17.0840.01000

FISCAL NOTE

Requested by Legislative Council
01/16/2017

Bill/Resolution No.: SB 2235

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures		$37,000		$12,000		$12,000
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill enters the state into an interstate compact for an additional method of obtaining a North Dakota medical license.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Article 8 of the bill, regarding information sharing will require a fiscal expenditure for interfacing our database with the commissions, as detailed in part 3B.

Article 11, section 4, of the bill, regarding appointment of two commissioners from each state, will required a fiscal expenditure, as detailed in part 3B.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Because it is not known how many physicians will opt to use this method, and of that number, how many will initiate the process in North Dakota, it is not possible to realistically estimate any possible revenue from the measure.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The expenditures for the 2015-2017 biennium reflect estimated costs for
1. Interfacing the board's database with the commission's. It is estimated this will be a one-time cost of no more than $25,000.
2. Sending two commissioners to the commission meetings. It is unknown how often the commission will meet in person. The estimate is twice per year. The estimated cost is $1,500 per person per meeting, for a total of $12,000 per biennium.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The board receives no general fund dollars. It is wholly funded by user fees.

Name: Duane Houdek

Agency: Board of Medicine

Telephone: (701) 527-1580

Date Prepared: 01/23/2017

2017 SENATE HUMAN SERVICES

SB 2235

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2235
1/23/2017
Job Number 27201

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Mara Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to the interstate medical licensure compact.

Minutes: 7 Attachments

V-Chair Larsen: Brought the meeting to order. Senators Clemens and Kruen were absent.

Chair J. Lee: Introduced the bill.

Courtney Koebele, (2:10-8:00) North Dakota Medical Association, testified in favor, please see attachments #1-3.

Chair J. Lee: Do you see a role in telehealth?

Courtney Koebele: I do. They are the groups that want national licensure.

Chair J. Lee: I see we are surrounded by states already in which seems like a real advantage for anybody particularly close to the border.

Courtney Koebele: Yes. I definitely see that.

Senator Piepkorn: Please give an example of obtaining multiple state licenses? What is the beef, what are some of the most common applications of this act?

Courtney Koebele: People in Fargo, want to go to Moorhead, like to have one license, administrative ease for the people to get their people licensed and stay licensed.

Senator Piepkorn: It seems to be an advantage to rural states, in particular, less populated states, it's not so popular out in the East.

Courtney Koebele: It appears to be a Midwest phenomenon. I am not sure why it has not been introduced in those states and not adopted.

Senator Heckaman: "It's going to save time", can you tell me about the difference in time it would take for a physician in ND to license in another state normally and how this will speed that up?

Courtney Koebele: I don't know the exact amount of time. Its shorter in ND than other states.

Senator Heckaman: So then the physician wouldn't have to write an exam in another state, they write a universal exam already, they did it already?

Courtney Koebele: They already write a national exam that's called the USMLE, but this is more of licensure and so they wouldn't have to fill out a whole new application or a whole new back ground check in a different state. One clearing house would gather all the information.

Senator Heckaman: So my local tenants that would come to my nearest hospital and work on the weekends in the ER or in the hospital themselves, they already are going through this lengthier process to get licensed in ND? They may be coming from Utah, or someplace else.

Courtney Koebele: Yes, they are licensed because they are providing service here. The Board does have an expedited whether their license is pending so they practice more quickly.

Dan Hannaher: (13:00-15:40) Executive Director of HPC, Health Policy Consortium testified in support, please see attachment #4.

Jerry Jurena: (16:25-17:00) North Dakota Hospital Association, testified in favor, please see attachment #5

Andrew Askew: (17:35-18:35) Essentia Health, testified in favor please see attachment #6.

Duane Houdek: (19:35-21:45) ND Board of Medicine, testified, please see attachment #7.

Chair J. Lee: Does not the compact call for the same kinds of recording and accountability and criminal offense kinds of things? This is just sort of there, here's your license go for it, you're on your own kind of stuff.

Duane Houdek: In between. All things listed are things we have. There is a difference in the criminal offense level. There misdemeanors must be punished by at least a six-month incarceration which knocks out our DUI's and a lot of things that might be related to substance abuse. So that is a difference.

Senator J. Lee: The compact has that.

Duane Houdek: (22:45-40:05) resumed testimony.

Senator Anderson: It's the requirements of the interstate compact. For example, if you look on Pg. 7 line 15 a subpoena issued by a member state must be enforceable by other member

states. That's a requirement of the compact, but it doesn't say that it is enforceable and it doesn't change our law to say that it is enforceable. Am I correct about that?

Duane Houdek: You are absolutely right. If we can't get other states judiciary to help we're out of luck.

Chair J. Lee: Do you think CSG is involved in this?

Duane Houdek: Yes. As I sat through the compact formation negotiations and things, and the report we got from Access MB a couple of years ago, it was a Council for State Government attorney, the compact people there, that help the federation with this.

Chair J. Lee: I'm curious why MN would go along with this. Why did the other 18 states not express their concerns? What would be the reason other states have signed on including all of our neighboring states have done so?

Duane Houdek: It was marketed as something that would enhance telemedicine. You pique the interest of rural states perhaps more than the more populous states.

Senator Heckaman: Is there a penalty for a state, to withdraw from the compact?

Duane Houdek: The withdrawal process is on the end of the bill, I don't believe these is a penalty, there is a way of doing it a period of time, I think a year before you can actually withdraw.

Chair J. Lee: Closed the hearing.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2235
1/23/2017
Job Number 27244

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature mmorrison

Explanation or reason for introduction of bill/resolution:

A bill relating to the interstate medical licensure compact.

Minutes:

Chair J. Lee brought the committee to order and opened the meeting on SB 2235. Senator Anderson and Senator Clemens were absent.

Chair J. Lee said they could look at a delayed implementation date of 7/31/2019. That way they could have the next legislative session in between and they could see within the next two years what happens.

V-Chair Larsen said he had heard discussion that this compact and guidelines are as rigorous as our state guidelines. He spoke about robotics where the person is being worked on by a robot run by someone in a different area. The compact is the umbrella allowing that to happen. AZ has a large experimental, chemo, cancer region or area. A lot of clients are sent down there for experimental therapy and that wouldn't happen if not part of compact. He suggested that this is a good piece of legislation and if they don't like it two years from now they can always back out.

Senator Heckaman asked if there is an opportunity within these two years for us as a state to have someone on a council to continue this.

Chair J. Lee responded that there were 2 people on. If people were feeling uncomfortable with the timing she said she was trying to find an option.

Senator Heckaman wondered if delaying implementation would allow us to get those two people on the council. She asked, if two years down the road it's not working, why can't they pull out.

Chair J. Lee said she thought the 3 substance abuse questions we have could be recommended. She was reassured that, if the Council of State Governments was involved in drafting this model legislation, it's a bipartisan group.

V-Chair Larsen (5:15) relayed a story of problems they had in Minot with airbase students and a program that met resistance from the superintendent. The program was reintroduced with a new superintendent and it went through helping students on the educational front. This would be the same thing on the licensure portion of it.

Senator Kreun asked for a recap (6:06).

Chair J. Lee explained that it is for licensing of docs so if you are in the compact you have to be licensed in the state where the work is being performed. (7:00) Courtney Kobele's testimony shows the 18 states already in it. They are working on the administrative rules. Mr. Houdek's testimony shows the questions they ask their docs when they are looking at reciprocal licenses. She didn't believe that the medical association would support this if it wasn't supporting the kinds of credentialing they think is important. The hospital association is also supportive of it.

Senator Piepkorn pointed out that the states in blue are members in the compact. The states in light blue are considering it such as North Dakota. Basically those in the compact are free to practice medicine or be credentialed in all the states in the compact.

(09:10) Discussion continued that they can do telemedicine from those places which is part of it but it has gone beyond that. One of the things about this that makes it good as a compact with the medical field is the testing.

Chair J. Lee pointed out that Mr. Houdek said they were concerned about 3 questions. They also do things very quickly and they don't hold up anything. She believes the ND board of medicine is extremely responsive, but she sees the compact as being what the future holds.

(12:10) Discussion followed on clarification of JKL and what happens when they have people addicted to pain killers etc. They are engaged in evaluation and are required to participate in a treatment plan. They might have a restrictive work permit. The board of medicine runs a tight ship.

Chair J. Lee suggested they run this forward.

V-Chair Larsen moved a **Do Pass on SB 2235.**

Seconded by **Senator Piepkorn**.

Roll call vote 4-0-3. **Chair J. Lee** requested the vote be left open for the absent members.

See Job #27308 for continuation of the vote.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2235
1/24/2017
Job Number 27308

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature ramonson

Explanation or reason for introduction of bill/resolution:

A bill relating to the interstate medical licensure compact.

Minutes:

Chair J. Lee: Brought the meeting to order and opened committee work on SB 2235. All members were present. She referred to testimony received during the hearing and reviewed each one (00:20). Testimony from Duane Houdek indicated some concerns and asked for the legislature to consider addressing this in the 2019 session. His testimony included a list of questions asked of applicants for renewal of their ND license.

(06:00) **Senator Piepkorn** asked about feelings when a doctor answers "yes" to questions about habitual alcohol use. He wondered if that puts up a red flag and if the board is able to be neutral or if there is a built in prejudice.

Senator Anderson provided information that if they answer "yes" to that then each case is considered separately. They may be asked to have an evaluation and take steps from there. The compact has nothing in place for those people who might be impaired from alcohol or taking drugs. He went on to say that our medical board is proactive in making sure that they don't have impaired physicians practicing. He continued by saying that he will not support the current compact. He also would be in favor of a delayed implementation date if it would give time to iron out some of the issues that Mr. Houdek talked about.

Chair J. Lee continued reviewing Mr. Houdek's testimony. He asked that we consider addressing it in 2019 session which is different from a delayed implementation.
She then asked "are we able to participate in the discussion about developing those future rules if we are not members of the compact?" She reported that she sent the question to Courtney Koebel who answered that they can't if they are not part of the compact.

(10:00) **Chair J. Lee** posed the question "why wouldn't you think that it'd be an advantage to be in that group?" She reported that the interstate compact is comprised of two representatives from each state that has enacted the model compact legislation. The commission is responsible for administering the compact expedited license procedure

including rule making. Only members of the compact commission may participate in the decision making process.

Senator Clemens asked if the compact has been set up yet.

Chair J. Lee explained that it is in the process. There are already 18 states that have signed on. All the ones around us have.

(12:20) Discussion resumed with the concern about the ability to participate in the rule making. **Senator Heckaman** was concerned that if we don't join and have a seat, how are we going to be able to implement the changes suggested by Mr. Houdek. It isn't ready to go yet. **Chair J. Lee** said the earliest would be the middle of 2017.
Without being a voting member, there wouldn't be the opportunity to bring recommendations to the table.

Chair J. Lee felt there was merit to this idea and was reiterating the discussion from the previous day for the benefit of those who were absent and had not voted. There is a motion on the bill but Senator J. Lee said that if there is something that would make people change their minds then they could reconsider if they really wanted.

V-Chair Larsen pointed out some of the discussion that was missed. It dealt with ND physicians needing to jump through a bunch of hoops in order to go to another state in the compact if they weren't a member of the compact. As a member of the compact just a fee would need to be paid to be licensed in a state that is also a compact member. It cuts out a lot of paperwork.

Chair J. Lee added that an additional background check would not be needed.

Senator Clemens asked if there was any opposition at the hearing.

Chair J. Lee responded that Mr. Houdek from the board of medicine was. Both large and small hospitals and the medical association approved it.

Senator Heckaman referred to other committees she has sat on and pointed out that one of the issues the surrounding states has had, whether it's plumbers, electricians, teachers, etc., is the travel across state lines to get certified in another state. Examples were given. She felt it was their job to expedite this, not to be a roadblock. The issuing state still has a responsibility of pulling a license if necessary.

(16:40) A short discussion looking at this as streamlining regulations took place.

Chair J. Lee called for the vote of the members who were absent the day before.

Final vote 6-1-0. **Motion carried**. The carrier is **Senator Larsen**.

Date: 1.24. 2017

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2235

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Larsen Seconded By Senator Piepkorn

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	1.23		Senator Joan Heckaman	X	
Senator Oley Larsen (Vice-Chair)	1.23		Senator Merrill Piepkorn	1.23	
Senator Howard C. Anderson, Jr.		X			
Senator David A. Clemens	X				
Senator Curt Kreun	1.23				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Senator Larsen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2235: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2235 was placed on the Eleventh order on the calendar.

2017 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2235

2017 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2235
3/14/2017
29266

☐ Subcommittee
☐ Conference Committee

Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Interstate medical licensure compact.

Minutes: Attachments 1, 2, 3, 4, 5, 6, 7

Chairman Keiser: Opens the hearing of SB 2235.

Senator Anderson ~ District 8: Attachment 1.

