



Licensing Regulation & Telehealth

ITWG JULY 20, 2021

AGENDA

TIME	AGENDA
10:00	Convene and Attendance
10:05	Approve Minutes
10:10	Sub-Groups Overview
10:25	Licensing Regulation & Telehealth Interstate Compacts Reciprocity and Endorsement Telehealth Licenses Waiver of Licensure Other Policy Mechanism
11:30	State Comparative Analysis
11:55	Next Steps and Adjourn

Sub-Groups

Subgroups: Survey Results

Telehealth Licenses

- Jessa Barnard*
- Ken Lawenda
- Devon Green
- Jim Huitt
- Kent Henderson
- Todd Young

National Licensure Compacts

- Ken Lawenda*
- Sarah Kessler
- Michael Carroll
- Michelle Wade

Regional Reciprocity Agreements

- Sarah Kessler*
- Jessa Barnard
- Sarah Kessler
- Georgia Maheras
- Kent Henderson
- Michael Carroll
- Patty Breneman

Waiver of Licensure

- Anne Culp
- Dillon Burns
- Georgia Maheras
- Ken Lawenda
- Michael Carroll
- Michelle Wade
- Patty Breneman

Other Policy Options & International Practice

- Debora Teixeira
- Kent Henderson

*Facilitator/organizer

Sub-Group Process

- Volunteer facilitator (appointed for first meeting based on form) and OPR will collaborate to schedule first sub-group meeting before the end of July.
- Thereafter, sub-group can choose facilitator and any other officers, as desired.
- OPR staff will be present as a sub-group member and to take minutes and provide technical, legal and administrative assistance.
- Meet one time per month for two hours.
- Report back to larger group at monthly meeting.



Sub-Group Role

Purpose

- Study and evaluate the interstate telehealth policy modality assigned to your sub-group based on the considerations established in Act 21.
 - Research policies and associated benefits and challenges with a focus on statutory considerations (e.g., quality, efficacy, best practices)
 - Evaluate benefits and challenges (e.g., veracity, significance)
 - Consider "neutral" impacts
- Sub-Group 5: Compile and research other policy modalities for facilitating interstate telehealth practice and opportunities for facilitating international telehealth practice. Based on larger group interest, Sub-Group 5 will study and evaluate certain modalities.

Report

- By mid-Fall, sub-groups shall provide a written report of the group's evaluation of the policy modality and any recommendations to the larger group.
- This can be done all at once or at multiple larger group meetings between now and mid-Fall.

Final Report to the Legislature

- Compilation of policy modalities and definitions
- Summary of policy modalities benefits, challenges and impact on the considerations specified in Act 21
- Recommendations
 - Whether to adopt
 - How to adopt (e.g., limits, professions)



Licensing Regulation

INTERSTATE TELEHEALTH POLICY MODALITIES

Interstate Compacts

Interstate compacts are legal agreements between two or more participating states that bind the states to the compacts' provisions and allow them to work closely together to address issues of mutual concern that cross state borders. Compacts help "states address everything from shared water use to transportation issues."

Occupational licensing compacts are agreements that allow states to work together to significantly streamline the licensing process for professionals who want to practice in multiple states.

The Compacts Clause of the Constitution (Article I, Section 10, Clause 3) grants states the authority to enter into interstate agreements to achieve a common purpose.



Interstate Licensing Compact Functions

- ✓ Creates a license that enables licensees to engage in professional practice in the compact's member states
- ✓ Establishes a formal, legal relationship among states
- ✓ Creates independent, multistate governing authorities (such as commissions) charged with managing the compact
- ✓ Establishes uniform guidelines, standards, or procedures for agencies in the compact's member states
- ✓ Assists states in developing and enforcing licensing standards while providing an adaptive structure

Existing Compacts

IMLC (MDs and DOs)

ENLC (nursing)

APRNs

Physical Therapists

EMTs

PsyPact (psychologists)

