

ASPR TRACIE Technical Assistance Request

Request Receipt Date (by ASPR TRACIE): 1 July 2019

Response Date: 24 July 2019

Type of TA Request: Standard

Request:

The requestor asked for technical assistance in obtaining literature on medical licensure crossing jurisdictional borders. In particular, they requested resources specific to U.S. Department of Health and Human Services (HHS) Region 3 (DC, DE, MD, PA, VA, and WV).

Response:

The ASPR TRACIE team conducted a search for resources related to licensure portability across jurisdictional boundaries, specific to medical teams. Section I of this document provides a general overview of licensure portability. Section II includes regulatory information specific to HHS Region 3. Finally, Section III provides additional resources that may be helpful to this request. **NOTE:** Resources marked with an asterisk (*) appear in more than one category.

I. General Information/ Considerations

- Literature available regarding portability of licenses across state borders is comprehensive **except with regards to the medical field and emergency medical services**. Nurse Licensure Compact is the closest medical model for interstate licensure portability, however, the compact is conditional. States that have adopted the compact have conditions ranging from time delays and state validation to fiscal requirements.
- The [Federation of State Medical Boards](#) received a grant to streamline the state medical licensure process and reduce statutory and regulatory barriers in telemedicine from the Health Resources and Services Administration (2012). The committee's intent was to explore mechanisms that can improve portability of state medical licenses. They are developing a more incremental approach to licensure portability coupled with an expedited approach for state to state licensure recognition.
 - [Interstate Medical Licensure Compact \(IMLC\)](#) is an expedited licensure process for eligible physicians that improves licensure portability and increases patient access to care. It allows for a streamlined licensing process for physicians interested in practicing medicine in multiple states.
 - In a [press release dated November 8, 2018](#), the Federation of State Medical Boards announced that there continues to be an increase in the number of qualified physicians applying to obtain multiple licenses through the Compact, and approximately 80% of U.S. physicians meet the criteria. Twenty-four states have enacted legislation to join the Compact. Specific to HHS Region 3, Delaware, D.C., and Virginia are not included in that list of states.
- The 2013 article written by [Kels and Kels](#) (also referenced in Section III of this document) states that only two federal agencies currently have explicit statutory responsibility for portability of state health care licenses: [National Health Service Corps](#)

[42 USC § 254 f\(e\)](#), and [U.S. Military health professional 10 USC § 1094\(d\)](#). Also refer to the [2012 National Defense Authorization Act 713](#)- amending 10 USC § 1094(d).

- Military parameters based on the Secretary of Defense authorization in 2011 were extended to include the U.S. Department of Defense civilians and certain contractors.
- Most government agencies with healthcare personnel lack statutory authority for licensure portability, but rightfully follow the U.S. Office of Personnel Management hiring guidance. As such, they rely on the Constitution's supremacy clause which enables federal law to preempt state law where the two conflict.
- [Emergency Management Assistance Compact \(EMAC\)](#) is available in all 50 states, the U.S. Virgin Islands, Puerto Rico, Guam, and the District of Columbia.
 - [Article V- Licenses and Permits](#): Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the Requesting State may prescribe by executive order or otherwise.
 - [Article VI- Liability](#): Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the Requesting States for tort liability and immunity purposes; and no party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

II. Resources Specific to HHS Region 3 (DC, DE, MD, PA, VA, and WV)

*Interstate Medical Licensure Compact. (2019). [The IMLC](#).

The IMLC is an expedited licensure process for eligible physicians that improve licensure portability and increases patient access to care. It allows for a streamlined licensing process for physicians interested in practicing medicine in multiple states. **NOTE:** Click on individual states within the map to obtain state-specific authorities. Information specific to HHS Region 3 states are provided in the following hyperlinks for convenience.

- **DC:** <http://lims.dccouncil.us/Legislation/B22-0177?FromSearchResults=true>
- **DE:** No Status
- **MD:**
<http://mgaleg.maryland.gov/webmga/frmMain.aspx?id=SB0234&stab=01&pid=billpage&tab=subject3&ys=2018RS>
- **PA:**
<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2015&sessInd=0&billBody=H&billTyp=B&billNbr=1619&pn=2348>

- **VA:** No Status
- **WV:**
http://www.wvlegislature.gov/Bill_Status/bills_history.cfm?INPUT=2496&year=2015&sessiontype=RS

III. Other Resources

American College of Surgeons. (n.d.). [Uniform Emergency Volunteer Health Practitioners Act](#). (Accessed 7/24/2019.).