2:00

Jerry Jurena ~ President of the ND Hospital Association (NDHA). Attachment 2.

5:05

Rep Lefor: How long has this compact been in existence?

Jurena: I'm not sure.

Courtney Koebele ~ Represents the ND Medical Association: Attachment 3.

14:40

Rep Laning: Do you know the range of the fees in the states?

Koebele: I do not.

Rep Lefor: Who does the background check?

Koebele: The home state.

Rep Lefor: Does the home state do the other state's background check?

Koebele: Yes, that's my understanding.

Rep Becker: How do we get out of a compact?

Koebele: There is a withdrawal, with a year probationary period.

Chairman Keiser: Can we walk through the bill.

Chairman Keiser: Page 1 line 12-13, we have an existing medical practice act, I assume, established by statute in rural & currently in our state. For re-licensure, you have to go through a background but is not required in the compact. So would that not be a difference?

Koebele: It's a difference in the statute & the whole statute is called the medical practice act. It does change some of the technical.

Chairman Keiser: So it's more than technical. A background check at the time of renewal versus no background check is more than technical.

Koebele: I would defer to the board.

Chairman Keiser: Page 4, lines 23-25, the theory is that each state will follow the same guidelines. Security at airports say the same thing but they are not. Will this potentially lead to state shopping by the marginal doctor position?

Keobele: There is something in statue or by rule. There's requirement that is considered the state of principle license. There is a tad bit of shopping.

Chairman Keiser: Page 5, lines 30-31, we may impose a fee for a license issued or renewed through the compact. We can charge a fee but on the next page, line 1, the interstate commission charge a fee. Will we be charging two fees for this process in ND?

Keobele: I'm not sure what fees our board will charge? I do know that they pay the license fee & I do believe there is an application fee.

Chairman Keiser: Page 6, for the renewal or continued participation, it has a provision that you must be convicted? Have we every denied a license to a physician position in the state of ND that has not been convicted but has shown a pattern of behavior that results that should not be relicensed?

Keobele: I would have to defer to the medical board.

Chairman Keiser: Are we giving our legislative authority away? Page 10, the powers & duties of interstate commission are listed.

Item 2, they can promulgate rules that must be binding to the extent of in the manner provided for in the compact. We could end the session; if we were a member & the compact could adopt a rule that maybe contrary to what we have. It would then become in affect, a law in the state of ND & the only option we would have is to wait for special session or the next

session. We would say we want out of the compact but then we still have to follow that rule for 1 more year? Is that correct?

Keobele: I think that is correct.

Chairman Keiser: Page 10, lines 28-30, the compact is going to enforce this & go to court if necessary to enforce & impose it on the state.

Keobele: I agree with you.

Chairman Keiser: Page 12, lines 30-31 & continues to the next page. The officers & the employees of the interstate commission must be immune from suit & liability, either personally or in their official capacity, are claim of damage to, loss of property, personal injury or other civil liabilities, with the provision unless cause by the intent or willful wanton misconduct. The stupidity that damages me, I can't sue against.

Keobele: I guess.

Chairman Keiser: If you make a dumb decision & you licensed somebody, but it wasn't willful or wanton misconduct. It damages me but I have no recourse against the board?

Keobele: Against the officers & employees of the interstate commission.

Chairman Keiser: Page 14, lines 26-30, shall enforce the compact. We now have a legal obligation to enforce it at all 3 levels of our government?

Keobele: Yes.

Chairman Keiser: Even if we disagreed with it, we have to enforce it?

Keobele: We are putting it into law.

Chairman Keiser: Page 15, enforcement of interstate compact. On lines 11 on, the interstate commission in the reasonable exercise of its discretion, shall enforce the provision & rules of the compact including suing us & forcing us to basically, work against our selves. That seems problematic.

Then on lines 25-27, the grounds for default, include failure of a member state to perform such obligation or responsibilities imposed upon it by the compact. In other words, they are going tell what it is & we now have to enforce the bylaws of the interstate commission promulgated by the compact.

Then on page 16, lines 21-24, the interstate commission may not bear any costs relating to any state that has been found to be in default or which has been terminated from the compact, unless otherwise, will we assume the costs?

Keobele: I don't even understand what it even means. This is in place in all the other 3 compacts that are already passed. It would be, right? The interstate commission couldn't bear the costs of any of the members states.

Chairman Keiser: On page 18, line 21, the provisions of the compact must be liberally construed to effectuate its purposes. What does that mean?

Keobele: Liberally construed, it's a legal term. I am not a compact expert but I will relay your concerns to compact experts that been helping us.

Chairman Keiser: Page 19, subsection 5, I thought that this give us the option. You have to read it carefully; any provision of the compact exceeds the constitutional limits imposed on the legislature. The only out we have is if our constitution should prohibit something, not the statue?

Keobele: We agree.

Rep Becker: Page 14, lines 13-15, the interstate commission must make rules according to the rule making process, does it mean a simple majority of the members of the individual states? How do we go about these rules because the ease by which we can make rules, determines how easily we could be in a situation that we didn't want to be?

Keobele: I do not know what the model states. I would imagine it would be a majority, I'm not sure. I will check on the majority issue.

Rep Lefor: The rules are all in place so if there are provisions here we don't like, we can't even amend it. We have to take it the way it is, am I understanding you correctly?

Keobele: That's correct. That's the compact's ideal. All the compacts have to follow the same rules.

Dan Hannaher ~ Executive Director of (HPC)-Health Policy Consortium: Attachment 4.

32:38

Chairman Keiser: What is the time line?

Hannaher: I don't have any precise figures.

Andrew Askew ~ On Behalf of Essentia Health: Attachment 5.

34:20

Chairman Keiser: Anyone here to testify in support of SB 2235, opposition?

Duane Houdek ~ Executive Secretary of the Board of Medicine: Attachment 6.

35:40

Chairman Keiser: Can you clarify? It's my understanding that the compact does anticipate June as a target date to issue the first licenses. Is that true?

Houde: I think that is what they are saying now. I don't know if we have any guarantee.

36:01

Houde: There was a question about license fees across the nation. This is a year old, it's about $100 to perhaps $700 for an annual license. ND is at $200.

The compact commission will charge a service fee that in addition to the state's license fees. I think it's either $500 or $700.

Rep Kasper: Currently without this compact, if a ND physician wants to get licensed in SD, what is the process & average time it takes to get that license?

Houdek: I can't tell you about South Dakota entails but our turnaround is very short, once we have the information.

Rep Kasper: It's not an onerous job for a ND physician to get licensed in other states, if they follow the rules & have no background problems.

Houdek: I think that most state, if there is no problem, that it is quick. For 95% of the people, none of these things we are talking about in terms of check & yield things. We are dealing with that 5% but that doesn't make it less important that we do so, it makes it more important.

The nursing compact on line 27, page 13 of this compact, it has introductory phrase to the immunity clause. It talks about first in line is the member states & home state before the commission gets in line for immunity. That's not existing in the nursing compact.

40:15 ~ Continues testimony.

53:05 ~ Finishes testimony.

Rep Kasper: I want to thank you for your testimony & for your service. I think you did a wonderful job.

Chairman Keiser: The entire legislature concurs.

Barrie March, MD ~ Medical Director of the ND Professional Health Program: Attachment 7.

59:10

Chairman Keiser: Anyone else here to testify in opposition position, neutral? Closes the hearing.

Rep Becker: Before we take action, I want to summarize in my head what we are looking at. Getting into a compact, we are giving up control but we have the control to determine whether we want to be in it.

One of the things is how the rules are made, which is one of the biggest catch points. ND has 2 & so we have great representation compared to big states.

There are no indications that I could find in article 3. It simply refers to time constraints when rules are purposed & considered and notice giving & hearing. There has to be a simple answer. Does ND get two votes or is it a board within the compact that is determining the rules. Are we going to be like we were with the common core situation, where we don't have a voice?

I would like an answer on what voice we have before we take a vote. Do you have any thought on that?

Chairman Keiser: Compact is a majority or some kind of super majority vote of the member states.

Rep Becker: Are you satisfied

Chairman Keiser: From what I was able to ascertain, the compacts are generally a majority of the members. I'm not sure if that is the case here. It's certainly not a minority of the members.

Rep Becker: I wouldn't want a select board of 3 of the states to making rules. I'm satisfied.

Rep Kasper: Moves a Do Not Pass.

Rep Ruby: Second.

Chairman Keiser: Further discussion? I do have an amendment made that says, we are willing to join the compact providing that we can have some state unique rules. We don't need the amendment at this point.

Rep Kasper: We don't have a problem. My dealing with compacts, you almost have to pass the compact language verbatim the way it's in front of us or you are not eligible to be one of the members of the compact states. The opposition testimony, this has too many problems. We don't have any problems & I don't see any value to give up our state sovereignty.

Chairman Keiser: I think we should know more about the compact that we are signing into. I'm going to support the motion.

Rep Beadle: If the motion fails, could we be putting on a delayed effective date, so it doesn't take effect until we come back. We are on record, we support joining, but you have to answer our questions or we can take this off.

Rep Kasper: If you put a delayed effect, it's the same as hearing it in the next session. I certainly wouldn't support that.

Rep Beadle: It puts it on record & you need to put it on the table to answer our questions.

Rep Kasper: The compact can get our minutes & read our decision.

Chairman Keiser: Further discussion?

Roll call was taken for a Do Not Pass on SB 2235 with 11 yes, 3 no, 0 absent & Rep Lefor is the carrier.

Date: Mar 14, 2017

Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 2235

House Industry, Business and Labor **Committee**

☐ **Subcommittee**

Amendment LC# or Description:

Recommendation

☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions ☐ Reconsider ☐

Motion Made By Rep Kasper **Seconded By** Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep Laning	X	
Vice Chairman Sukut	X		Rep Lefor	X	
Rep Beadle		X	Rep Louser	X	
Rep R Becker		X	Rep O'Brien	X	
Rep Bosch	X		Rep Ruby	X	
Rep C Johnson	X		Rep Boschee		X
Rep Kasper	X		Rep Dobervich	X	

Total (Yes) 11 No 3

Absent 0

Floor Assignment Rep Lefor

REPORT OF STANDING COMMITTEE

SB 2235: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2235 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

SB 2235

SB 2235
Attach #1
1/23

NDMA
Est.1887 NORTH DAKOTA MEDICAL ASSOCIATION

Senate Human Services Committee
SB 2235
January 23, 2017

Chair Lee and Committee Members, I am Courtney Koebele and represent the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students.

NDMA supports this legislation that does not change our state's medical practice act, yet provides for an additional, and expedited pathway, for medical licensure for physicians interested in practicing in multiple states. Just like the nurse compact, the APRN compact and the PT compact that are also being introduced this legislative session.

As you can see by the map I handed out, the IMLC has been adopted in 18 states – and is pending in four states. A commission of representatives from states participating in the Compact has begun formally meeting and is implementing the administrative processes needed to begin the expedited licensure process, but licenses via the Compact process have not begun to be issued yet.

What is the purpose? The Compact will substantially reduce the time it takes to receive multiple licenses. As soon as eligibility is verified and fees are transferred, additionally selected states will issue a full and unrestricted license to the physician. An added bonus is that the Compact strengthens public protection by enhancing the ability of states to share investigative and disciplinary information.

What does ND need to do? States participating in the Compact will formally agree to adopt common rules and procedures that will streamline medical licensure, thus substantially reducing the time it takes for physicians to obtain multiple state licenses. A Compact Commission will provide oversight and the administration of the Compact, creating and enforcing rules governing its processes. The Interstate Medical Licensure Compact will not supersede a state's autonomy and control over the practice of medicine, nor will it change a state's Medical Practice Act. Participating states will retain the authority to issue licenses, investigate complaints, and discipline physicians practicing in their state. The practice of medicine will continue to occur in the state where the patient is located.

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1/23

How does it work? An eligible physician will designate a member state as the State of Principal Licensure and select the other member states in which a medical license is desired. Upon receipt of this verification in the additional Compact states, the physician will be granted a separate, full and unrestricted license to practice in each of those states.

Who is eligible?

- A full and unrestricted medical license issued by a state board that is a member of the compact
- Successful completion of an accredited graduate medical education program
- Board certification
- Never convicted, or subject to certain alternatives to conviction, by a court for a felony, gross misdemeanor, or crime of moral turpitude
- Never disciplined by a medical board, excluding actions related to nonpayment of license fees
- Never had a controlled substance license or permit suspended or revoked
- Not under active investigation by a law enforcement or medical licensing agency

An estimated 80 percent of physicians nationwide will meet eligibility requirements and the Compact does not change medical license requirements for the existing traditional application process.

In summary NDMA supports the compact because:

- The Interstate Medical Licensure Compact represents an effort by which participating states will develop a dynamic, self-regulatory system of expedited licensure in which member states can maintain control through a coordinated legislative and administrative process.

- The Compact 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.

