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To: Sen. Virginia Lyons, Chair
Senate Committee on Health and Welfare

From: Lauren Layman, General Counsel, Office of Professional Regulation

Re: H. 543 – Social Work Licensure Compact

Dear Committee,

Thank you for the opportunity to testify regarding the Social Work Licensure Compact.

The Office of Professional Regulation

The Office of Professional Regulation (OPR) oversees 51 professions, from nurses to mixed martial arts contestants, and about 80,000 licensees. OPR issues licenses based on qualifications established in statutes and rules. OPR also receives complaints about licensee conduct and, when warranted, investigates and prosecutes licensees for unprofessional conduct.

OPR's core mission is to protect the public. We also in recent years have been on the forefront of responding to workforce needs, adapting during COVID and emergencies like this summer's floods, and pursuing progressive occupational licensure policy, such as occupational licensure compacts.

Occupational Licensure Compacts

Compacts are contracts between states. There are many compacts in our lives. An example familiar to all of us is the Driver License Compact. Per this compact, a driver from one state is allowed to drive in all other states without first obtaining a separate driver license in that state.

Most compacts have the concept of a "home state." This is the state where the licensee lives, votes, etc. When someone has a license in their home state, they are eligible to practice in all other states that are members of that compact. Some compacts require licensees to obtain a multistate license from their home state. Once the licensee has the multistate license, they are authorized to practice in all other member states. Other compacts require licensees from a member state to apply for a privilege or license to practice in other member states. This latter construction can sometimes be accompanied by an additional licensing fee.

Compacts are effective tools in occupational licensure. They solve some of the mobility challenges to having a license because they allow someone to practice in a state that they don't live in or to begin

practice immediately when they move to a new state. They also enable telehealth across state lines when both states are members of the compact.

Compacts almost always have a revenue impact because it removes the requirement for an out-of-state practitioner to get a Vermont license. This is a relevant factor when you are a small state where people can easily travel across state lines to work.

Compacts also affect the enforcement process. Vermont retains jurisdiction over everyone who is practicing in Vermont – physically or via telehealth. This means that under a compact we could be investigating and prosecuting a person who is not a Vermont licensee. OPR has also been focused on any provision in a compact that mandates reciprocal discipline. We do not want to be forced to discipline a Vermont licensee because they provided an abortion or gender-affirming care in another state. Act 15 of 2023 addressed this concern by requiring Vermont’s occupational compact delegates to seek amendments and exceptions to rules, directives, bylaws, and agreements so as to permit Vermont to choose not to take disciplinary action against compact licensees who have been disciplined elsewhere for providing gender-affirming or reproductive health care services.

OPR takes this obligation seriously and has emphasized this concern in compact commission meetings. The Social Work Licensure Compact also addresses this issue by expressly stating that the Compact does not authorize a member state to take disciplinary action against a licensee for lawful activities performed in another state. That is, if the practice is lawful in Vermont where the social worker performed the service, another member state that outlaws that activity cannot take disciplinary action against the social worker for the Vermont activity.

Social Work Licensure Compact

OPR’s Position

As with most occupational licensing compacts, OPR generally supports adoption of the Social Work Licensure Compact. We have long endorsed policies that facilitate interstate mobility for licensees and reduce barriers to all seeking to provide qualified, safe care to Vermonters.

At the same time, the funding impact of adopting multiple licensing compacts is significant. The Social Work Licensure Compact is particularly costly due to the number of new license types it requires (at least two and potentially three) and the fact that it is a multistate-licensure model. Under this model, the cost of a multistate license would be borne by Vermont licensees seeking a multistate license to practice in other member states. (Alternatively, under the privilege-model compact, the cost of the compact privilege is borne by the out-of-state licensee seeking to practice in Vermont.)

OPR is hopeful that we can find a path forward on the funding so that cost does not become an impediment to adopting good policy that benefits professionals and Vermonters.

If adopted, OPR requests that the legislative be effective upon passage.

Background

- The Compact was developed by the Council of State Governments (CSG) with advice and guidance of a committee of state participants, including Vermont.
- The Compact was just completed in 2023. Four states (Washington, Missouri, Utah, and South Dakota) have adopted the Compact, three since the beginning of January 2024. Twenty-three states (including Vermont) are currently reviewing legislation to adopt the Compact. Seven states must adopt the compact before it becomes effective.
- This Compact allows licensees to apply for a “multistate license” from their home state authorizing them to practice in another member state. The Home State determines an applicant’s eligibility for the multistate license and issues the license. The multistate license authorizes the licensee to work in any other member state without notice to the Compact or the other member state.
- The Compact facilitates interstate practice for clinical social workers (Vermont’s Licensed Independent Clinical Social Workers or LICSWs), master’s level social workers (Vermont’s Licensed Masters Social Workers or LMSWs), and bachelor’s level social workers (no Vermont license equivalence). This means there are three different categories of multi-state licenses:
 - The first is the clinical category. Vermont’s LICSWs, authorized within their scopes to provide psychotherapy and clinical care to clients, would be eligible for this category.
 - The second is the master’s level category. Vermont’s LMSWs (not authorized within their scope to provide clinical or psychotherapy services but having attained a master’s degree in social work and passed an examination) would be eligible for this category of licensure.
 - The third category is the bachelor’s level category. This category is for licensees with a bachelor’s in social work. Vermont does not currently offer a license at this level. Sixteen states currently have a bachelor’s or baccalaureate social worker license.
 - The Compact authorizes Vermont to offer a multistate license to social workers who may be eligible for this category even though the state does not currently offer a home-state license at this level. This would be a significant undertaking for OPR, likely requiring the development of a new in-state license type. We could do this but would need additional time to think through the implications of creating such a pathway and the best practices for doing so.
- OPR will need to create at least two and up to four new licenses for this Compact.