The Uniform Emergency Volunteer Health Practitioners Act (UEVHPA) provides consistent legislative language to facilitate organized response efforts among volunteer health practitioners.

Association of State and Territorial Health Officials. (2019). [Volunteer Protection Acts and Good Samaritan Laws](#).

This fact sheet addresses volunteer protection laws and notes that most states have their own laws with varying application to first responders. In most cases, the laws only apply to individuals who do not have a duty to act.

Boyajian-O'Neill, L., Gronewold, L., Glaros, A., Elmore, A. (2008). [Physician Licensure During Disasters: A National Survey of State Medical Boards](#). Journal of the American Medical Association, 299(2):169-171.

This article aims to determine the policies of each state regarding physician licensure during disasters. Results from a survey of director of the medical board for each state and the DC showed that: 18 states do not permit expedited physician licensure or exemption and 32 states and DC have statutes specifically granting licensure for volunteer physicians during a disaster. Of these 32 states, 13 offer an expedited licensure process and 19 states and DC offer licensure through exemption (direct reciprocity). **NOTE:** Although the information in this article is outdated, it may be useful to the requestor.

Buck, C. (2013). [Policy Analysis of Health Professional Licensing During Disaster Response in the United States](#). Wright State University, CORE Scholar, Master of Public Health Program Student Publications.

This document provides an analysis of post-disaster assistance (e.g., PAHPA, NDMS, and Nurse Licensure Compact) and post-disaster evaluations of medical licensing.

Foley and Larnder LLP. (2016). [New Game Rules: Out-of-State Sports Team Physicians Now Allowed to Treat Players in Pennsylvania](#).

This article describes the new law, effective on February 4, 2016, allowing out-of-state sports team physicians visiting Pennsylvania to treat their players in Pennsylvania without fear of violating state law. Prior to this new legislation, visiting team doctors could not treat their own players without a Pennsylvania medical license. This process could be applied to disaster situations.

Kels, C.G., and Kels, L.H. (2013). [Portability of Licensure and the Nation's Health](#). *Military Medicine*. 178, 3:279.

The authors of this article provide an overview of the key initiatives that have taken place to achieve expanded licensure portability across the U.S. They also provide suggestions related to policies and state sovereignty that allows for the flexibility of health practitioners to practice across state borders.

*Interstate Medical Licensure Compact. (2019). [The IMLC](#).

The Interstate Medical Licensure Compact (IMLC) is an expedited licensure process for eligible physicians that improves licensure portability in multiple states and increases patient access to care.

National Governors Association Center for Best Practices. (2005). [Beyond EMAC: Legal Issues in Mutual Aid Agreements for Public Health Practice](#).

This issue briefly discusses the strategies that governors should take regarding license portability, workers compensation, Good Samaritan Laws, credentialing, cost of recovery and sending resources, and cross-border movement of public health professionals in non-emergencies across state lines. **NOTE:** Although the information in this document is outdated, it may be useful to the requestor.

Rutkow, L., Gable, L., and Links, J.M. (2011). [Protecting the Mental Health of First Responders: Legal and Ethical Considerations](#). (Abstract only.) *Journal of Law, Medicine, and Ethics*.

The authors discuss the ethical and legal issues associated with three key areas in first responder mental health: mental health screening; licensure portability of mental health care providers; and workers' compensation for mental health claims.

Saley, C. (2019). [Interstate Medical Licensure Compact States List \[and Guide for 2019\]](#). CompHealth.

This website provides the most current information on the states currently accepting applications for multi-state physician licensure and future state board participation.

Western New York Public Health Alliance, Inc. (2009). [Cross-Border Issue Analysis: Guide to Multi-Jurisdictional Collaborations](#).

This document provides an assessment that can be used by local leadership to determine if sufficient resources are available in the jurisdiction to respond to an emergency. It also includes legal implications of exchanging resources among jurisdictions. It addresses the various formal and informal means to develop inter-jurisdictional agreements, the potential legal issues these agreements may generate, and the benefits and liabilities governments and their agents may reasonably expect when entering into such agreements.