
OLR Bill Analysis

sHB 5395

AN ACT CONCERNING AN EXPEDITED LICENSURE PROCESS FOR CERTAIN OUT-OF-STATE HEALTH CARE PROVIDERS AND MENTAL HEALTH CARE PROVIDERS.

SUMMARY

This bill enters Connecticut into two interstate compacts, the Interstate Medical Licensure Compact (§ 1) and the Psychology Interjurisdictional Compact (PSYPACT, § 2).

The medical compact provides an expedited licensure process for physicians seeking to practice in multiple states (including by telehealth). Among other eligibility criteria, a physician must first be licensed in a member state and never had his or her medical license subjected to disciplinary action. Eligible physicians can complete one application within the compact, but receive separate licenses from the states where they will practice.

The psychology compact provides a process authorizing psychologists to practice by (1) telehealth (unlimited) and (2) temporary in-person, face-to-face services (30 days per year per state) across state boundaries, without the psychologist having to be licensed in each of the states. A psychologist can apply for authorization for either or both types of interjurisdictional practice under the compact.

Among various other provisions, each compact:

1. provides eligibility criteria for physicians or psychologists to practice under the respective compact;
2. is overseen by a separate commission, made up of representatives from the participating states;
3. addresses several matters related to disciplinary actions for providers practicing under the compact, such as information

- sharing among participating states and automatic suspension of practice in some circumstances;
4. allows its respective commission to levy an annual assessment on member states to cover the cost of its operations;
 5. provides that amendments to the compact only take effect if all participating states adopt them into law; and
 6. provides a process for states to withdraw from the compact.

A broad overview of each compact appears below.

The bill (§§ 3 & 4) also requires:

1. the Department of Public Health (DPH) commissioner, in consultation with the Department of Children and Families (DCF) commissioner, to develop and implement a plan to establish licensure by reciprocity or endorsement for mental or behavioral health care providers licensed or certified in other states (with priority given to children’s providers), and
2. the DPH commissioner to develop and implement a plan to establish licensure by reciprocity or endorsement for health care providers licensed or certified in other states.

In each case, the bill sets conditions for this licensure, such as that the other state’s requirements for practicing must be substantially similar to, or higher than, the requirements in Connecticut. By January 1, 2023, DPH must implement each plan and report on it to the Public Health and Children’s committees.

EFFECTIVE DATE: Upon passage, except October 1, 2022, for the provisions entering the state into two interstate compacts.

§ 1 — INTERSTATE MEDICAL LICENSURE COMPACT

The Interstate Medical Licensure Compact provides an expedited licensure process for physicians seeking to practice in multiple states. The compact defines “expedited license” as a full and unrestricted

medical license granted by a member state to an eligible physician through the process described in the compact. A “state” is a U.S. state, commonwealth, district, or territory.

Physician Eligibility and Application Process (§ 1(3)-(7))

To be eligible to receive an expedited license under the compact, a physician must meet the following criteria:

1. have graduated from an accredited medical school or school listed in the International Medical Education Directory;
2. passed each component of the U.S. Medical Licensing Examination or Comprehensive Osteopathic Medical Licensing Examination within three attempts (or predecessor examinations accepted by a state medical board);
3. successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;
4. hold 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;
5. possess a full and unrestricted license to engage in the practice of medicine issued by a member board;
6. have no criminal history (e.g., convictions, community supervision, or deferred dispositions) for any felony, gross misdemeanor, or crime of moral turpitude;
7. have no history of disciplinary history against their medical license (other than for nonpayment of fees);
8. have never had a controlled substance license or permit suspended or revoked by a state or the U.S. Drug Enforcement Administration; and

9. not be under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

For purposes of registering for expedited licensure through the compact, a physician must also designate a compact member state as the state of principle license. The physician must select a state in which the physician has an unrestricted license to practice medicine and that is:

1. the state of the physician's primary residence;
2. the state where at least 25% of the physician's practice of medicine occurs;
3. the location of the physician's employer; or
4. if no state qualifies under the above three criteria, the physician's state of residence for federal income tax purposes.

A physician seeking licensure through the compact must apply for an expedited license with the member board (i.e., the state physician licensing board) of the physician's selected state of principal license. The member board, upon receiving the application, must evaluate the physician's eligibility and issue a letter of qualification, verifying or denying eligibility, to the Interstate Commission (see below). As part of this process, the member board must conduct a criminal background check.

