Compact or by its rules, available to the public for inspection.

The Commission must establish an executive committee that includes officers, members, and others as determined by the Commission's bylaws. With the exception of rule-making, the executive committee has the power to act on the Commission's behalf when the Commission is not in session. When acting on behalf of the Commission, the executive committee must oversee the administration of the Compact.

The Commission may establish other committees for governance and administration of the Compact.

Powers & Duties of the Commission

The Commission has the duty and power to do all of the following:

- Oversee and maintain the administration of the Compact.
- Promulgate rules that are binding to the extent and in the manner provided for in the Compact.

- Upon the request of a member state or board, issue advisory opinions concerning the meaning or interpretation of the Compact, its bylaws, rules, and actions.
- Enforce compliance with Compact provisions, Commission rules, and the Commission's bylaws, using all necessary and proper means, including the use of judicial process.
- Establish and appoint committees.
- Pay or provide for the payment of expenses related to the establishment, organization, and ongoing activities of the Commission.
- Establish and maintain offices.
- Borrow, accept, hire, or contract for services of personnel.
- Purchase and maintain insurance and bonds.
- Employ an executive director who has powers to employ, select, or appoint employees, agents, or consultants, and to determine their qualifications, define their duties, and fix their compensation.
- Establish personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.
- Accept donations and grants of money, equipment, supplies, materials, and services; and receive, use, and dispose of them in a manner consistent with the established conflict of interest policies.
- Lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use, any real, personal, or mixed property.
- Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property.
- Establish a budget and make expenditures.
- Adopt a seal and bylaws governing the Commission's operation and management.
- Report annually to the legislatures and governors of the member states concerning the Commission's activities during the previous year, as well as financial audits and any recommendations adopted by the Commission.
- Coordinate education, training, and public awareness regarding the Compact and its implementation and operation.
- Maintain records in accordance with the bylaws.
- Seek and obtain trademarks, copyrights, and patents.
- Perform functions necessary or appropriate to achieve the Compact's purposes.

Finance Powers

The Commission may levy on 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, subject to appropriation, must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount must be allocated upon a formula to be determined by the Commission, which must promulgate a rule binding upon all member states.

The Commission may not incur obligations of any kind before securing the funds adequate to meet them. The Commission may not pledge the credit of any of the member states, except by and with the authority of the member state.

The Commission is subject to a yearly financial audit conducted by a certified or licensed public accountant. The audit report must be included in the Commission's annual report.

Organization & Operation of the Commission

Within 12 months of the first Commission meeting, by a majority of commissioners present and voting, the Commission must adopt bylaws to govern its conduct as necessary or appropriate to carry out the purposes of the Compact.

The Commission must elect or appoint annually from among its commissioners a chairperson, a vice-chairperson, and a treasurer, each of whom has the authority and duties specified in the Commission's bylaws. Commission officers must serve without remuneration from the Commission.

The officers and employees of the Commission are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error, or omission that occurred, or that a person had a reasonable basis for believing occurred, within the scope of Commission employment, duties, or responsibilities. This immunity does not apply in the case of damage, loss, injury, or liability caused by a person's intentional or willful and wanton misconduct.

The liability of the executive director and an employee or representative of the Commission, acting within the scope of his or her employment or duties for acts, errors, or omissions occurring within his or her respective state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, or agents. The Commission is considered to be an instrumentality of the states for the purposes of any such action. These provisions may not be construed to protect a person from suit or liability for damage, loss, injury, or liability caused by his or her intentional or willful and wanton misconduct.

The Commission must defend the executive director, its employees, and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by a Commission representative, must defend the representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within that scope, provided that the actual or alleged act, error, or omission did not result from his or her intentional or willful and wanton misconduct.

To the extent not covered by the state involved, member state, or the Commission, the representatives or employees of the Commission must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against them arising out of an actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that they had a reasonable basis for believing occurred within that scope. This requirement does not apply in the case of an actual or alleged act, error, or omission resulting from intentional or willful and wanton misconduct.