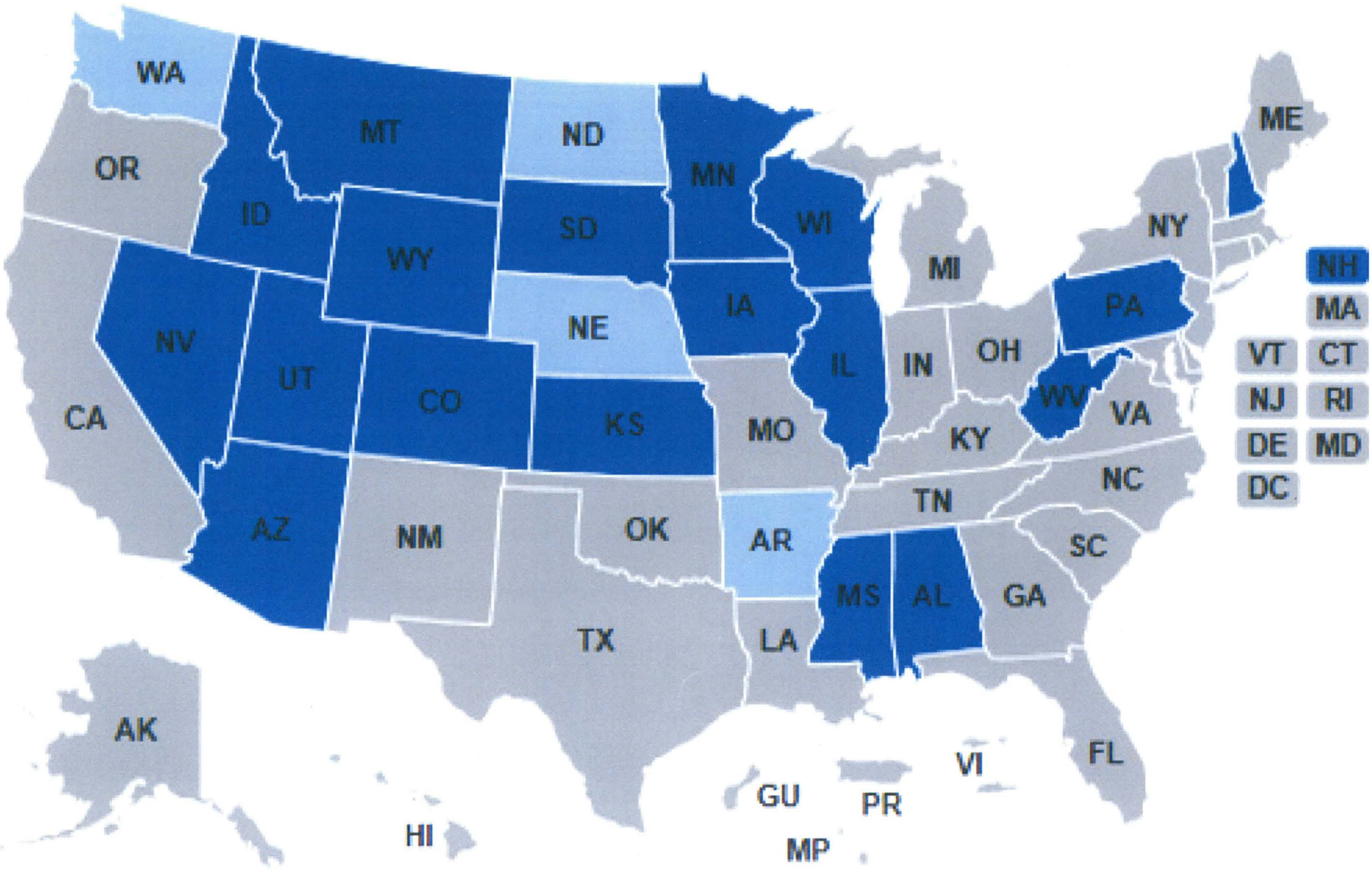
- State medical boards that participate in the Compact retain the jurisdiction to impose an adverse action against a license to practice medicine in their respective state.

- The state of North Dakota is already facing a critical shortage of physicians. The Compact will help hospitals and clinics recruit physicians.

Thank you for the opportunity to testify today. I would be happy to answer any questions.

SB 2235
Attach #2
1/23

Enactments: 18 Active Legislation: 4



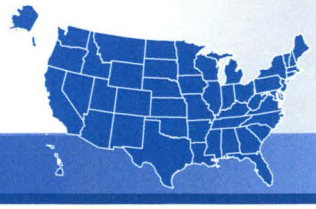
= Compact legislation enacted

= Compact legislation introduced

SB 2235
Attach
#3
1/23

Don't be misguided!

MYTHS vs. FACTS about the Interstate Medical Licensure Compact



A new, expedited pathway to medical licensure

The Interstate Medical Licensure Compact offers a new, alternative expedited pathway to licensure for qualified physicians who wish to practice in multiple states, increasing access to health care for patients in underserved or rural areas and facilitating the growth of telemedicine.

State legislatures that have enacted the Compact so far have approved it largely with overwhelming, bipartisan majorities. That is because the Compact offers a sensible and safe approach to expedited licensing that can improve access to health care, while maintaining state regulatory authority for the protection of the public.

Despite this innovative and proactive solution, as the Compact continues to be introduced in state legislatures, some critics are stepping forward to oppose it — resorting to falsehoods and distortions in order to keep the Compact from moving forward.

Here are the myths — and THE FACTS. Don't let stakeholders in YOUR state be misled by the distortions they may hear as the Compact is considered for enactment.

MYTH 1: The Compact overrides your state's medical practice laws.

FALSE. The Compact does not change your existing Medical Practice Act. In fact, it explicitly states that physicians must adhere to your state's existing rules and regulations currently in place for treatment of patients in your state.

MYTH 2: The Compact will take away the disciplinary authority of your state's medical board.

FALSE. Physicians participating in the Compact who treat patients in any Compact state will be accountable to, and under the jurisdiction of that state's medical board, just as they are today without the Compact.

MYTH 3: The Compact redefines "physician" to require your state's physicians to participate in MOC.

FALSE. The Compact makes absolutely no reference to Maintenance of Certification (MOC). The Compact does not require physicians in your state to participate in MOC at any stage. Specialty certification is only an eligibility factor at the initial entry point of participation in the Compact process. Not a single state in the United States requires MOC for licensure, nor does the Compact.

MYTH 4: Physicians in your state who participate in the Compact would apply for a medical license from a private organization – not from the state's medical board.

FALSE. Physicians who want to participate in the Compact in your state will be approved for a license by a state medical board and will receive their license from a state medical board — not from the Interstate Medical Licensure Compact Commission, which is simply an administrative body.

MYTH 5: "Carpetbagger" physicians could come to your state under the Compact, to perform medical procedures currently forbidden by state law.

FALSE. Physicians who receive an expedited license under the Compact will have to adhere to exactly the same rules and regulations as every other physician in your state – including refraining from outlawed medical procedures. And they will be subject to the full oversight and disciplinary authority of your medical board.

Don't be swayed by those who resort to distortions in order to stop this common sense approach to medical licensing!

For more information, visit www.licenseportability.org.

SB 2235
Attach # 4
1/23

Testimony on SB 2235
Interstate Medical Licensure Compact
Senate Human Services Committee
January 23, 2017

Chairman Lee and members of the Senate Human Services Committee, I am Dan Hannaher, Executive Director of HPC, the Health Policy Consortium. As I think you all know, HPC members include; Altru Health in Grand Forks, Trinity Health in Minot, and Sanford Health in Fargo and Bismarck.

I'm here today to speak in support of Senate Bill 2235 relating to the interstate licensure compact. The compact language you have before you is model law already adopted by 18 states, and four additional including North Dakota this year are giving consideration. Developed by representatives of state medical boards from around the country the compact has been developed and implemented so as to alleviate the growing doctor shortage in the United States while also taking advantage of developments in technology facilitating the use of Telemedicine.

Passage of the compact language will speed the licensing of doctors, and increase access to them by people in underserved areas, and allow for people with complex health issues to connect and consult with experts in other states. Clearly with the landscape of healthcare ever in flux, the size and reach of many health systems cause them to cross state borders. Sanford, Altru, CHI, Essentia Health and others have significant cross-border boundaries of service.

The authority of state licensure boards however would remain intact. It's important to recognize that under the interstate compact our North Dakota Board of Medicine would continue to regulate the practice of medicine in our state. And doctors would still need to comply with the rules and laws of each state in which they practice.

Working through the interstate compact commission, a doctor who is licensed in one state could seek an expedited license from one or more of the additional states within the compact. Under the compact, states would agree to share information acting as a clearing house. So while the compact will make it easier for doctors to be licensed in multiple states the public's protection will be

strengthened because of the ability to share disciplinary action not being shared now.

This is a great time for North Dakota to join the interstate licensure compact. As I'm sure you are aware, three other compacts are currently under consideration by the 65th Legislative Assembly; Nursing, Advance Practice Nursing, and Physical Therapy compacts are all making their way through the legislature.

And in terms of our neighboring states, it just makes all that much more sense. Montana, South Dakota and Minnesota have already joined the interstate licensure compact for physicians. We ought to take advantage of that regional harmony and join in on a streamlined process of licensure for doctors across borders.

Thank you Chairman Lee, and Committee. I'm happy to answer any questions.

SB 2235
Attach #5
1/23

NDHA
North Dakota Hospital Association Est. 1934

Vision
The North Dakota Hospital Association will take an active leadership role in major Healthcare issues.

Mission
The North Dakota Hospital Association exists to advance the health status of persons served by the membership.

Testimony: 2017 SB 2235
Senate Human Services Committee
Senator Judy Lee, Chairman
January 23, 2017

Good morning Chairman Lee and Members of the Senate Human Services Committee. I am Jerry E. Jurena, President of the North Dakota Hospital Association (NDHA). I am here to testify regarding 2017 Senate Bill 2235 and ask that you give this bill a **Do Pass** recommendation.

The expanded mobility of the workforce, including physicians, and the use of advanced communication technologies as part of our nation's health care delivery system requires greater coordination and cooperation among states in the area of physician licensure. The current system of duplicative licensing for physicians practicing in multiple states is cumbersome and redundant. With passage of this bill, North Dakota would join the Interstate Medical Licensure Compact (the Compact). The Compact aims to increase access to health care by expediting licensure for qualified physicians who wish to practice in multiple states.

The benefits of the Compact include:

- Creating a model that allows physicians to practice freely among member states while still allowing states to retain autonomy and the authority to enforce state physician practice laws.
- Improving access to physicians.
- Granting the necessary legal authority to facilitate interstate information sharing and investigations in the event of adverse actions to ensure public protection.

PO Box 7340 Bismarck, ND 58507-7340 Phone 701 224-9732 Fax 701 224-9529

- Eliminating redundant, duplicative regulatory processes and unnecessary fees.

The benefit of joining such a compact is substantial in a rural state such as North Dakota with multiple border communities. Recruitment of qualified healthcare professionals takes place in an increasingly national market and has been made more difficult in our state because of high workforce demands and a growing population. In addition, the continued development of telemedicine services makes such legislation important as providers work to meet increased demand for services and provide better access to services closer to home. In short, this bill would make it easier for physicians to obtain licenses to practice in multiple states, while strengthening public protection by enhancing the ability of states to share investigative and disciplinary information.

We support this bill and ask that you give it a **Do Pass** recommendation.

I would be happy to try to answer any questions you may have. Thank you.

Respectfully Submitted,

Jerry E. Jurena, President
North Dakota Hospital Association

SB 2235
Attach # 6
1/23

Essentia Health
Here with you

Senate Human Services Committee
SB 2235
January 23, 2017

Madam Chair and Committee Members, I am Andrew Askew and I am here on behalf of Essentia Health.

In addition to the other licensure compacts that have been introduced this legislative session – the enhanced nurse licensure compact, the APRN compact, and the PT compact – Essentia Health submits its support for the Interstate Medical Licensure Compact ("IMLC"). As you have heard today, by adopting the IMLC, North Dakota can provide its health care systems with an expedited licensure process that allows physicians to render care across state lines while ensuring patient safety and preserving the state's jurisdiction of the practice of medicine. Therefore, Essentia Health respectfully requests a "Do Pass" recommendation for SB 2235.

SB2235
Attach # 1
1/23

BEFORE THE SENATE HUMAN SERVICE COMMITTEE

SB 2235

January 23, 2017

Testimony of Duane Houdek

State Board of Medicine

Madam Chair, members of the committee, my name is Duane Houdek, executive secretary of the North Dakota Board of Medicine. Thank you for the opportunity to share the board's perspective on joining the Interstate Medical Licensure Compact.