After the physician's eligibility is verified, the physician must complete the commission's registration process to receive a license in a member state (including payment of applicable fees). The member board then issues an expedited license to the physician, authorizing the physician to practice in that state according to its applicable laws.

An expedited license is valid for a period consistent with the member state's licensure period. Physicians seeking to renew an expedited license must complete a renewal process with the commission, subject to certain eligibility requirements (e.g., applicable continuing education requirements). The commission collects renewal fees and distributes

them to the applicable member board.

Disciplinary Action and Investigations (§ 1(8)-(10))

The compact addresses several matters related to investigation and discipline of physicians licensed through its procedures. For example:

1. member boards must report to the commission any public action or complaint against a physician who has applied for or received an expedited license through the compact, and other disciplinary or investigatory information as described in commission rules;
2. member boards can participate with one another in joint investigations of physicians licensed by them and subpoenas issued by a member state are enforceable in other member states;
3. if the physician's license is subject to revocation, suspension, or certain other disciplinary actions in the state of principal license, then all of that physician's licenses in other member states are automatically placed on that same status; and
4. if disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may (a) impose the same or any lesser sanction that is consistent with that state's Medical Practice Act or (b) pursue separate disciplinary action under its Medical Practice Act (in some cases, a member board must suspend a license for 90 days to allow for an investigation).

Interstate Medical Licensure Compact Commission (§ 1(11)-(15))

The compact is administered by the Interstate Medical Licensure Compact Commission, which consists of two voting members appointed by each member state (representing the member boards). The compact sets forth several powers, duties, and procedures for the commission. For example, the commission:

1. promulgates rules that are binding to the extent and in the manner provided for in the compact;

2. enforces compliance with compact provisions as well as the commission's rules and bylaws; and
3. reports annually to the legislature and governors of member states concerning its activities during the prior year.

The commission (1) can levy an annual assessment on member states to cover the costs of its operations, based on a formula that the commission determines and (2) is subject to a yearly financial audit.

The compact addresses several other matters regarding the commission and its operations, such as establishing conditions under which its officers and employees are immune from civil liability.

Compact Oversight, Enforcement, Member Withdrawal, Dissolution, and Related Matters (§ 1(16)-(24))

Among several other related provisions, the compact provides that:

1. each member state's executive, legislative, and judicial branches must enforce the compact and take necessary steps to carry out its purposes (§ 1(16));
2. the commission must enforce the compact and rules, and may bring legal action against a state in default (generally, one that has failed to perform its obligations under the compact), upon a majority vote of its commissioners (the case can be brought in the U.S. District Court for the District of Columbia or, at the commission's discretion, the federal district where the commission's principal offices are located) (§ 1(17));
3. the commission must take specified steps against a member state in default and after all other means of securing compliance have been exhausted, a defaulting state is terminated from the compact upon a majority vote of its commissioners (§ 1(18));
4. upon a member state's request, the commission must attempt to resolve a compact-related dispute between member states or member boards (§ 1(19));

5. the commission may propose compact amendments, but no amendment takes effect unless it is enacted into law by unanimous consent of the member states (§ 1(20));
6. a member state may withdraw from the compact by repealing that state's enabling legislation, but withdrawal does not take effect until one year after the effective date of the repealing statute (§ 1 (21));
7. the compact dissolves when its membership is reduced to one state (§ 1(22));
8. the compact's provisions are severable and its provisions must be liberally construed to carry out its purposes (§ 1(23)); and
9. all member state laws in conflict with the compact are superseded to the extent of the conflict (unless a compact provision exceeds the constitutional limits imposed on a member state's legislature) (§ 1(24)).

§ 2 — PSYCHOLOGY INTERJURISDICTIONAL COMPACT

The Psychology Interjurisdictional Compact provides a process authorizing (1) telepsychology or (2) temporary in-person, face-to-face practice in other compact states, without the psychologist having to be licensed in each of the states.

Under the compact, "telepsychology" is the provision of psychological services using telecommunication technologies. "Temporary in-person, face-to-face practice" is the practice of psychology by a psychologist who is physically present, not through telecommunications technologies, in another state for up to 30 days in a calendar year and based on notification to that state.

Under the compact, a "state" is a U.S. state, commonwealth, territory, or possession or the District of Columbia. A "compact state" is a U.S. state, the District of Columbia, or a U.S. territory that is part of the compact (and has not withdrawn or been terminated from it).

