



STATE OF VERMONT
OFFICE OF LEGISLATIVE COUNCIL

MEMORANDUM

To: Senate Committee on Health and Welfare
From: Cameron Wood, Law Clerk
Date: May 14, 2015
Subject: Interstate Medical Licensure Compact (S.8)

S.8 would enact the Interstate Medical Licensure Compact (Compact) in the State of Vermont. Generally speaking, the Compact would allow qualifying physicians to seek an expedited medical license from other member states to the Compact. This memo intends to give a very brief overview of the Compact and to raise some policy issues of which the Committee should be aware.

To begin, the Compact does not override nor alter a member state's authority over the practice of medicine within that state. Vermont would retain all authority to regulate the practice of medicine within Vermont and any physician receiving an expedited license through the Compact would be required to comply with Vermont law while practicing medicine within this State. Additionally, the Compact does not alter the current process for a physician to receive a license in Vermont. The Compact does allow physicians who meet certain qualifications to receive an expedited license through the Compact without having to go through the normal State process of obtaining a license.

Physicians must meet specific qualifications to be eligible for an expedited license through the Compact.¹ Moreover, a physician may only receive an expedited license from another state that is a member to the Compact. A physician wishing to receive an expedited license must designate a state of principal licensure.² The state of principal licensure is important because all applications for an expedited license for another state would be filed through the state of principal licensure. The state of principal licensure would review the application, ensure the physician is qualified, and then issue a letter of qualification to the Compact.³ After the physician completes the registration process through the Compact, and pays any applicable fees, a member state shall issue that physician an expedited license. A license would only be valid for the allotted period

¹The definition of physician includes nine criteria and can be found in Section 2(k) of the Compact.

² Section 4(a) of the Compact.

³ The state of principal license would do the required investigations, including verification of eligibility and a criminal background check. Section 5(b) of the Compact.

within each state and would be subject to the continuing education standards of that state. The renewal process would be handled through the Compact.

The Compact itself would be administered by the Interstate Medical licensure Compact Commission (Commission). The Commission would be made up of two voting representatives from each member state. Because Vermont regulates allopathic and osteopathic physicians through different boards, one member from each board would be appointed.⁴ The Commission would have all responsibilities, powers, and duties set forth in the Compact.⁵ The Commission has a list of powers⁶ and also has the authority to adopt rules to implement the Compact.⁷

Member states to the Compact would be required to share public actions or complaints against licensed physicians who applied or received expedited licenses.⁸ Additionally, the Commission is authorized to develop rules for mandated and discretionary sharing of information. Similarly, with investigations, member states would be allowed to participate in joint investigations of physicians. If a license were revoked, surrendered, suspended, or relinquished in lieu of discipline in a physician's state of principal license, that physician's license in all member states would be automatically placed on the same status. If the same happened in a member state, not the state of principal license, all additional member state licenses would be suspended for 90 days to permit those member boards to investigate.⁹ Member states may deem disciplinary action of other member states conclusive as to matters of law and fact and impose the same or lesser sanctions or pursue separate disciplinary action.¹⁰

There are some significant policy issues of which the Committee should be made aware:

First, the Compact allows any member state to investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state.¹¹ Thus, a separate member state could investigate alleged violations of the laws of the State of Vermont. Additionally, Vermont would have to enforce a subpoena issued by another state that could be investigating an alleged violation of Vermont laws.

Second, the provisions of the Compact and the rules adopted thereunder shall have standing as statutory law.¹² One of the provisions of the Compact allows the Commission to levy and collect annual assessments from member states to cover the cost

⁴ Section 11(d) of the Compact. In Vermont, allopathic physicians are regulated by the Vermont Board of Medical Practice while osteopathic physicians are regulated by the Board of Osteopathic Physicians and Surgeons under the Office of Professional Regulation.

⁵ Section 11(c) of the Compact.

⁶ Section 12 of the Compact.

⁷ Section 15 of the Compact.

⁸ Section 8 of the Compact.

⁹ Section 10 of the Compact.

¹⁰ States may impose a similar or lesser sanction so long as that sanction is consistent with the state's medical practice act. Section 10(c) of the Compact.

¹¹ Section 9 of the Compact.

¹² Section 16(a) of the Compact.

of the operations and activities of the Commission and its staff.¹³ If Vermont did not pay its assessment, the State would be in default and the Commission would have the authority to sue the State in order to compel compliance with the Compact.¹⁴

Lastly, the Committee should be aware of the Commission's ability to sue and be sued. As mentioned above, the Commission has the authority to sue member states to ensure compliance with the Compact and rules adopted thereunder. The Compact provides that the prevailing party in a suit would get the costs of litigation and attorney's fees. In theory, the Commission could sue a member state, lose the suit, and then assess the costs of the litigation onto the member states, presumably including the state that was sued. It should be noted that it takes a majority vote of the Commissioners to initiate legal action.¹⁵ As for Commission employees, they are immune from suit and liability, except for liability caused by intentional or willful and wanton misconduct.¹⁶

A total of seven states is needed to enact the Compact and currently six states have passed legislation.¹⁷ The Committee may wish to wait until the rules have been adopted under the Compact to have more information. On the other hand, if the State waits, Vermont would not be a party to the approval of those rules.

¹³ Section 13 of the Compact.

¹⁴ Listed in the powers of the Commission is the ability to "enforce compliance with the Compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of the judicial process." Section 12 of the Compact.

¹⁵ Section 17(b) of the Compact.

¹⁶ Section 14(d) of the Compact.

¹⁷ Section 20(b) of the Compact. The current states are Idaho, Montana, South Dakota, Utah, West Virginia, and Wyoming. The only other state to introduce the legislation in the Northeast is Rhode Island.