Please allow me, in very broad terms, to briefly discuss the board's duties and functions under the North Dakota medical practice act. The board's sole duty is to the public, to help ensure that the practice of medicine is done safely and competently for the citizens of the state. The board licenses just under 4,000 physicians. Of those, 1,837 live in-state, and 2,107 reside out-of-state. We regulate their practice in the following broad ways:

First, we vet them at the time of their initial applications to make sure they are fit to practice medicine safely and competently and that they have met the conditions of eligibility of our state relating to education, testing and training. At each subsequent annual renewal of their license, we question them to ensure that they continue to be fit to practice. I will address this aspect in greater detail in a discussion of certain parts of the compact procedures.

Second, we help to ensure continuing competency by requiring and auditing continuing medical education requirements.

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Finally, we discipline physicians who have violated the state's medical practice act.

There are, of course, practice regulations of various types, but those are not implicated here.

The compact, in a nutshell, provides that a physician may choose a member state in which to apply initially, is evaluated by that state, according to the criteria of the compact, and, if approved, then may choose to purchase a license in any of the other member states without further vetting and without any additional, state-specific, conditions of eligibility. License renewal is processed by the commission, according to criteria set forth in the compact.

The compact is not operational at this time. It needs to complete its rule making processes, hire staff, and complete the data interface with member states. In speaking with a commission member the other day, the commission is hopeful it will begin issuing licenses sometime in 2017, perhaps in a few months.

With that introduction, let me say that the Board of Medicine has been reviewing this compact periodically since its inception, while it was still in draft form. The board has taken the position that, although the compact has positive features that may well make it worth joining, we should let it actually operate for a time, so we can observe it in practice, before we cede to it the authority to determine for us who should practice medicine in North Dakota. Let me explain why we feel that way.

First, an acknowledgement of the positive features:

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- The compact would allow member states to share investigative information. That is a significant benefit many states, including North Dakota, cannot do fully now because of state confidentiality laws.
- Likewise, the compact would give us the ability to subpoena medical records and other evidence in member states during the course of a disciplinary investigation. Now, our subpoena power ends at our border.
- The work associated with vetting a given applicant is assumed by another state, allowing that time to be used elsewhere.
- The compact cost, at this time, is reasonable. The cost to the state, of course, is subject to change if it is found that the current proposed structure of user fees is insufficient to fund the work of the commission. As it stands now, the compact would not divert significant dollars from other needs.

Additionally, there are benefits to the physician community in terms of the convenience of applying only once for multiple licenses, and I certainly understand why they favor its adoption, and why the legislature wants to put this into place.

We do have, however, some specific concerns with aspects of the compact process, especially the renewal process. I have attached the renewal criteria of the compact, which is just a copy of page 6 of the bill, and I have attached our set of questions physicians fill out during our annual renewal process.

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You will see that once a physician qualifies for a license under the compact, the renewal of all licenses is done through the commission, not the states, and the criteria for getting renewed is a) maintaining an unrestricted license in the original state, b) not having been convicted of a crime, c) not having been disciplined, and d) not having a DEA action regarding controlled substances.

If you look at our renewal questions, you will see there is overlap with the compact criteria, but also questions J, K and L about hospitalizations for mental or physical conditions that might be said to impair one's ability to practice medicine safely and competently, and about possible abuse of alcohol or drugs. The issue of possible impairment, which can arise in a variety of ways, is not reflected in the compact criteria for renewal.

The questions we ask go to the very heart of a physician's ability to treat the public safely and competently. We routinely get reports of DUI's; the onset of physical impairments, such as strokes or results of trauma; the onset of mental health concerns, such as depression or neuropsychological problems that affect the brain's processing ability.

In our online renewal process, a physician's license is renewed automatically if all questions are answered in the negative. If any question is answered "yes", the renewal application is kicked out of the automatic process and sent to me for review. I get many of these each week. In fact, the first thing I do at the office every morning is check the renewals that are waiting for my review. We handle them according to their circumstances, but always with a goal of making sure the reported facts do not impair the physician's ability to practice safely.

For physicians who report potentially impairing physical or mental conditions, I call them, discuss the matter, and, where appropriate, ask them to undergo an evaluation for fitness to practice, whether that is a physical examination or a neuropsychological exam – whatever is appropriate to help determine fitness to practice. In that way, we either get clearance for safe practice from a treating physician, or the acknowledgment of an impairing condition.

For physicians who report DUI's, or other things that might suggest an impairment because of alcohol or drug abuse, we use the North Dakota Professional Health Program, which this legislature created in 2013, and which is working very, very well.

That program has determined that if someone has a blood alcohol level of .16 or higher there is evidence to suggest a possible impairment, worthy of evaluation. If this incident did not occur at work or in direct connection with the practice of medicine, we refer these physicians to the program and require only that they make contact. After that is confirmed, the NDPHP handles the matter confidentially. We have made 11 referrals to the program, about one every six weeks.

These matters do not appear to be reportable, at all, to the compact commission for renewal purposes. Even if they were, we in North Dakota could not impose what we now do as conditions of renewal. If every state added on their own conditions, the compact would become meaningless. I know the compact commission is working on a rule regarding renewal questions, and, hopefully, these matters will be added. I will certainly advocate that they are.

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But there is a question as to whether they can inquire about matters not listed in the statutory compact criteria and, furthermore, what they can do about them if they do find them out.

It appears that we would have to approach this as possible disciplinary matters, if we, in fact, even found out about them. That destroys the process we have created for treating these impairments confidentially, as long as they didn't impact patient care and as long as we can assure the physician won't practice until the matter is resolved. We could simply ask physicians to do this once their licenses are renewed, but we lose the significant leverage of the pending renewal.

These are our current issues, but we all know from experience others may well arise in a process that is not yet finalized and has yet to operate. That is why the board is waiting to see how the compact actually works, and I know we are not alone in this. About 20 states have adopted or are considering the compact, which means there are about 30 states, which represent the vast majority of physicians practicing in the United States, that do not belong. I know at least some who are doing exactly what I am about to request of you.

We ask the legislature to consider addressing this in the 2019 session. The compact should have been operational for about 18 months at that point, which should give time to fully evaluate its processes and determine whether North Dakota wants to give authority to license doctors practicing here to another state.

If, for some reason, you believe it is urgent that we do it now, we would ask that at least you delay the bill's implementation until we can evaluate how the compact is working and resolve issues that may arise.

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We are not in any licensing crisis. We license more physicians out-of-state than in-state. We are not stopping doctors at our borders. We have worked with the health care industry to embrace telemedicine in a way that is acceptable to them, but which maintains public protection. We are operating in a way that is truly protective of the public. In these days of expanding telemedicine, that is more important than ever.

Furthermore, perhaps because of our relatively small number of licensees and certainly because of Lynette McDonald's work and guidance in the licensing department, we provide as thorough, personalized and meaningful vetting process as I have seen. Before we relinquish something that is working very well to another entity, even one that provides some good benefits, we believe it is prudent to know exactly how that is going to play out.

Thank you. I would be glad to address any questions you may have.

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Pg.8

NORTH DAKOTA
Board of Medicine

License Renewal - Physicians

Personal Information

This information is the confidential property of the North Dakota Board of Medicine Investigative Panels.

If any of the questions below are answered "yes", you will be required to provide full details.

Since you LAST applied for renewal of your North Dakota license:

A. Have you had an application for a professional license denied? ○ Yes ○ No

B. Have you been investigated by any licensing board, agency or professional association (other than the North Dakota Board of Medicine) in connection with medical competency, practice act violations, unprofessional conduct or unethical conduct? ○ Yes ○ No

C. Has any disciplinary action been instituted which could have affected or could now affect your license to practice in any state or foreign country? ○ Yes ○ No

D. Have you been subject to informal or formal proceedings by any licensing board, agency or professional association (other than the North Dakota Board of Medicine) to revoke, suspend, restrict or limit a professional license? ○ Yes ○ No

E. Have you been subject to informal or formal proceedings which might have resulted in the surrender of a state and/or federal narcotic registration certificate? ○ Yes ○ No

F. Have you had hospital privileges denied, removed or restricted, or limitations imposed on such privileges, or resigned hospital privileges to avoid such action? ○ Yes ○ No

G. Has your employment at any medical facility terminated for any reason? ○ Yes ○ No

H. Have you been convicted of any crime, felony or misdemeanor? (You must answer 'yes', even if the imposition of sentence was deferred and the crime was later dismissed.) ○ Yes ○ No

I. Have you been arrested for, or charged with, any crime? ○ Yes ○ No

J. Have you had or have you been admitted to any hospital or other inpatient care facility for any physical, mental or emotional condition which impaired or could be said to impair your ability to practice safely and competently? ○ Yes ○ No

K. Have you had a dependency on the use of alcohol or drugs which impaired or does impair your ability to practice medicine competently? ○ Yes ○ No

L. Have you engaged in the excessive or habitual use of alcohol or drugs or received any treatment for alcoholism or excessive or illegal drug use? ○ Yes ○ No

2. The interstate commission may develop rules regarding fees for expedited licenses.

ARTICLE VII - RENEWAL AND CONTINUED PARTICIPATION

1. A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the interstate commission if the physician:
   a. Maintains a full and unrestricted license in a state of principal license;
   b. Has not been convicted or received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;
   c. 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; and
   d. Has not had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration.
2. Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.
3. The interstate commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.
4. Upon receipt of any renewal fees collected in subsection 3, a member board shall renew the physician's license.
5. Physician information collected by the interstate commission during the renewal process must be distributed to all member boards.
6. The interstate commission may develop rules to address renewal of licenses obtained through the compact.

ARTICLE VIII - COORDINATED INFORMATION SYSTEM

1. The interstate commission shall establish a database of all physicians licensed, or who have applied for licensure, under Article V.
2. Notwithstanding any other provision of law, member boards shall report to the interstate commission any public action or complaints against a licensed physician who has applied or received an expedited license through the compact.
3. Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.

NDLA, S HMS - Johnson, Marne

From: Lee, Judy E.
Sent: Tuesday, January 24, 2017 1:30 PM
To: -Grp-NDLA Senate Human Services; NDLA, S HMS - Johnson, Marne; NDLA, Intern 02 - Arendt, Ian
Subject: FW: Compact bill

Answers to questions about the compact.

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
home phone: 701-282-6512
e-mail: jlee@nd.gov

From: Courtney Koebele [mailto:courtney@ndmed.com]
Sent: Tuesday, January 24, 2017 8:50 AM
To: Lee, Judy E. <jlee@nd.gov>
Subject: FW: Compact bill

From: Jonathan Jagoda [mailto:jjagoda@fsmb.org]
Sent: Tuesday, January 24, 2017 8:48 AM
To: Courtney Koebele <courtney@ndmed.com>
Subject: RE: Compact bill

Hi Courtney,

Great news that the Compact was passed out of Committee!

To answer your questions:

1) Correct. The Interstate Medical Licensure Compact Commission is comprised of two representatives from each state (medical/osteopathic board) that has enacted the model Compact legislation. The Commission is responsible for administering the Compact expedited licensure process, including rulemaking. Only members of the Compact Commission may participate in the decision making process.
2) Correct. Section 21 of the model legislation, found on pg. 22-23 (http://licenseportability.org/wp-content/uploads/2016/01/Interstate-Medical-Licensure-Compact-FINAL.pdf) , includes language on the withdrawal process. This language is consistent with other Compact legislation.

Please let me know if I can be of any further assistance!

Sincerely,

Jonathan

From: Courtney Koebele [mailto:courtney@ndmed.com]
Sent: Tuesday, January 24, 2017 7:21 AM
To: Jonathan Jagoda
Subject: Fwd: Compact bill

Good morning! I am wondering if you could help me answer the questions our sponsor and the committee chair person asked me?

Thanks so much.

Courtney Koebele
Executive Director
North Dakota Medical Association

Sent from my iPhone

Begin forwarded message:

> **From:** "Lee, Judy E." <jlee@nd.gov>
> **Date:** January 24, 2017 at 6:06:33 AM CST
> **To:** Koebele Courtney <ckoebele@ndmed.com>
> **Subject: Compact bill**
>
> We passed it out of committee yesterday, but please clarify 2 things for me.
> 1. If we did not join the compact, ND would be unable to have 2 people on the board which is developing the rules, so the opportunity to include the 3 questions which Duane Houdek discussed would not be there for ND.
> 2. If, in 2019, we do not like what has evolved, ND could withdraw from the compact.
> Are those 2 points correct?
>
> Senator Judy Lee
> 1822 Brentwood Court
> West Fargo, ND 58078
> Phone: 701-282-6512
> e-mail: jlee@nd.gov

Testimony of Howard C. Anderson Jr. on Senate Bill No. 2235

March 14th, 2017 before the House Industry Business and Labor Committee at 9:00 AM in the Peace Garden Room. Representative George Keiser Chairman.

Chairman Keiser and members of the House Industry Business and Labor Committee. I am not Senator Judy Lee, who is the prime sponsor on this bill, she is much shorter than I am, but she is in another committee just now and asked that I introduce this bill to you.