Audiologists and SLPs

Occupational Therapists

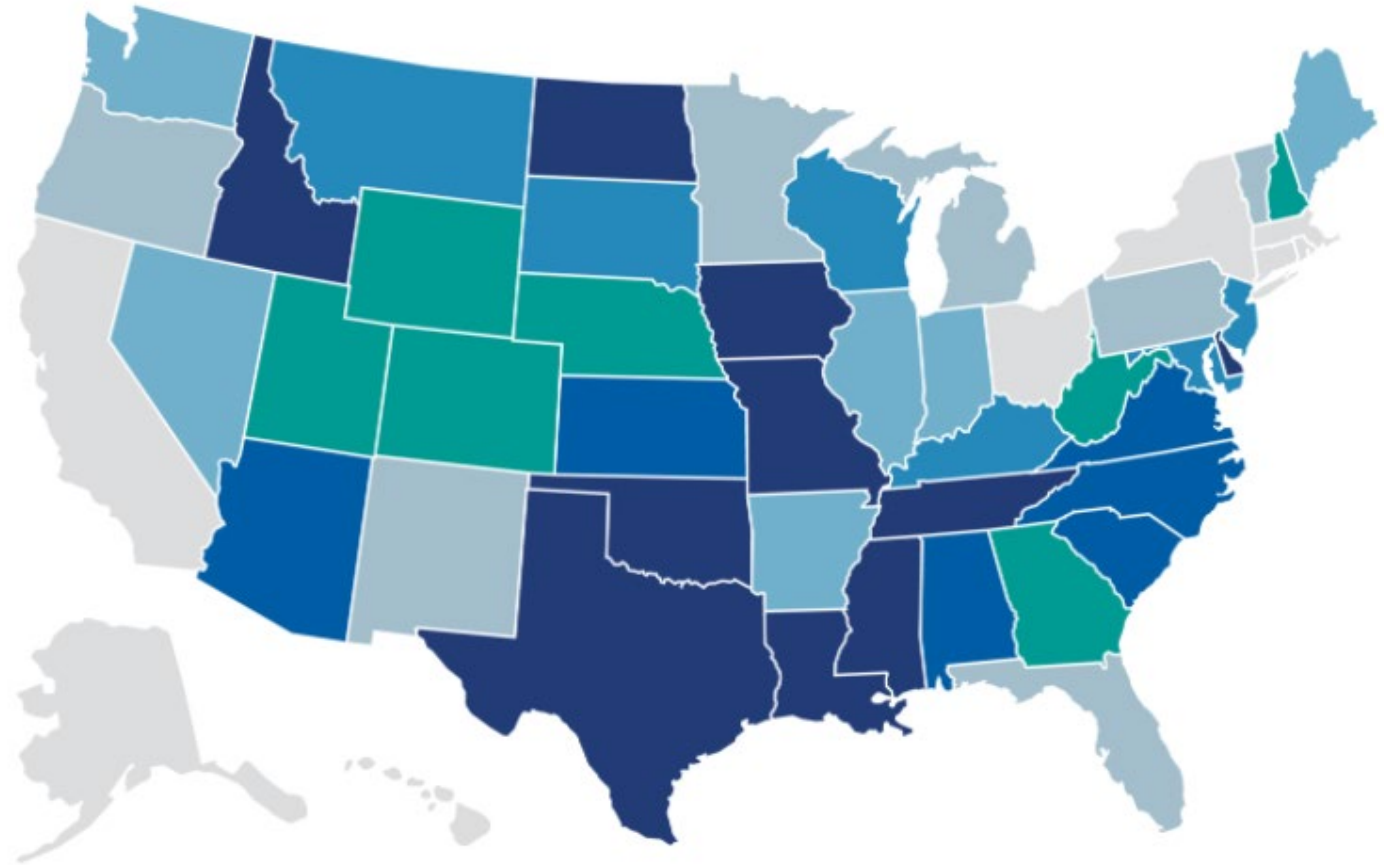
Counselors

Vermont

eNLC (effective February 2022)

IMLC

<https://compacts.csg.org/compacts>



OCCUPATIONAL LICENSURE COMPACT MEMBERSHIP



Advanced Practice Nursing (APRN) Compact
Physical Therapy (PT) Compact
Psychology Interjurisdictional Compact (PsyPact)
Enhanced Nurse Licensure Compact (ENLC)
Interstate Medical Licensure Compact (IMLC)
Emergency Medical Services Compact (EMS Compact)
Audiology & Speech-Language Pathology (ASLP) Compact

Sub-Group Example: Interstate Compacts

IMPACT ON OVERSIGHT AND ENFORCEMENT, INCLUDING FISCAL IMPACTS

➤ Benefits:

- Retain authority to enforce state practice act and licensure processes
- Centralized database of disciplinary action records
- Economies of scale due to reduced administrative costs

➤ Challenges:

- Knowledge of who is practicing in the state (potentially all, none or some of the compact licensees)
- Communication of state policies and changes in laws
- Ceding state regulatory authority to a multistate governing authority
- Costs of implementing an additional license type
- Loss of fees from licensees practicing in Vermont with a compact license (regulatory costs borne by in-state licensees)
- Licensing standards potentially driven by policies inconsistent with Vermont policies (26 V.S.A. Chapter 57)

IMPACT ON PATIENT CARE AND CONTINUITY OF CARE

➤ Benefits

- Facilitates opportunities for telehealth without changes to underlying telehealth laws (e.g., compact licensees could fulfill the statutory requirement to be licensed in Vermont)
- More efficient distribution of services
- Increased availability of qualified practitioners
- Potentially elevated safety standards
- Access to specialty care

➤ Challenges

- More challenging to monitor and ensure quality of care
- Patient knowledge about where to make a complaint
- Variation in standard of care between states

Reciprocity and Endorsement

Active Practice

Substantial Equivalence

Universal Licensure

State-Specific Agreements

States with reciprocity agreements and/or endorsement processes grant licenses to or permit an abbreviated application process for professionals who are licensed in another state.