A “home state” is a compact state where a psychologist is licensed. If a psychologist is licensed in multiple compact states, (1) for telepsychology, the home state is the compact state where the psychologist is physically present when delivering those services, and (2) for temporary in-person practice, the home state is any state where the psychologist is licensed and practicing under the compact.

A “receiving state” is a compact state where the client or patient is physically located when the telepsychological services are delivered. A “distant state” is the compact state where a psychologist is physically present to provide temporary in-person, face-to-face services.

Eligibility and Conditions of Practice (§ 2, Art. III-VI)

Under the compact, a home state’s license authorizes a psychologist to practice in a receiving state (for telepsychology) or distant state (for temporary in-person services) only if the compact state:

1. requires the psychologist to hold an active E.Passport (for telepsychology) or Interjurisdictional Practice Certificate (IPC) (for temporary in-person services);
2. has a mechanism to receive and investigate complaints about licensed individuals;
3. notifies the commission (see below), in compliance with the compact’s terms, of any adverse action (generally, public disciplinary action) or significant investigatory information regarding a licensed individual;
4. requires an identity history summary (e.g., FBI data on arrests) of all applicants at initial licensure (including fingerprints or other biometric data checks), no later than 10 years after the compact’s activation; and
5. complies with the commission’s rules and bylaws.

To be eligible to practice interjurisdictional telepsychology or through temporary in-person services under the compact, a

psychologist must hold an unrestricted license in a compact state and hold a graduate psychology degree.

The degree-granting higher education institution must meet specified accreditation or similar requirements (depending on whether it is a domestic or foreign school). The psychology program itself also must meet several requirements, such as that it (1) is clearly identified and labeled as a psychology program, (2) includes a curriculum of at least three academic years of full-time graduate study for a doctorate, and (3) includes an acceptable residency.

The psychologist also must:

1. have no adverse action or criminal record history that violates the commission's rules;
2. possess a current, active E.Passport (for telepsychology) or IPC (for temporary in-person practice);
3. provide attestations on specified matters (e.g., areas of intended practice) and an information release; and
4. meet other criteria as defined by commission rules.

Under the compact, "E.Passport" is the Interjurisdictional Practice Certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that promotes standardization in interjurisdictional telepsychology practice criteria and facilitates the process for licensed psychologists to provide telepsychological services across state lines. The "IPC" is the certificate issued by the ASPPB that grants temporary authority to practice based on notification to the state psychology regulatory authority of intention to practice temporarily and verification of qualification for that practice.

Currently, many of the specific requirements for the E.Passport and IPC are similar. For example, both require the psychologist to have a current license based on a doctorate. Both the E.Passport and IPC require annual renewal; the former requires three hours of continuing education on use of technology in psychology.

The compact establishes certain other rules for which state maintains authority over a psychologist practicing under the compact. For example, it provides that:

1. the home state maintains authority over the license of any psychologist practicing in a receiving state under the authority to practice interjurisdictional telepsychology;
2. a psychologist practicing in a distant state under the temporary authorization to practice is subject to that state's authority and law; and
3. a psychologist practicing under the compact must do so within the scope of practice of the receiving or distant state (for telepsychology or temporary in-person practice, respectively).

For telepsychology under the compact, the psychologist also must (1) initiate the client or patient contact in a home state via telecommunications technologies and (2) comply with other commission rules.

Adverse Actions, Regulatory Board Authority, and Coordinated Licensure Information System (§ 2, Art. IV-V, VII-IX)

The compact addresses several matters related to investigation and discipline of psychologists practicing under its procedures. For example:

1. a home state may take adverse action against a psychologist license issued by that state, and a receiving or distant state may take adverse action on a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice in that state under the compact;
2. if the home state or a receiving or distant state takes such action, the psychologist's E.Passport or IPC is revoked;
3. a home state's psychology regulatory authority must investigate and take appropriate action with respect to reported inappropriate conduct in a receiving state as if the conduct had

- happened in the home state, and the home state's law controls in determining any adverse action against the license;
4. a distant state's psychology regulatory authority must investigate and take appropriate action with respect to reported inappropriate conduct in that state as if the conduct had happened in the home state, and the distant state's law controls in determining any adverse action against the authorization to practice;
 5. in addition to authority granted under state laws, psychology regulatory boards have specified authority under the compact, such as issuing cease and desist or injunctive relief orders to revoke a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice;
 6. psychologists are prohibited from changing their home state licensure during an investigation, and home state regulatory authorities must promptly report the conclusion of investigations to the commission;
 7. the commission must provide for the development of a coordinated database for compact states to report and share information on disciplinary action against psychologists; and
 8. compact states must submit the same information on all licensees for inclusion in the database, and the database administrator must promptly notify all compact states of any adverse action against, or significant investigative information on, any licensee in a compact state.