This bill establishes a Medical Licensure Compact for the State of North Dakota. You have perhaps already seen, or will soon see, compacts established this session for nurses, nurse practitioners and physical therapist. Our medical board has been watching and working with this compact for some time now and although this bill was introduced by others and supported by many, you may hear that our Medical Board has some reservations, as the details may not be all worked out. However, the Senate passed the compact language and we were sure our Medical Board could make it work for North Dakota.

These compacts need to have the same language in each state, so there is not much room to make changes, if you want to play with the other states.

Thank you,

Howard

North Dakota Hospital Association Est. 1934

Vision
The North Dakota Hospital Association will take an active leadership role in major Healthcare issues.

Mission
The North Dakota Hospital Association exists to advance the health status of persons served by the membership.

Testimony: 2017 SB 2235

House Industry, Business and Labor Committee

Representative George Keiser, Chairman

March 14, 2017

Good morning Chairman Keiser and Members of the House Industry, Business and Labor Committee. I am Jerry E. Jurena, President of the North Dakota Hospital Association (NDHA). I am here to testify regarding 2017 Senate Bill 2235 and ask that you give this bill a **Do Pass** recommendation.

With the expanded mobility of the workforce, including physicians and the use of advanced communication technologies, our nation's health care delivery system requires greater coordination and cooperation among states in the area of physician licensure. The current system of duplicative licensing for physicians practicing in multiple states is cumbersome and redundant. With passage of SB 2235, North Dakota would join the Interstate Physician Licensing Compact which would permit physicians to care for patients located in the participating states, without having to obtain additional licenses.

The benefits of the compact include:

- Creates a model that allows physicians to practice freely among member states while still allowing states to retain autonomy and the authority to enforce the state medical licensure practice act.
- Improves access to physicians during a disaster or other times of great need.

PO Box 7340 Bismarck, ND 58507-7340 Phone 701 224-9732 Fax 701 224-9529

- Grants the necessary legal authority to facilitate interstate information sharing and investigations in the event of adverse actions to ensure public protection.
- Eliminates redundant, duplicative regulatory processes and unnecessary fees.

The benefit of joining such a compact is substantial in a rural state such as North Dakota with multiple border communities. Recruitment of qualified healthcare professionals takes place in an increasingly national market and has been made more difficult in our state because of high workforce demands and a growing population. In addition, the continued development of telemedicine services makes such legislation important as providers work to meet increased demand for services and provide better access to services closer to home. While making it easier for physicians to obtain licenses to practice in multiple states, the compact strengthens public protection by enhancing the ability of states to share investigative and disciplinary information.

We support this bill and ask that you give it a **Do Pass** recommendation.

I would be happy to try to answer any questions you may have. Thank you.

Respectfully Submitted,

Jerry E. Jurena, President
North Dakota Hospital Association

NDMA
Est.1887 NORTH DAKOTA MEDICAL ASSOCIATION

House Industry Business and Labor Committee
SB 2235
March 14, 2017

Chairman Keiser and Committee Members, I am Courtney Koebele and represent the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students.

NDMA supports this legislation that does not change our state's medical practice act, yet provides for an additional, and expedited pathway, for medical licensure for physicians interested in practicing in multiple states. This session has seen many licensure compacts, with the nurse compact, the APRN compact and the PT compact all passing this legislative session.

As you can see by the map I handed out, the IMLC has been adopted in 18 states – and is pending in 7 states and the District of Columbia. A commission of representatives from states participating in the Compact has begun formally meeting and is implementing the administrative processes needed to begin the expedited licensure process, but licenses via the Compact process have not begun to be issued yet. Bylaws have been adopted and I understand that most of the rules have been implemented and the compact is ready to launch.

What is the purpose? The Compact will substantially reduce the time it takes to receive multiple licenses. As soon as eligibility is verified and fees are transferred, additionally selected states will issue a full and unrestricted license to the physician. An added bonus is that the Compact strengthens public protection by enhancing the ability of states to share investigative and disciplinary information.

What does ND need to do? States participating in the Compact will formally agree to adopt common rules and procedures that will streamline medical licensure, thus substantially reducing the time it takes for physicians to obtain multiple state licenses. A Compact Commission will provide oversight and the administration of the Compact, creating and enforcing rules governing its processes. North Dakota will get two seats on the Compact Commission. The Interstate Medical Licensure Compact will not supersede a state's autonomy and control over the practice of medicine, nor will it change a state's Medical Practice Act. Participating states will retain the authority to

issue licenses, investigate complaints, and discipline physicians practicing in their state. The practice of medicine will continue to occur in the state where the patient is located.

How does it work? An eligible physician will designate a member state as the State of Principal Licensure and select the other member states in which a medical license is desired. Upon receipt of this verification in the additional Compact states, the physician will be granted a separate, full and unrestricted license to practice in each of those states.

Who is eligible?

- A full and unrestricted medical license issued by a state board that is a member of the compact
- Successful completion of an accredited graduate medical education program
- Board certification
- Never convicted, or subject to certain alternatives to conviction, by a court for a felony, gross misdemeanor, or crime of moral turpitude
- Never disciplined by a medical board, excluding actions related to nonpayment of license fees
- Never had a controlled substance license or permit suspended or revoked
- Not under active investigation by a law enforcement or medical licensing agency

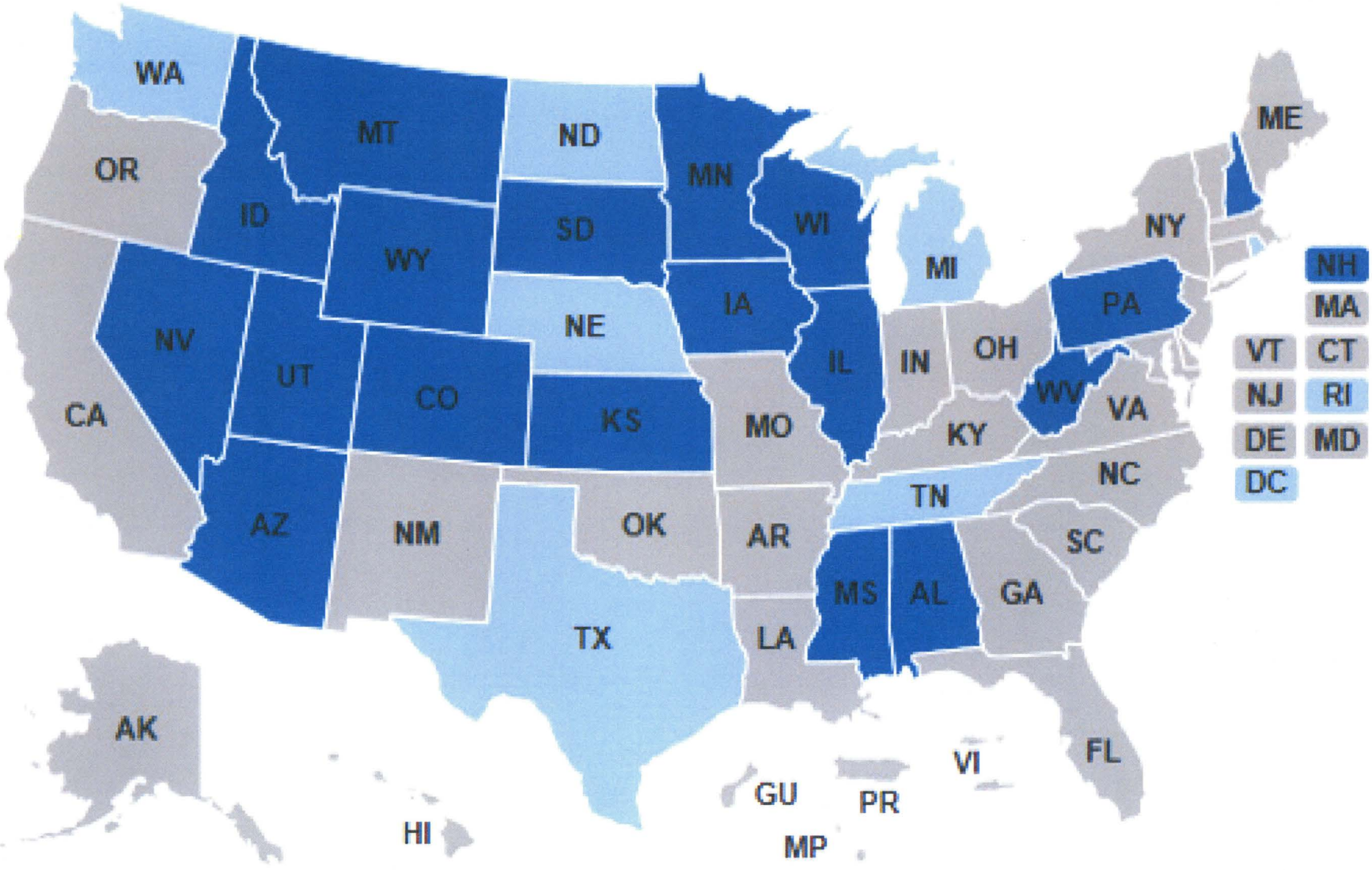
An estimated 80 percent of physicians nationwide will meet eligibility requirements and the Compact does not change medical license requirements for the existing traditional application process.

In summary NDMA supports the Compact because:

- The Interstate Medical Licensure Compact represents an effort by which participating states will develop a dynamic, self-regulatory system of expedited licensure in which member states can maintain control through a coordinated legislative and administrative process.
- The Compact 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.
- State medical boards that participate in the Compact retain the jurisdiction to impose an adverse action against a license to practice medicine in their respective state.
- The state of North Dakota is already facing a critical shortage of physicians. The Compact will help hospitals and clinics recruit physicians.

Thank you for the opportunity to testify today. I would be happy to answer any questions.

Enactments: 18 Active Legislation: 8



= Compact legislation enacted

= Compact legislation introduced

P3

4

Testimony on SB 2235
Interstate Medical Licensure Compact
House Industry Business and Labor Committee
March 14, 2017

Chairman Keiser and members of the House IB&L Committee, I am Dan Hannaher, Executive Director of HPC, the Health Policy Consortium. As I think you all know, HPC members include; Altru Health in Grand Forks, Trinity Health in Minot, and Sanford Health in Fargo and Bismarck.

I'm here today to speak in support of Senate Bill 2235 relating to the interstate licensure compact. The compact language you have before you is model law already adopted by 18 states, and four additional including North Dakota this year are giving consideration. Developed by representatives of state medical boards from around the country the compact has been developed and implemented so as to alleviate the growing doctor shortage in the United States while also taking advantage of developments in technology facilitating the use of Telemedicine.

Passage of the compact language will speed the licensing of doctors, and increase access to them by people in underserved areas, and allow for people with complex health issues to connect and consult with experts in other states. Clearly with the landscape of healthcare ever in flux, the size and reach of many health systems cause them to cross state borders. Sanford, Altru, CHI, Essentia Health and others have significant cross-border boundaries of service.

The authority of state licensure boards however would remain intact. It's important to recognize that under the interstate compact our North Dakota Board of Medicine would continue to regulate the practice of medicine in our state. And doctors would still need to comply with the rules and laws of each state in which they practice.

Working through the interstate compact commission, a doctor who is licensed in one state could seek an expedited license from one or more of the additional states within the compact. Under the compact, states would agree to share information acting as a clearing house. So while the compact will make it easier for doctors to be licensed in multiple states the public's protection will be

strengthened because of the ability to share disciplinary action not being shared now.

This is a great time for North Dakota to join the interstate licensure compact. As I'm sure you are aware, three other compacts are currently before the 65th Legislative Assembly; Nursing, Advance Practice Nursing, and Physical Therapy compacts.

And in terms of our neighboring states, it just makes all that much more sense. Montana, South Dakota and Minnesota have already joined the interstate licensure compact for physicians. We ought to take advantage of that regional harmony and join in on a streamlined process of licensure for doctors across borders.

Thank you Chairman Keiser, and Committee. I'm happy to answer any questions.

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Essentia Health
Here with you

House Industry, Business and Labor Committee
SB 2235
March 14, 2017

Chairman Keiser and Committee Members, I am Andrew Askew and I am here on behalf of Essentia Health.

In addition to the other licensure compacts that have been introduced this legislative session – which include the enhanced nurse licensure compact, the APRN compact, and the PT compact – Essentia Health submits its support for the Interstate Medical Licensure Compact ("IMLC"). As you have heard today, by adopting the IMLC, North Dakota can provide its health care systems with an expedited licensure process that allows physicians to render care across state lines while ensuring patient safety and preserving the state's jurisdiction of the practice of medicine. Therefore, Essentia Health respectfully requests a "Do Pass" recommendation for SB 2235.