The degree to which such reciprocity exists can vary widely depending on the profession and the states involved.



Reciprocity and Endorsement

Vermont

Fast track endorsement
Substantial equivalence (profession specific)

Common Elements

- Licensed in good standing in another state
- License still required to practice in the receiving state

Variations

- State-to-state agreements – an agreement to grant licenses to licensees from another specified state (e.g., Pennsylvania)
- Active practice – permitting licensees who have been licensed in another state for a certain number of years to obtain a license
- Substantial equivalence – a policy of granting a license to a licensee who has been licensed in another state with substantially equivalent requirements for obtaining a license in the profession
- Universal licensure – a policy combining active practice and requirements for certain qualifications for licensure in the original state of licensure

Telehealth Licenses

Alabama ("Special Purpose License")

Connecticut (until 2023)

Alaska ("Emergency Courtesy License")

Florida (registration)

Some states grant temporary licenses to practice telehealth in the state or telehealth-specific licenses for longer term practice. These allow health care professionals to provide services remotely across state lines, and typically include certain terms, such as agreeing not to set up a physical office in the state.



Waiver of Licensure

This modality waives in-state licensing requirements for professionals only practicing in the state using telehealth.

This modality was used by many states, including Vermont, during and after the COVID-19 State of Emergency, to facilitate continuity of care and access.

Vermont

Act 6 of 2021 extended access to telehealth health care services until March 2022. If you are providing only telehealth services to people in Vermont, you do not need a license and you do not have to provide your contact information to the Office of Professional Regulation.

If you are providing services to Vermonters in a licensed facility, you do need to provide your contact information to the Office of Professional Regulation.

Other Policy Mechanism

There are other potential policy modalities that could facilitate interstate telehealth practice.

Examples

- Federal changes leading by example or prompting systemic change:
 - Changes to federal reimbursement program requirements (e.g., Medicare, Medicaid)
 - Changes to federal health care program requirements (e.g., VA, FQHCs)
- Federally issued national professional licenses
- Issuing licenses based on provider's home state (rather than the patient's)

State Comparative Analysis

State Comparative Analysis*

The data patient location distribution is based on patient demographic information in the UVMHN medical record and was not confirmed that patient was in that location at the time of the visit.

The visit data is from UVMHN Vermont ambulatory practices and does not include ambulatory from NYS practices.

Patient State	Audio Only	Televideo
VT	72,786	135,784
NY	6,201	11,934
NH	161	398
FL	171	373
MA	143	362
NJ	49	151
NC	35	147
CT	46	112
PA	35	106
ME	61	88

*Based on data provided by UVMHN from January 2020 to May 2021.

Summary of State Laws

Out-of-State Telehealth Licensing Requirements

Most states have requirements for the practice of telehealth by professionals licensed in that state. A fewer, though growing, number of states have laws permitting out-of-state providers to practice telehealth in the state.

Example

- Florida permits out-of-state providers to register with the state to practice telehealth. The professional must have an unencumbered, active license in their state of residence and maintain relevant telehealth liability insurance. Such licensees are prohibited from opening an office in Florida or providing in-person services in Florida.
- Connecticut's governor extended an emergency provision, first implemented to address COVID-19 concerns, that permits out-of-state providers to practice telehealth in the state.

Telehealth and State Licensing Requirements

CT	Telehealth license available (through June 2023)
FL	Telehealth license available
ME	Physicians may provide consultative services. License required to provide telehealth for other professions or telehealth services other than consultative
MA	License required to provide telehealth
NH	Consultative services only. License required to provide telehealth
NJ	License required to provide telehealth
NY	License required to provide telehealth
NC	Emergency license permitting out-of-state telehealth practice available until July 30, 2021. Thereafter, license required to provide telehealth
PA	<p>Waiver permitting out-of-state practitioners to provide telemedicine in PA after registering contact information with PA board (through September 30, 2021)</p> <p>Extraterritorial licenses available to physicians residing or in an adjoining state, near the Pennsylvania boundary, and whose practice extends into Pennsylvania, if the adjoining state have reciprocal policies. (Not clear if the latter is enforced or if such agreements exist.)</p>
RI	Consultative services only. License required to provide telehealth



NEXT STEPS

Next Steps & Adjourn