Commission Rule-Making Functions

The Commission must promulgate reasonable rules in order to effectively and efficiently achieve the Compact's purposes. In the event that the Commission exercises its rule-making authority in a manner that is beyond the scope of the Compact's purposes, or the powers granted under it, the action will be invalid and have no force or effect.

Rules deemed appropriate for the operations of the Commission must be made pursuant to a rule-making process that substantially conforms to the Model State Administrative Procedure Act.

Within 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule in the U.S. District Court for the District of Columbia or the Federal district where the Commission has its principal offices, provided that the filing does not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court must give deference to the actions of the

Commission consistent with applicable law, and may not find the rule to be unlawful if it represents a reasonable exercise of the authority granted to the Commission.

Compact Oversight

The executive, legislative, and judicial branches of state government in each member state must enforce the Compact and take all actions necessary and appropriate to effectuate its purposes and intent. The Compact's provisions and the rules promulgated under it have standing as statutory law but do not override existing state authority to regulate the practice of medicine.

All courts must take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the Compact that may affect the powers, responsibilities, or actions of the Commission.

The Commission must receive service of process in any such proceeding, and must have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Commission must render a judgment or order void, as to the Commission, Compact, or rule.

Enforcement of Compact

The Commission, in the reasonable exercise of its discretion, must enforce the provisions and rules of the Compact. By majority vote of the commissioners, the Commission may initiate legal action in the U.S. District Court for the District of Columbia or, at the Commission's discretion, in the Federal district where the Commission has its principal offices, to enforce compliance with the Compact and its promulgated rules and bylaws against a member state in default. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party must be awarded all costs of litigation, including reasonable attorney's fees.

These remedies are not the exclusive remedies of the Commission. The Commission may avail itself of any other remedies available under state law or the regulation of a profession.

Default Procedures

The grounds for default include failure of a member state to perform the obligations or responsibilities imposed upon it by the Compact or Commission rules and bylaws. If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities, the Commission must give written notice to the defaulting state and other member states of the nature of the default, the means of curing it, and any action taken by the Commission. The Commission must specify the conditions by which the defaulting state must cure its default, and provide remedial training and specific technical assistance regarding the default.

If the defaulting state fails to cure the default, that state must be terminated from the Compact upon an affirmative vote of a majority of the commissioners. All rights, privileges, and benefits conferred by the Compact will terminate on the effective date of termination. A cure of the default will not relieve the offending state of obligations or liabilities incurred during the default period.

Termination of Compact membership may be imposed only after all other means of securing compliance have been exhausted. The Commission must give notice of intent to terminate to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

The Commission must establish rules and procedures to address licenses and physicians who are materially affected by the termination or withdrawal of a member state.

A member state that has been terminated will be responsible for all dues, obligations, and liabilities incurred through the effective date of termination, including obligations whose performance extends beyond that date.

The Commission may not bear any costs relating to any state that has been found to be in default or that has been terminated, unless otherwise mutually agreed upon in writing between the Commission and the defaulting state.

The defaulting state may appeal the Commission's action by petitioning the U.S. District Court for the District of Columbia or the Federal district where the commission has its principal offices. The prevailing party must be awarded all costs of litigation, including reasonable attorney's fees.

Dispute Resolution

Upon the request of a member state, the Commission must attempt to resolve disputes that are subject to the Compact and that arise among member states or member boards. The Commission must promulgate rules providing for both mediation and binding dispute resolution as appropriate.

Member States, Effective Date, & Amendment

Any state is eligible to become a member state of the Compact. The Compact will become effective and binding upon legislative enactment into law by a minimum of seven states. Thereafter, it will become effective and binding on a state upon enactment into law by that state.

The governors of nonmember states, or their designees, must be invited to participate in the Commission's activities on a nonvoting basis before adoption of the Compact by all states.

The Commission may propose amendments to the Compact for enactment by the member states. No amendment will become effective and binding upon the Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

Withdrawal

Once effective, the Compact will continue in force and remain binding upon every member state; a member state, however, may withdraw from the Compact by specifically repealing the statute that enacted the Compact into law. Withdrawal must be by the enactment of a statute repealing the Compact, but will not take effect until one year after the statute's effective date and until the withdrawing state has given written notice to the governor of each other member state.