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HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE

Senate Bill No. 2235

March 14, 2017

Testimony of Board of Medicine

Chairman Keiser, members of the House IBL committee, my name is Duane Houdek, executive secretary of the Board of Medicine. When this bill was before the Senate, we gave it conditional support, asking that its implementation be delayed to give North Dakota time to see if matters of concern would be addressed by the compact commission. That delay was not included in the bill. Since that Senate hearing, additional developments by the interstate commission and the answers we've received regarding our concerns convince us this bill either should not be passed at all, or implemented only if the commission first shows us the concerns we raised have been resolved.

Our first concern regards the initial application process under the compact. One of the requirements for a medical license we have in North Dakota is that the applicant be fingerprinted and undergo a national FBI criminal background check. This legislature permitted state boards and agencies to conduct such checks of prospective employees and licensees more than a decade ago. The Board of Medicine immediately began doing so, and now all applicants undergo such checks.

The compact language before you also calls for such checks and says the principal state of licensure should give that information to all boards in which the applicant chooses to get a license. It was the intent of all who formed this compact that this be so, for background checks are an integral part of the medical licensing process in many states.

Unfortunately, the FBI recently wrote one of the states in the compact – Minnesota -- and told them their state statutes did not allow them to get a background check for this type of expedited license and, even if they reworded it, they could not share the background check information with the interstate commission, for it has not been established as an eligible entity. I have attached the FBI letter to Minnesota as Exhibit #1.

The commission's response to this was to pass an emergency rule saying that, despite what the statutory language says, the states may not share information received in a criminal background check -- I have attached that rule as Exhibit #2. They are now considering whether to file a lawsuit against the FBI seeking a declaratory judgment on this issue – I have attached an excerpt of the relevant meeting minutes as Exhibit #3.

It should be noted that if there has been a conviction of a felony, a crime of moral turpitude or a "gross" misdemeanor, the compact will not issue a license. In those cases, North Dakota would still not get the information, but we could run another check of our own when the licensee applies directly to us.

But an additional problem arises in the way the compact sets the eligibility levels. They say they won't give a license to anyone with a "gross" misdemeanor, a crime definition North Dakota and some other states do not have. In states without a definition, the compact rules state a gross misdemeanor is a crime "punishable by a minimum of six months incarceration". I've attached the relevant rule as Exhibit #4.

I checked with our correctional staff, and they confirmed that this can't be what is meant, for it describes a "minimum mandatory" misdemeanor, and we don't have any in North Dakota. I presume a lot of other states don't either.

Even if this rule gets fixed to describe the matter properly, the compact will issue a license to anyone with lesser crimes and will not tell us about it. Without searching very far, you will see that in North Dakota this could include two DUI's with unlimited blood alcohol levels or drug use. This would certainly be relevant for us to know.

Our second concern regards the annual license renewal process. I have attached the compact eligibility requirements as Exhibit #5 and the renewal questions we ask as Exhibit #6.

You will see that we cover all of the compact's questions but have additional questions that are not asked by the compact commission. These involve, in general terms, whether any incident has occurred in the last year that could affect a physician's ability to practice safely and competently. Specifically, we ask if people have been hospitalized or treated for physical or mental

conditions that could be said to affect the safe practice of medicine, or whether they have required any treatment for, or have usage of, drugs or alcohol that could be said to impact their safe practice.

Such questions are critical. Frequently, I get online renewal applications that are flagged by our software program because someone has answer "yes" to one of these questions. And what we do in response will be lost because these questions are not asked or required by the compact commission.

Allow me to tell you why I think this is important. Please consider first the substance abuse issue: In 2013, this legislature established the North Dakota physician's health program that is separate from the board. Dr. Barrie March is here to describe that program, but just let me state that from the medical board's perspective, it has been a great success in protecting the public from impaired physicians, and getting at substance abuse issues earlier in the disease process.

When I get a renewal applicant who answers "yes" to the treatment or usage question, I call that physician and encourage him to contact the PHP. Once that contact is made and confirmed, the license is renewed.

I explain that the PHP will evaluate whether he or she requires further treatment or monitoring and, if so, will enroll him in the PHP program. If not, there will be no PHP requirement. This will be done on a confidential basis. The board doesn't do this as a matter of discipline and I don't even write down the physician's name.

This is beneficial for the public, obviously, but it is also beneficial for the physician. This program has been a valuable tool in addressing the substance abuse issues of physicians earlier in the disease process, which benefits everyone.

Under the compact, we would not know of this drug issue at the time of renewal. Our recourse would be to find out later, once the license has already been required to be issued by the compact.

With regard to the physical and mental health issues, when we learn of those, again I call the physician to discuss the matter. In these cases, if there is a problem that looks as though it might impact safe practice, such as a stroke, head injury, or serious mental health issue, we typically enter into a public, but not disciplinary, agreement with the physician to refrain from practicing until a

qualified physician has clear him or her for safe medical practice. Again, we protect the public by holding the practice until an evaluation of fitness can be made, and by letting the public know we have done so, but we do it in a way that is not disciplinary for the physician. The physicians I have dealt with have found this to be a fair process, and the public remains protected.

We would lose this opportunity under the compact, as well.

This issue has been raised to the commission as it writes its rules. Before they started on the renewal rule, I called the commissioners cited as the contact person for the rules and explained our issue.

In response, they issued a renewal rule that allows the states to ask such questions after a license has been issued, but the commissioner I spoke to made it clear that such state specific questions could not be a basis for holding or denying a renewal.

In my opinion, we are giving up a process that has proven itself to be a valuable tool in protecting the public. One may ask why we don't just require physicians to tell us as these things happen, not in response to any annual questionnaire. I've been doing this work for over 10 years, and during all of that time, we have had a statute on the books that requires any physician or health care worker to report possible disciplinary actions to the board when they occur. This seldom happens. I can say with certainty that it is more honored in the breach. It is much more effective to require an affirmative answer to a specific question at the time you have the physician's attention than it is to require general reports.

On the senate side, I noted that I could certainly understand why regional health care organizations want this to pass. It makes it more convenient for their physicians to get a license. But I am more convinced than ever that the price for that convenience, as presented in this bill, is too high. With this compact, we would be trading some convenience for disruption to processes that have been shown to protect the public and do so in a way that is fair to our licensees.

This is really the trade-off: convenience vs. public safety. This compact is not about allowing telemedicine – we already do so. In fact, we license more physicians who live out of state than those who live within the state. And it is not

about increasing our physician work force. Please talk to anyone who recruits physicians. We compete nationally, and there are so many more important factors that determine whether a physician will come to Hettinger or Grafton or Bismarck or Fargo, that have nothing to do with having to get a license.

When this issue first arose, I called and talked to nationwide telemedicine companies, as well as firms that recruit and place physicians, and asked if there was anything about our North Dakota process that keeps them from practicing here. I was not given one example. In fact, I was told that our staff was very helpful and easy to work with.

I'll close, Mr. Chairman, by asking this committee to either issue a do not pass recommendation, or amend this bill in a way that it will not become effective unless and until this compact can be shown to have fixed what I think are serious concerns about public safety.

Exhibit # 1

U.S. Department of Justice

Federal Bureau of Investigation

Office of the General Counsel

Clarksburg, WV 26306

July 7, 2016

Julie A. LeTourneau Lackner
Minnesota Justice Information
Services
Bureau of Criminal Apprehension
1430 Maryland Avenue East
St. Paul, MN 55106-7001

Dear Ms. LeTourneau Lackner:

This is in reference to your emails, dated February 26, 2016 and April 1, 2016, requesting a review of Minnesota Statutes Annotated (MnSA), Section 147.38, to determine if it meets the standards of Public Law (Pub. L.) 92-544 for access to FBI criminal history record information (CHRI).

The Criminal Justice Information Law Unit's (CJILU) legal staff has reviewed MnSA § 147.38, pertaining to background checks of applicants for an expedited physician license and has determined that it does not meet the requirements of Pub. L. 92-544. It appears to authorize the dissemination of FBI CHRI to the Interstate Medical Licensure Compact Commission which is a private nongovernmental entity; it does not indicate that fingerprints will be submitted to the FBI and it does not authorize the use of FBI records for the screening of applicants. There is also no reference to a Minnesota governmental agency who is authorized to conduct this background check. Specifically MnSA § 147.38, Article 8 requires member boards to report to the Interstate Commission disciplinary or investigatory information on a physician who has been issued an expedited license. Further, this section also authorizes the Interstate Commission to develop rules for mandated or discretionary sharing of information by member boards.

Ms. Julie LeTourneau Lackner

Authority to disseminate FBI CHRI is derived from specific federal statutory authority. The FBI is not aware of a federal statute that authorizes dissemination of FBI CHRI to this Interstate Commission. Dissemination of Minnesota arrest and disposition records is subject to Minnesota's laws and regulations. Further, the FBI has no objection to an Interstate Commission independently obtaining information from another state repository, arresting agency, court, or through self-disclosure and using that information in the same manner Minnesota uses its own information. However, the Interstate Commission may not cite information it obtains as being an FBI-maintained record or reference a federal background check in any way.

As background, since 1972, the FBI, with the assistance of the United States Department of Justice, has determined the parameters of Pub. L. 92-544. In order to meet the requirements of Pub. L. 92-544, a statute must meet the following criteria: (a) exist as the result of a legislative enactment; (b) require the fingerprinting of applicants who are to be subjected to a national criminal history background check; (c) expressly ("submit to the FBI") or by implication ("submit for a national check") authorize the use of FBI records for the screening of applicants; (d) identify the specific category(ies) of licensees/employees falling within its purview, thereby avoiding overbreadth; (e) not be against public policy; and (f) not permit unauthorized receipt of the CHRI by a private entity.

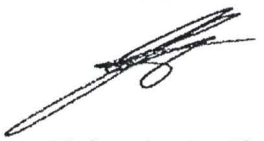
In your request you asked that the Board of Medical Practice be authorized to utilize previously approved MnSA § 214.075 in conjunction with MnSA § 147.38 to conduct the FBI fingerprint-based background checks. A review indicates that MnSA § 214.075 authorizes various Minnesota medical boards to conduct FBI fingerprint-based background checks on applicants for initial licensure, licensure by endorsement, reinstatement or other relicensure after a lapse in licensure. The statutory language of MnSA § 214.075 does not appear to cover expedited licensure. However, if MnSA § 214.075 was amended to specifically include applicants for expedited licensure, FBI fingerprint-based background checks would be authorized for this category. Please be aware that if MnSA § 214.075 is amended to include applicants for expedited licensure and approved by CJILU, FBI CHRI obtained by an appropriate Minnesota medical licensing board may not be disseminated outside of the state licensing board to the Interstate Commission, which is a private entity created pursuant to the Interstate Medical Licensure Compact.

As you are aware, access to FBI CHRI is subject to numerous restrictive laws and regulations. Dissemination of such information outside the receiving governmental department or related governmental agency to private entities is prohibited. Further, the exchange of CHRI is subject to cancellation if such unauthorized dissemination is made.

Ms. Julie LeTourneau Lackner

Should you have further questions concerning this matter, please do not hesitate to contact Paralegal Specialist David N. Boone of the CJILU at (304) 625-5961.

Sincerely yours,



Christopher B. Chaney
Unit Chief
Criminal Justice Information Law Unit
Office of the General Counsel

Exhibit # 2

FEBRUARY 24, 2017

INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION
Notice of adoption of emergency rules

Pursuant to the authority of Section 15 of the Interstate Medical Licensure Compact and Section 1.4 "j" of Chapter 1, "Rule on Rulemaking," the Interstate Medical Licensure Compact Commission (IMLC Commission) on February 22, 2017, adopted emergency rules, effective immediately, concerning information received from the Federal Bureau of Investigation (FBI) relating to a federal criminal records check of an applicant for licensure through the Compact.

The emergency rules, which are amendments to Chapter 2, "Information Practices," and Chapter 5, "Expedited Licensure," address concerns the FBI has raised about maintaining the confidentiality of federal criminal background check information provided to a member board to evaluate an applicant's eligibility for licensure through the Compact. The IMLC Commission requires the immediate adoption these emergency rules to prevent potential loss of federal or state funding. Pursuant to Section 309 of the Model State Administrative Procedures Act 2010, these emergency rules may be effective for not longer than 180 days. Not later than 90 days after the effective date of these emergency rules, the Commission shall apply the usual rulemaking procedures provided in the Compact and Chapter 1, "Rule on Rulemaking," to adopt the same rules.

Effective February 22, 2017, the following emergency rules are adopted:

ITEM 1. Adopt the following **new** subrule 2.6:

2.6 Federal criminal records check information.

2.6(1) Communication between a member board and the Interstate Commission and communication between member boards regarding verification of physician eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member board under Public Law 92-544 pursuant to Section 1 of the Compact and rules 5.5(1) "c" and 5.5(2) "b" (2).

ITEM 2. Adopt the following amendment to subrule 5.5(2)"b" (2):

2) Perform a criminal background check pursuant to Public Law 92-544 as required by terms and provisions of the Compact; and

Exhibit #3

INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION
EXECUTIVE COMMITTEE
Conference Call
March 7, 2017

The Executive Committee of the Interstate Medical Licensure Compact Commission convened at 3:00 PM, EST via conference call and was called to order by Chairman Jon Thomas (MN).

