



Is the Interstate Medical Licensure Compact Good or Bad for Telehealth?

Eric Wicklund

July 28, 2016

Critics say it promotes cronyism, while advocates say the program will help doctors and health systems expand their telehealth networks across state lines.

Federal officials are stepping in to help the **Interstate Medical Licensure Compact** - even as critics call the effort “crony doctoring.”

The cross-state licensure compact was launched in 2013 by the **Federation of State Medical Boards**, a Washington, D.C.-based non-profit comprised of some 70 state medical boards and regulatory agencies, and now has 17 states signed on, with another nine states contemplating approval. Last month, the FSMB was awarded a \$750,000 grant from the U.S. Health Resources and Services Administration (HRSA).

The grant, divided into three annual \$250,000 payments, will reportedly help the FSMB manage the compact and recruit more states.

“The continuing support of HRSA has been very beneficial to state medical boards in their ongoing effort to increase access to quality healthcare and support the expanded use of telemedicine for patients by streamlining the medical licensure process,” Art Hengerer, MD, the FSMB’s chairman, said when the HRSA grant was announced.

The FSMB and its supporters say the compact will give doctors who want to practice telemedicine across state lines an expedited path to licensure in each state, while preserving the rights of each state medical board to grant the licenses and perform background checks.

But opponents of the compact say it doesn’t make the process any easier for doctors, and allows state boards to restrict telemedicine practices for the benefit of their own doctors.

“(T)he compact protects the power of the state boards to shield physicians in their states from competition. It preserves the multiple fees physicians must pay to each state board,” Shirley Svorny, a California State University-Northridge professor of economics and adjunct scholar at the Cato Institute, wrote in a recent op-ed piece for the *Wall Street Journal*. “Most troubling, the compact has distracted attention from, and muted calls for, reforms that would realize telemedicine’s potential.”

Svorny isn’t the only opponent to the compact. The Association of American Physicians and Surgeons (AAPS), a small advocacy group of about 5,000 members, has long criticized the FSMB, arguing that its status as a private, tax-exempt organization presents a conflict of interest.

“FSMB has now become part of a lucrative industry that imposes significant expense without value onto patients and practicing physicians,” AAPS Director Paul Martin Kempen, MD, PhD, wrote in the spring 2016 issue of the *Journal of American Physicians and Surgeons*. “While non-physicians are being given the authority to practice medicine and prescribe without the physician oversight requirements of SMBs (state medical boards), physicians are being subjected to more expensive and onerous requirements, which bring in revenue for FSMB and other tax-exempt corporations, which lobby extensively and have achieved a high degree of regulatory capture.”

“The compact represents attempts by the FSMB to consolidate its own power and control over physicians, and that it has little relationship to improving quality of care.,” Michael L. Marlowe, PhD, an economist, write in another JAPS opinion piece in 2015. “It thus represents a major misstep for medical care. It is broadly understood by economists that occupational licensing creates market power for members of occupations, with little to no attendant gains in safety or product quality.”

Svorny’s column drew a rebuke from Roger Downey, GlobalMed’s communications manager. In a blog, Downey said the compact “puts in place an expedited pathway for licensure in other compact states for those physicians who desire to expand their practices with telemedicine.”

"The compact will improve and maintain a level of protection for patients that a federal program could not offer," he wrote. "Plus, most of the major healthcare organizations in the U.S. have publicly expressed support for the compact.”

The compact has plenty of supporters, including the American Medical Association, American Telemedicine Association, American Osteopathic Association, American College of Physicians, American Academy of Pediatrics, dozens of health systems and a number of U.S. Senators.

“The compact will continue to ensure state-based regulation of the medical profession while simultaneously promoting access to qualified and experienced physicians in high-need specialties and in rural and underserved areas,” Matt Lopez, CEO of the National Stroke Association, said when the group announced its support of the compact this past January. “Not only does the compact protect patients, but it will increase the availability of telestroke care and help control stroke risk factors like high blood pressure and diabetes.”

In a 2015 position paper, the American College of Physicians said it “supports a streamlined process to obtaining several medical licenses that would facilitate the ability of physicians and other clinicians to provide telemedicine services across state lines while allowing states to retain individual licensing and regulatory authority.”

The ATA, while supporting the compact, also notes that licensure portability is “a contentious issue for healthcare providers.” In its 2015 analysis of each state’s licensure requirements for telehealth, it criticized the patchwork system created by allowing each state to control licensing.

“(T)hese state-by-state approaches prevent people from receiving critical, often life-saving medical services that may be available to their neighbors living just across the state line,” the ATA wrote. “They also create economic trade barriers, restricting access to medical services and artificially protecting markets from competition.”

Writing in the *Wall Street Journal*, Svorny suggests an alternative to the compact: Legislation passed by Congress that enables the physician to be licensed based on where he or she practices, rather than where the patients are located.

“Physicians would need only one license, that of their home state, and would work under its particular rules and regulations,” she wrote. “This would allow licensed physicians to treat patients in all 50 states. It would greatly expand access to quality medical care by freeing millions of patients to seek services from specialists around the country without the immense travel costs involved.”

That, too, drew a response from Downey.

“A national license for physicians sounds good on the surface, but if we are to believe the opinions gathered from 1.8 million nurses [in **a separate Wall Street Journal article** on efforts for a nurse licensure compact], it isn’t needed,” he said. “And, if enacted, I believe it would lead to less vigilance and regulation of doctors. Applications would be rubber-stamped, unless a whole new level of bureaucracy was established. And that would be more costly and less effective than the present system in terms of public protection.”