Features

The Social Work Licensure Compact establishes uniform requirements for obtaining a “multistate license” to practice in other member states. This license would be an additional licensing option for social workers. Applicants who do not qualify for or do not want the Compact license would still be able to apply for a single-state, Vermont license as a LICSW or LMSW.

- Compact States
 - Vermont is currently eligible to participate in the Compact.
 - To qualify as a Compact state, a state must
 - Offer at least one of the following professional licenses: licensed clinical social workers, licensed masters social workers, and/or licensed bachelor’s social workers;

- Require applicants to graduate from an accredited educational program that is recognized by OPR and that meets the educational requirements for the Compact category license (e.g., for clinical licensees, the Compact state must require a master’s degree);
 - Require clinical licensure applicants to complete supervised practice prior to licensure;
 - Require licensees to pass a qualifying national exam (specified by category);
 - Require applicants to obtain and retain a license in the Home State (except authorized to issue a multistate license to applicants for a license type Vermont does not offer – bachelor’s level);
 - Share required data with the Compact Commission;
 - Have a mechanism in place for receiving and investigating complaints about licensees;
 - Share investigatory and discipline data with the Compact Commission;
 - Give the effect of state law to all rules adopted by the Compact Commission; and
 - Adopt a criminal history background check process for Compact license applicants, including the collection of fingerprints or other biometric-based information for collecting criminal history information from the FBI.
 - OPR needs authorization to conduct background checks for these professions. H. 543 addresses this by amending 3 V.S.A. §123(j)(1) to permit OPR to conduct background checks for all social workers licensed in Vermont.
- Applicants/Licensees
 - Licensing Structure:
 - To obtain a multistate license, an applicant would need to obtain a home-state license and then apply for a category of multistate license in that home state. The home state would determine whether the applicant is eligible for the multistate license in that category.
 - Once the multistate license is obtained, the applicant/licensee has a “multistate authorization to practice” in any other Compact member state. No additional notification to those other states or the Compact is required.
 - Fees: A licensee must pay a fee to obtain the multistate license from the state. The state establishes this fee.
 - Qualifications: To obtain the multistate license to practice under the Compact,
 - All Applicants must
 - Hold or be eligible for an active, unencumbered license in the Home State;
 - Pay any fees;
 - Complete a background check;
 - Meet continuing education requirements of the Home State;
 - Notify the Home State of any disciplinary action taken against the licensee within 30 days;
 - LICSWs must also

- Pass a clinical-category qualifying national examination;
- Attain at least a master's degree in social work;
- Complete a period of post-graduate supervised clinical practice of 3000 hours or two years or the substantial equivalence thereof.
- LMSWs must also
 - Pass a master's-level qualifying national examination; and
 - Attain at least a master's degree in social work.
- Bachelor's Level:
 - Pass a bachelor's-level qualifying national examination; and
 - Attain at least a bachelor's degree in social work.

Impacts of Implementation of the Compact

- Benefits
 - Mobility is a key benefit for this compact. For LICSWs and LMSWs, licensing in multiple states can be costly and renewal of licenses can require duplicative and expensive continued education. The Compact reduces this barrier.
 - The data reporting mechanisms built into the Compact may facilitate greater sharing of disciplinary information across state lines, allowing for greater protection of the public.
- Costs
 - As with other compacts, it is not clear whether licensees will flow in or flow out. There is potential to improve access but the increased mobility facilitated by the Compact may result in professionals moving to other member states.
 - Out-of-state professionals living in other member states will no longer be required to pay OPR a license fee to practice in Vermont. This will result in a significant loss of revenue to OPR. The ability to charge a fee for the multistate license may offset some of this loss but it would be borne by Vermont social work licensees seeking the Compact license.
 - OPR will also have costs for modifying our licensing system to issue at least two (LICSW multistate; LMSW multistate) and up to four (bachelor's level home state; bachelor's level multistate) new license types.
 - States must also pay an annual fee to participate in the Compact. The fee is set by the Compact Commission. No fees have been set yet for this Compact