Roll Call was completed by Secretary Shepard (WV) with six of seven Executive Committee Members present.

Commissioner Thomas (MN)	-	Commission Chairman
Commissioner Shepard (WV)	-	Commission Secretary Chair of Communications
Commissioner Bowden (IA)	-	Commission Vice President Chair of Bylaws/Rules Committee
Commissioner Zachariah (IL)	-	Commission Treasurer Chair of Budget Committee
Commissioner McSorley (AZ)	-	Chair of Personnel
Commissioner Marquand (MT)	-	Past Commission Chair

Also identified on the conference call were Wanda Bowling, Project Manager and Rick Masters, CSG.

Agenda:
The agenda was presented. On a motion by Secretary Shepard (WV) and seconded by Treasurer Zachariah (IL), the agenda was approved as presented.

Minutes:
The minutes of the February 21, 2017, conference call were emailed to committee members this morning for review and moved for approval by Secretary Shepard (WV). Seconded by Treasurer Zachariah (IL), the minutes were unanimously approved by voice vote.

Committee Reports:

BUDGET COMMITTEE:	Treasurer Zachariah reported no activity since last meeting.
BYLAWS/RULES	Chairman Bowden (IA) reported the proposed rulemaking has been posted on the LicensePortability.org website and public comments will be received until March 22, 2017. The Bylaws Committee will take the public comments under advisement and recommend the Rule for Expedited License Renewal to the full Commission at their conference call meeting on March 29, 2017.
COMMUNICATIONS COMMITTEE:	The Chair had nothing new to report since last meeting
AUDIT COMMITTEE:	Nothing to report.
PERSONNEL COMMITTEE:	The Personnel Committee will be meeting on Friday, March 10, 2017 to prepare the position for an Executive Director for posting.

TECHNOLOGY COMMITTEE: In the absence of Commissioner Bohnenblust (WY), Wanda Bowling, Project Manager, gave the following report on work done since the last meeting.

1) At the request of some member boards, another training session has been scheduled for Thursday, March 9, 2017;
2) Training materials have been developed for each member board in preparation of application processing go-live;
3) The committee has requested a quote from Dan Robey, website developer, on moving all IMLCC information from the license portability.org website to our IMLCC.org website.

Executive Committee Tasks: Chairman Thomas (MN) announced that Colmon Elridge has left CSG and will no longer be working with the Commission. John Mountjoy has been appointed by CSG to work with IMLCC.

The Commission received requests from member boards at the February Conference Call to provide a Commission response for the members regarding the FBI issue. One option offered by legal counsel, Rick Masters, CSG, was for the Commission to file a declaratory judgment action in circuit court to provide an answer to the Commission. This would be done for clarification of all members of IMLCC and allow the application routing process to begin without further delay. A motion was made by Commissioner Bowden (IA) and seconded by Commissioner Shepard (WV) to proceed with exploring a possible legal action in this matter. The motion carried with unanimous voice vote.

The next face to face meeting of the IMLCC will be held on May 22, 2017 in St. Paul, MN. The November face to face meeting will be hosted by the AZ board.

Public Comments:
There were no public comments.

Adjournment: The Chair declared the meeting adjourned at 3:45 PM, EST.

Respectfully submitted,

Diana Shepard, CMBE
Commission Secretary

Exhibit # 4
See Sec 5.2(u)

INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

RULE ON EXPEDITED LICENSURE

ADOPTED: OCTOBER 3, 2016

EFFECTIVE: OCTOBER 3, 2016

AMENDED: FEBRUARY 22, 2017

AMENDMENT HISTORY (LIST WHEN AMENDED AND CITE SECTION NUMBER):

1. Section 5.5(2) "b" (2) was adopted by the Interstate Commission on February 22, 2017, in an emergency rule-making action. As an emergency rule, Section 5.5(2) "b" (2) may remain effective for not longer than 180 days from date of adoption.

5.0 Expedited licensure.

5.1 Authority. This chapter is promulgated by the Interstate Commission pursuant to the Interstate Medical Licensure Compact. The rule shall become effective upon adoption by the Interstate Commission.

5.2 Definitions. In addition to the definitions set forth in the Interstate Medical Licensure Compact, as used in these rules, the following definitions will apply:

a. *"Accreditation Council for Graduate Medical Education (ACGME)" means* the non-governmental organization responsible for the accreditation of graduate medical education (GME) programs within the jurisdiction of the United States of America and its territories and possessions.

b. *"Action related to nonpayment of fees related to a license" means* adverse action taken against a physician seeking licensure through the Compact by a medical licensing agency in any state, federal, or foreign jurisdiction due to late payment or non-payment of a medical license fee.

c. *"Active investigation" means* an investigation related to a physician seeking licensure through the Compact by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction for issues that have not been resolved.

d. *"American Board of Medical Specialties (ABMS)" means* a non-profit organization comprising 24 certifying boards that develop and implement professional standards for the certification of physicians in their declared medical/surgical specialty.

e. *"American Osteopathic Association (AOA)" means* the representative organization for osteopathic physicians (DOs) in the United States. AOA is the accrediting body for educational programs at osteopathic medical schools and postgraduate training for graduates of osteopathic medical schools in the United States. AOA is also the umbrella organization for osteopathic medical specialty boards in the United States.

f. *"American Osteopathic Association's Bureau of Osteopathic Specialists" means* the certifying body for the approved specialty boards of the American Osteopathic Association, which certifies osteopathic physicians in their various specialties or fields of practice.

g. *"Applicant" means* a physician who seeks expedited licensure through the Interstate Medical Licensure Compact.

h. *"Compact" means* the Interstate Medical Licensure Compact.

i. *"Commission on Osteopathic College Accreditation (COCA)" means* a commission of the AOA that establishes, maintains, and applies accreditation standards and procedures for COMs.

j. *"Comprehensive Osteopathic Medical Licensing Examination (COMLEX)" means* the examination series administered by the National Board of Osteopathic Medical

Examiners that assesses the medical knowledge and clinical skills of osteopathic physicians.

k. *"Conviction" means* a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilty or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board. Conviction *means* a plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or sentencing, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States of any crime that is a felony.

l. *"Coordinated information system" means* the database established and maintained by the Interstate Commission as set forth in the Compact.

m. *"Crime of moral turpitude" means* an act, whether or not related to the practice of medicine, of baseness, vileness or the depravity contrary to accepted and customary rule, right, and duty between human beings.

n. *"Criminal background check" means* a state and federal criminal background investigation of an applicant for expedited licensure by means of fingerprinting or other biometric data checks. The completed report and information shall be obtained prior to licensure of the applicant. The applicant shall pay for the background check.

o. *"Criminal offense" means* a violation of a law with possible penalties of a term in jail or prison, and/or a fine.

p. *"Discipline by a licensing agency in any state, federal, or foreign jurisdiction" means* discipline reportable to the National Practitioner Data Bank.

q. *"Education Commission for Foreign Medical Graduates (ECFMG)" means* the entity that certifies international medical graduates for entry into U.S. graduate medical education.

r. *"Expedited license" means* a full and unrestricted medical license promptly issued by a member state to an eligible applicant through the process set forth in the Compact. Expedited does not refer to the speed of the process by which the state of principal license qualifies an applicant for expedited licensure.

s. *"Federation of State Medical Boards' Federation Credentials Verification Service (FCVS)" means* a centralized, uniform system operated by the Federation of State Medical Boards for state medical boards to obtain a verified, primary-source record of a physician's core medical credentials.

t. *"Felony" means* the category or description of a crime defined in the jurisdiction where the crime is committed. Where not otherwise defined in state statute, a felony is a charge which is punishable by a minimum penalty of 12 months of incarceration.

u. *"Gross misdemeanor" means* a category or description of a crime defined in the jurisdiction where the crime is committed. If the jurisdiction does not have a gross misdemeanor category or description, the crime is a charge which is punishable by a minimum penalty of 6 months of incarceration.

v. *"International Medical Education Directory" means* the World Directory of Medical Schools, a public database of worldwide medical schools. The directory is a collaborative product of the Foundation for Advancement of International Medical Education and Research and the World Federation for Medical Education.

w. *"Interstate Commission" means* the Interstate Medical Licensure Compact Commission.

x. *"Letter of qualification" means* a notification issued by a state of principal license that

expresses an applicant's eligibility or ineligibility for expedited licensure through the process set forth in the Compact.

y. *"Liaison Committee on Medical Education (LCME)" means* an entity that provides accreditation to medical education programs in the United States and Canada as a voluntary, peer-reviewed process of quality assurance that determines whether the medical education program meets established standards.

z. *"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.

aa. *"Member state" means* a state that has enacted the Compact.

bb. *"Offense" means* a felony, gross misdemeanor, or crime of moral turpitude.

cc. *"Predecessor examination" means* a generally accepted national medical licensure examination issued prior to the administration of USMLE or COMLEX, combination examinations and state licensure board examinations administered prior to 1974.

dd. *"Primary source verification" means* verification of the authenticity of documents with the original source that issued the document or original source verification by another jurisdiction's physician licensing agency or original source verification by an entity approved by the Interstate Commission including, but not limited to, FCVS, ECFMG, or the AOA profile.

ee. *"Service fee" means* fees that may be assessed by the Interstate Commission or the state of principal license to handle and process an application for an expedited license. A service fee is not a fee for the issuance of an expedited license.

ff. *"State of principal license" means* a member state where a physician holds a license

to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the Compact.

gg. "United States Medical Licensing Examination (USMLE)" means the examination series for medical licensure in the United States administered by the National Board of Medical Examiners.

5.3 Delegation of expedited licensure responsibilities.

5.3(1) Member states are deemed to have delegated and assigned to the Interstate Commission the following responsibilities in the expedited licensure process:

a. The Interstate Commission shall provide member states an online application for use by applicants seeking expedited licensure through their designated state of principal license.

b. The Interstate Commission shall use information from a coordinated information system to facilitate an application for review by the applicant's designated state of principal license.

c. The Interstate Commission shall provide and administer a process to collect service fees and licensure fees from the applicant and remit these fees to the member boards and the Interstate Commission.

5.4 Eligibility for expedited licensure.

5.4(1) An applicant must meet the following requirements to receive an expedited license under the terms and provisions of the Compact:

a. Is a graduate of a medical school accredited by the LCME, the COCA, or a medical school listed in the international medical education directory or its equivalent.

b. Passed each component, level or step of the USMLE or COMLEX licensing examination within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes.

c. Successfully completed graduate medical education approved by the ACGME or the AOA. "Completed" means participation in an ACGME or AOA postgraduate training that achieves ABMS or AOA board eligibility status.

d. Holds specialty certification or a time-unlimited specialty certificate recognized by the ABMS or the AOA's Bureau of Osteopathic Specialists. The specialty certification or a time-unlimited specialty certificate does not have to be maintained once a physician is initially determined to be eligible for expedited licensure through the Compact.

e. Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board.

f. Has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction.

g. 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.

h. Has never had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.

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

5.5 Expedited licensure process.

5.5 (1) An applicant shall:

a. Designate a state of principal license.

b. Submit an online application to the designated state of principal license through the coordinated information system.

c. Submit to the state of principal license a completed fingerprint packet or other biometric data check sample approved by the state of principal license.

d. Submit to the state of principal license a sworn statement by the applicant attesting to the truthfulness and accuracy of all information provided by the applicant.

e. Pay the nonrefundable service fees required by the state of principal license and the Interstate Commission.

5.5 (2) When an application is received by the state of principal license through the Interstate Commission:

a. The Interstate Commission shall use information from its database to facilitate the application, which shall be reviewed by the applicant's designated state of principal license.

b. The designated state of principal license shall:

1) Evaluate the applicant's eligibility for expedited licensure;

2) Perform a criminal background check pursuant to Public Law 92-544 as required by terms and provisions of the Compact; and

3) Issue a letter of qualification to the applicant and the Interstate Commission, verifying or denying the applicant's eligibility.

5.5 (3) Upon receipt of a letter verifying the applicant is eligible for expedited licensure, the applicant shall:

a. Complete the registration process established by the Interstate Commission.

b. Identify the member state(s) for which expedited licensure is requested.

c. Pay the non-refundable licensure fee required by the member board(s) and any additional service fee required by the Interstate Commission.

5.5 (4) Upon receipt of all licensure fees required, and receipt of the information from the application, including the letter of qualification, the member board(s) shall promptly issue a full and unrestricted license(s) to the applicant, and provide information regarding that license to the Interstate Commission to maintain in its coordinated information system.

a. An expedited license shall 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 the member state.