Psychology Interjurisdictional Compact Commission (§ 2, Art. X-XI)

The compact is administered by the Psychology Interjurisdictional Compact Commission, which consists of one voting member appointed by each compact state's psychology regulatory authority. The compact sets forth several powers, duties, and procedures for the commission. For example, the commission:

1. may promulgate rules to facilitate and coordinate the compact's implementation and administration (a rule has no effect if a majority of the legislatures of the compact states reject it in the same manner used to adopt the compact),
2. may levy and collect an annual assessment from each compact state and impose fees on other parties to cover the costs of its operations, and
3. must have its receipts and disbursements audited yearly and the audit report included in the commission's annual report.

The compact addresses several other matters regarding the commission and its operations, such as establishing conditions under which its officers and employees are immune from civil liability.

Compact Oversight, Enforcement, Member Withdrawal, and Related Matters (§ 2, Art. XII-XIV)

Among other related provisions, the compact provides that:

1. each compact state's executive, legislative, and judicial branches must enforce the compact and take necessary steps to carry out its purposes (§ 2, Art. XII(a));
2. the commission must take specified steps against a compact state in default, and after all other means of securing compliance have been exhausted, a defaulting state is terminated from the compact upon a majority vote of the compact states (§ 2, Art. XII(b));
3. upon a compact state's request, the commission must attempt to resolve a compact-related dispute among compact states or between compact and non-compact states (§ 2, Art. XII(c));
4. the commission must enforce the compact and rules, and may bring legal action against a compact state in default upon a majority vote of its commissioners (the case may be brought in the U.S. District Court in Georgia or the federal district where the commission's principal offices are located) (§ 2, Art. XII(d));

5. a compact state may withdraw from the compact by repealing that state's enabling legislation, but withdrawal does not take effect until six months after enactment of the repealing statute (§ 2, Art. XIII(c));
6. the compact states may amend the compact, but no amendment takes effect until it is enacted into law by all compact states (§ 2, Art. XIII(e)); and
7. the compact's provisions must be liberally construed to carry out its purposes, and if the compact is held to violate a compact state's constitution, the compact remains in effect in the remaining compact states (§ 2, Art. XIV).

§§ 3 & 4 — DPH PLANS FOR LICENSURE BY RECIPROCITY OR ENDORSEMENT

Existing law provides for licensure by endorsement (also called licensure without examination) for several categories of health care professionals who are licensed in other states. Generally, this applies if, among other conditions, DPH determines that the other state's licensure standards are substantially similar to, or higher than, those of Connecticut.

The bill requires the DPH commissioner, in consultation with the DCF commissioner, to develop and implement a plan to establish licensure by reciprocity or endorsement for mental or behavioral health care providers licensed or certified (or otherwise entitled to provide these services under a different designation) in other states. For this plan, the DPH commissioner must prioritize providers licensed or certified (or otherwise entitled) to provide these services to children.

The bill also requires the DPH commissioner to develop and implement a plan to establish licensure by reciprocity or endorsement for health care providers licensed or certified (or otherwise entitled to provide these services under a different designation) in other states.

In each case, for this licensure to apply:

1. the other state must have requirements for practicing that are substantially similar to, or higher than, the requirements in Connecticut, and
2. the provider must have no disciplinary history or pending unresolved complaints.

When developing and implementing these plans, the DPH commissioner must consider:

1. eliminating barriers to the expedient licensure of these providers, to immediately address the mental health needs of children in the state or health needs of the people in the state, respectively, and
2. whether the licensure should be limited to telehealth.

By January 1, 2023, DPH must implement each plan and report on it to the Public Health and Children's committees, including recommendations for any related necessary legislative changes.

BACKGROUND

Related Bills

HB 5046, favorably reported by the Public Health Committee, contains identical provisions on both compacts.

SB 2 (§ 36), favorably reported by the Children's Committee, contains identical provisions on the Psychology Interjurisdictional Compact.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 31 Nay 0 (03/16/2022)