The withdrawing state immediately must notify the Commission chairperson in writing upon the introduction of legislation repealing the Compact in that state. The Commission must notify the other member states of the withdrawing state's intent to withdraw within 60 days of receiving notice from the withdrawing state.

The withdrawing state will be responsible for all dues, obligations, and liabilities incurred through the effective date of withdrawal.

Reinstatement following a withdrawal will occur when the withdrawing state reenacts the Compact or upon a later date as determined by the Commission.

The Commission may develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing state as the state of principal license.

Dissolution

The Compact must dissolve effective on the date of the withdrawal or default of a member state that reduces the Compact membership to one state. Upon the dissolution, the Compact will become null and void and be of no further force or effect. The business and affairs of the Commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

Severability & Construction

The Compact's provisions are severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions will be enforceable. The Compact's provisions must be liberally construed to effectuate its purposes. Nothing in the Compact, however, may be construed to prohibit the applicability of other interstate compacts to which the states are members.

Binding Effect of Compact & Other Laws

Nothing in the Compact prevents the enforcement of any other law of a member state that is not inconsistent with the Compact. All laws in a member state in conflict with the Compact are superseded to the extent of the conflict. All lawful Commission actions, including all rules and bylaws, are binding upon the member states. All agreements between the Commission and the member states are binding in accordance with their terms. If any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, that provision will be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Proposed MCL 333.16189 (H.B. 4066)
MCL 333.17001 et al. (H.B. 4067)

BACKGROUND

In April 2013, the Federation of State Medical Boards (FSMB) House of Delegates passed a resolution directing the FSMB to work with state medical boards and experts to explore the formation of an interstate compact to enhance medical license portability. Later that year, a team of state medical board representatives and experts from the Council of State Governments developed a framework for the Interstate Medical Licensure Compact that would allow qualified physicians seeking to practice medicine in multiple states to be eligible for expedited licensure in the states that participated in the Compact.

According to the Compact's website, approximately 80% of physicians meet the criteria for licensure through the Compact.

As of February 2018, 22 states participate in the Compact. An additional eight states, Guam, and the District of Columbia have introduced legislation to join the Compact.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bills would have a negative, indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs (LARA), and likely no fiscal impact on local units of government. The aspects of the bills and the Compact described below would have a negative fiscal impact.

The bills would allow physicians to choose a qualifying state of principal licensure other than Michigan, potentially resulting in a loss of medical license revenue.

The bills would require Michigan to issue an expedited license to an eligible physician. The State would have to develop and implement a new license for physicians, in addition to the licenses it currently issues for qualified allopathic and osteopathic physicians. Michigan would be allowed to set a fee amount for this new expedited license, potentially offsetting the cost of establishing it.

Michigan would be required to report complaints and disciplinary action against Michigan-licensed physicians to the Interstate Commission. The State also would be required to share such information with other member boards upon request. Subpoenas issued by other member states would be enforceable in Michigan. This would potentially require additional regulatory and enforcement staff and resources at the Bureau of Professional Licensing within LARA.

Michigan would be required to pay an annual fee to the Interstate Commission to cover its operational costs. The amount of the fee is unknown and would largely depend upon the employment and compensation decisions of the Interstate Commission's executive director. Under the Compact, the executive director has unilateral discretion to select employees and set compensation.

The executive, legislative, and judicial branches of Michigan government would be required to enforce the Compact. Potential costs to each branch of government for such enforcement duties is indeterminate. Under the Compact, the Commission is empowered to sue a state for a failure to enforce compliance with the Compact. If Michigan were ever determined to be in default, it still would be liable for dues, obligations, and liabilities as determined by the Interstate Commission.

Any State law in conflict with the Compact would be superseded by the Compact to the extent of the conflict. This could require additional costs for legal review of any laws in the Public Health Code that the Compact would supersede.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.