5.6 Expedited licensure application cycle.

5.6(1) An application for expedited licensure shall be considered open from the date the application form is received by the state of principal license.

a. If the applicant does not submit all requested materials within 60 days after the application is opened, then the application shall be deemed to have been withdrawn. The applicant must reapply and submit a new application, a new nonrefundable application service fees as determined by the state of principal license and the Interstate Commission.

b. A letter of qualification is valid for 365 days from its date of issuance to request expedited licensure in a member state. There shall be no waiver of this time limit.

c. A physician who has been issued a letter of qualification by a state of principal license attesting the physician is qualified for expedited licensure through the

Compact may apply for a new letter of qualification after 365 days from issuance of the initial letter of qualification. Upon request for a new letter of qualification, a physician will not be required to demonstrate current specialty board certification.

5.7 Appeal of the determination of eligibility.

5.7(1) The applicant may appeal a determination of eligibility for licensure within 30 days of issuance of the letter of qualification to the member state where the application was filed and shall be subject to the law of that state.

2. The interstate commission may develop rules regarding fees for expedited licenses.

ARTICLE VII - RENEWAL AND CONTINUED PARTICIPATION

1. A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the interstate commission if the physician:
   a. Maintains a full and unrestricted license in a state of principal license;
   b. Has not been convicted or received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;
   c. 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; and
   d. Has not had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration.
2. Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.
3. The interstate commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.
4. Upon receipt of any renewal fees collected in subsection 3, a member board shall renew the physician's license.
5. Physician information collected by the interstate commission during the renewal process must be distributed to all member boards.
6. The interstate commission may develop rules to address renewal of licenses obtained through the compact.

ARTICLE VIII - COORDINATED INFORMATION SYSTEM

1. The interstate commission shall establish a database of all physicians licensed, or who have applied for licensure, under Article V.
2. Notwithstanding any other provision of law, member boards shall report to the interstate commission any public action or complaints against a licensed physician who has applied or received an expedited license through the compact.
3. Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.

qualifications as determined by the interstate commission through rule, may not be subject to additional primary source verification if already primary source verified by the state of principal license.

b. The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, 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 title 5 Code of Federal Regulations, section 731.202.

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

3. Upon verification in subsection 2, physicians eligible for an expedited license shall complete the registration process established by the interstate commission to receive a license in a member state selected pursuant to subsection 1, including the payment of any applicable fees.

4. After receiving verification of eligibility under subsection 2 and any fees under subsection 3, a member board shall issue an expedited license to the physician. This license must authorize 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.

5. An expedited license must 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 the member state.

6. An expedited license obtained though 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.

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

ARTICLE VI - FEES FOR EXPEDITED LICENSURE

1. A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the compact.

Exhibit #6

Application for License to Practice Medicine

Personal Information

If any of the questions below are answered "yes", you will be required to provide full details.

A. Have you ever failed a licensing examination or any component of a *licensing* examination for a medical license or for any other professional license? (You must answer "yes" even if you later passed the test or component. This question applies only to *licensing* examination - USMLE, COMLEX, NBOME, LMCC, FLEX - not board certification examinations.) ○ Yes ◉ No

B. Have you ever had an application for a professional license denied? ○ Yes ◉ No

C. Have you ever been investigated by any licensing board, agency, professional association or medical facility? ○ Yes ◉ No

D. Have you ever been disciplined by any licensing board, agency, professional association or medical facility? ○ Yes ◉ No

E. Have you ever been dismissed from, resigned while under investigation, failed to complete an academic year, taken a leave of absence or been placed on probation or reprimanded at a medical school or postgraduate training program? ○ Yes ◉ No

F. Have you ever been subject to informal or formal proceedings by any licensing board, agency or professional association to revoke, suspend, restrict, deny or limit a professional license? ○ Yes ◉ No

G. Have you ever been subject to informal or formal proceedings which might have resulted in the surrender of a state and/or federal narcotic registration certificate? ○ Yes ◉ No

H. Have you ever had hospital and/or clinic privileges denied, removed or restricted, or limitations imposed on such privileges or resigned hospital and/or clinic privileges to avoid formal action? ○ Yes ◉ No

I. Are you now or have you ever been named as a defendant or respondent in any malpractice proceeding? ○ Yes ◉ No

J. Have you ever been convicted of any crime, felony or misdemeanor? (You must answer "yes", even if the imposition of sentence was deferred and the crime was later dismissed.) ○ Yes ◉ No

K. Have you ever been arrested for, or charged with, any crime? ○ Yes ◉ No

L. Within the past five years have you had or have you been admitted to any hospital or other inpatient care facility for any physical, mental or emotional condition which impaired or could be said to impair your ability to practice safely and competently? ○ Yes ◉ No

M. Do you currently have or within the past five years have you had a dependency on the use of alcohol or drugs which impaired or does impair your ability to practice medicine competently? ○ Yes ◉ No

N. Within the past five years, have you engaged in the excessive or habitual use of alcohol or drugs or received any treatment for alcoholism or excessive or illegal drug use? ○ Yes ◉ No

SUBMIT & CONTINUE | SAVE FOR LATER | CANCEL & EXIT

Exhibit #7

FEBRUARY 24, 2017

INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION
Notice of public hearing on amendments proposed for adoption

Pursuant to the authority of Section 15 of the Interstate Medical Licensure Compact, the Interstate Medical Licensure Compact Commission (IMLC Commission) hereby proposes to amend administrative rules Chapter 3, "Fees," and Chapter 5, "Expedited Licensure," to create new administrative rules relating to the renewal of a medical license issued through the Compact. These proposed amendments define a license renewal process consistent with Section 7 of the Compact.

The IMLC Commission approved this notice of intended action during a teleconference meeting on February 22, 2017. The IMLC Commission will consider the amendments for adoption at a teleconference meeting March 29, 2017. If adopted at that time, the rules shall become effective immediately.

Written Comments

Any interested person may present written comments on the proposed amendments not later than 5:00 p.m. Eastern Daylight Time (4:00 p.m. Central, 3:00 p.m. Mountain, 2:00 p.m. Pacific, 1 p.m. Alaska) on March 22, 2017. Such written materials should be sent to Mark Bowden, Interstate Medical Licensure Compact Commission, Bylaws and Rules Committee, In Care Of: Iowa Board of Medicine,

400 SW Eighth Street, Suite C, Des Moines, IA 50309-4689 or by e-mail to mark.bowden@iowa.gov or by telefax at (515) 242-5908.

Public Hearing

A public hearing on this rulemaking will be held via teleconference at 1:00 p.m. Eastern Daylight Time (noon Central, 11 a.m. Mountain, 10 a.m. Pacific, 9 a.m. Alaska) on March 22, 2017. The teleconference number is (866) 685-1580 and the Code is 971-913-4151.

The following amendments are proposed for adoption:

ITEM 1. Adopt the following **new** subrule 5.8:

5.8 Renewal and continued participation.

5.8(1) By December 31 of each year, the licensee shall complete a renewal process set forth by the Interstate Commission. The Interstate Commission shall notify the physician by e-mail of the pending expiration of a license issued through the Compact and provide an online application form and information on the process to renew the license. The e-mail notice shall be sent to the address specified in **rule 2.2.** The physician is responsible for renewing the license prior to its expiration. Failure of the physician to receive a renewal notice does not relieve the physician of responsibility for renewing the license through the Interstate Commission. It is the physician's responsibility to update the information provided on the online

renewal application within 30 days of any change of information provided on the application.

5.8(2) The physician shall complete an online renewal application on a form provided by the Interstate Commission which shall include collection of information required in Section 7 of the Compact and such other information as required by the Interstate Commission.

5.8(3) The Interstate Commission may collect a service fee from the physician for renewal of a license issued through the Compact. The Interstate Commission shall retain 100 percent of this service fee for renewal of a license.

5.8(4) The Interstate Commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board during a member state's licensing renewal period.

5.8(5) Upon receipt of any renewal fees collected in **rule 5.8(4)**, a member board shall renew the physician's license.

5.8(6) After the license is renewed the member board may collect additional information from the physician related to that state's specific requirements for license renewal.

5.8(7) Physician information collected by the Interstate Commission during the renewal process will be distributed to all member boards.

5.8(8) A physician who seeks to renew a license issued through the Compact after its expiration date may be subject to any and all penalties, terms and conditions for licensure renewal established by the member state that issued the license.

ITEM 2. Amend 5.2 as follows:

5.2 Definitions

ee. "Service fee" means fees that may be assessed by the Interstate Commission or the state of principal license, or both, to handle and process an application for a letter of qualification, or the issuance of a license through the Compact, or the renewal of a license through the Compact. A service fee is not a license fee for the issuance of a license or the renewal of a license.

ITEM 3. Amend 3.2 as follows:

3.2 Definitions

"Service fee" means fees that may be assessed by the Interstate Commission, or the state of principal license, or both, to handle and process an application for a letter of qualification, or the issuance of ~~an expedited~~ license through the Compact, or ~~both~~ the renewal of a license through the Compact. A service fee is not a license fee for the issuance of a license or the renewal of a license.

ITEM 4. Amend 3.4 as follows:

3.4 ~~Letter of qualification~~ Service fees

ITEM 5. Adopt the following **new** subrule, 3.4(3):

3.4(3) A non-refundable service fee of $00.00 shall be assessed to the physician for each license renewed through the Compact.

a. Payment shall be made by electronic means to the Interstate Commission. 100 percent of this service fee shall be deposited in the Interstate Commission's general fund.

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HOUSE INDUSTRY, BUSINESS AND Labor COMMITTEE
SENATE BILL NO. 2235
March 14, 2017

Testimony of Barrie March, M.D.
North Dakota Professional Health Program

I am here today in my role as Medical Director of the North Dakota Professional Health Program to express the importance of continuing the current license renewal process by the North Dakota Board of Medicine and voting against joining the consortium.

The North Dakota Professional Health Program, or NDPHP, was established three years ago on the recommendation of the North Dakota Board of Medicine and formalized under the North Dakota Century Code as a private, non-profit corporation. We work under contract to the Board of Medicine. Our mission is to guide the rehabilitation of persons licensed by the Board of Medicine consistent with the needs of public safety. The conditions for which we undertake this rehabilitation are limited to those considered "potentially impairing" to their work as healthcare practitioners. Impairment is defined by the American Medical Association as the "inability of a licensee to practice medicine with reasonable skill and safety." Potentially impairing conditions include substance use disorders and other mental illnesses. It is important that the difference between having an illness and being impaired is understood.

The PHP operates under the twin mandates of returning the ill licensee to practice while protecting public safety. Substance use disorder, the most common potentially impairing condition that we see, is similar the other chronic diseases. Its cause, just like that of diabetes, heart disease, obesity, and the most commonly occurring cancers, is a genetic susceptibility in combination with a predisposing lifestyle. Like other chronic health conditions, once established it tends to be progressive. Effective treatments for all of these conditions including addiction are available. However, unlike other chronic diseases, the symptoms of substance use disorder include denial of the existence of the disease, a loss in the ability to see oneself as others see them, and an increasing impairment in executive function of the brain which interferes not only with daily living but with work. These symptoms make self-reporting uncommon and the need for treatment difficult for the patient to accept. As with most chronic illnesses, studies show that early detection and treatment followed by long-term monitoring is most the effective form of management. Data from a recent national study of PHPs showed about 80% of clients completed treatment and returned to practice. A follow up study in 2016 showed over 80% of those who were returned to practice were free of active addiction ten years after their initial treatment, with most of those who were no longer working leaving practice for retirement. No one left practice because of relapse to their addiction. This indicates that the PHPs' approach to the management of substance use disorder is best practice, and is as effective as, or more than, the treatment of any other chronic disease.

The NDPHP draws its clients from a variety of referral sources, but employer concerns and referrals from the Board of Medicine following license renewal are the most relevant. Once a client is referred and preliminary data is gathered, they are referred for an evaluation by a recognized expert in the care of healthcare practitioners. The recommendations of the evaluator become the foundation for a treatment and monitoring contract. All data from the evaluation, treatment and monitoring are kept in

strict confidence by the NDPHP. Quarterly reports to the Board of Medicine are anonymous, detailing only numbers of clients in the program, their treatment and progress. Anonymity is only broken if a violation of the North Dakota Practice Act is identified, or if the client fails to cooperate fully with the contract.

In the current license renewal process, licensees are asked if in the past year they have developed any physical, mental or substance abuse issue that could be said to impair their ability to practice safely and competently, or whether they have been arrested or convicted of any offense. These questions are excellent for screening for substance use disorders. In response to a positive answer, the licensee is asked to contact the NDPHP. Our obligation to the Board is limited to confirming that contact has been made. Evaluation by the NDPHP enhances the mandate of the Board of Medicine to protect the public. The current process provides one of the best sources of early recognition of potentially impairing conditions. Under the proposal for the consortium, this aspect of early identification would be lost. Only when some other event occurred as a result of the illness could intervention occur.

It is for these reasons that I urge you to consider rejecting joining the consortium at this time. Thank you.