

## **Agreement Among the States to Create an Interstate Medical Excellence Zone**

WHEREAS Digital technology is giving providers new tools to care for patients;

WHEREAS Digital technology is giving patients new tools to access care;

WHEREAS Digital technology can help patients throughout the region, regardless of where they are located;

WHEREAS Digital technology can help build capacity in underserved areas;

WHEREAS the COVID-19 pandemic has exposed the barriers posed by the fragmentation of state practice laws;

WHEREAS All health care professionals must maintain professional licensure and practice standards including successfully passing licensing examinations and maintaining continuing education requirements;

WHEREAS United States armed forces and veterans are treated by health care providers across the country regardless of location of their licensure;

WHEREAS Federal pre-emption of state licensure laws could limit the integrity of and ongoing oversight by state clinical occupational boards;

WHEREAS A voluntary regional licensure portability compact would maintain state authority and ability to protect public safety while allowing greater access to care for patients;

WHEREAS Patients and their families live and work across state lines and the ability to practice across those lines would both support continuity of care between patients and their health care professionals and create access to care not available where patients reside;

WHEREAS Mutual recognition licensure compacts are the optimal pathway to facilitate cross-border practice by maintaining licensure regulation at the state level;

WHEREAS The ability for licensed, credentialed health care professionals to provide patient care throughout the region regardless of licensure with ease would benefit patients and providers.

Be it enacted:

- (1) The Governor, or the appropriate state agency, shall establish an Interstate Medical Excellence Zone Program to expand access via telehealth to qualified health care professionals in [State] and alleviate the burden associated with relicensing qualified clinical care providers who are already licensed and in good standing in a U.S. state.
- (2) The Governor shall designate a state department to lead the state's participation in a collaborative governance model with other regional Medical Excellence Zone states.

- (3) The Medical Excellence Zone shall enable eligible practitioners licensed in any one of the participating jurisdictions to practice telehealth in the other jurisdictions. The Medical Excellence Zone will be effective when there are two or more state participants.
- (4) Medical providers practicing in a participating Medical Excellence Zone state that is not their home state will be governed and disciplined in their home state of licensure.
- (5) Practitioners wishing to practice in the Zone must register, through their home state licensing board, to a central regional registrar established by the collaborating states.
- (6) The [designated department] shall promulgate regulations that require, at the outset of the telehealth visit, patient consent to be treated by an out of state provider including acknowledgement by the patient of the telehealth provider's credentials. It shall be made clear to the patient that should the telehealth visit result in the need for future disciplinary action against the provider, the action will be undertaken by the state where the provider is located. The designated department(s) shall develop a process for coordination between states where patients are located and states where providers are being disciplined.
- (7) The designated department shall have the authority to exempt areas of clinical practice. Nothing authorizes a health care professional to (1) practice beyond the scope of practice authorized by any State or territory or local authority in the jurisdiction in which the health care professional holds a license, certification; (2) provide any service or subset of services prohibited by any such authority in the jurisdiction in which the patient receiving services is located; (3) provide any service or subset of services in a manner prohibited by any such authority the jurisdiction in which the patient receiving services is located; or (4) provide any service or subset of services in a manner other than the manner prescribed by any such authority in the jurisdiction in which the patient receiving services is located.
- (8) The collaborating states shall develop a process for cooperation between states where patients are located and states where providers are being disciplined.
- (9) The Medical Excellence Zone Program shall not apply to licensees practicing under a mutual recognition licensure compact.
- (10) The [designated state department] shall have responsibility for aligning definitions of telemedicine, including but not limited to, asynchronous care, remote patient monitoring, audio-video communications, audio-only communications, inter-professional consultation and store and forward, across states, and establishing regulations implementing the Medical Excellence Zone that cover, at a minimum, alignment in the states in the following areas:
  - (a) Requirements for participation and responsibilities of participating states;
  - (b) Eligibility rules for Medical Excellence Zone Program participation for clinical practitioners;
  - (c) Guidelines on facilitation of exchange of information between participant states in the areas of regulation, investigation and adverse actions;
  - (d) Rules related to the establishment of practice in State of Principal License to avoid establishment of physical practice location in a state where a practitioner does not have a license;

- (e) Governance structure of the Medical Excellence Zone, including draft bylaws and details of powers and duty of overseeing body;
- (f) Guidelines around prescribing across state lines;
- (g) Guidelines for resolving differing scope of practice rules and regulations for the various health professionals;
- (h) Guidelines for establishing jurisdiction and resolving conflict of laws issues for administrative, civil, criminal or other disputes which may arise, including, but not limited to malpractice lawsuits;
- (i) Guidelines for establishing malpractice and other insurance coverage requirements;
- (j) Responsibilities of participating practitioners to understand the laws of the states in which they are practicing; and
- (k) Rules on dispute resolution.

(11) The collaborating states shall determine practitioner types allowed to practice in the Medical Excellence Zone, recognizing that under clause (9), if a group of health care professionals already has an interstate licensure compact with mutual recognition, the State shall recognize those compacts. Healthcare professional types include, but are not limited to:

- (i) Physicians, MDs and DOs
- (ii) Nurses and Advanced Practice Registered Nurses
- (iii) Physician Assistants
- (iv) Physical Therapists
- (v) Occupational Therapists
- (vi) Speech Language Pathologists
- (vii) Dentists and dental hygienists
- (viii) Those who provide mental health and substance use disorders treatment
- (ix) Other practitioners that the members of the Medical Excellence Zone deem appropriate

(12) [Designated department] shall ensure, at a minimum, that the following eligibility criteria for individual practitioners covered by the Medical Excellence Zone:

- (a) Meets State of Principal Licensure qualifications for licensure or renewal of licensure, as well as, all other applicable state laws;
- (b) Has submitted, in connection with an application for initial licensure, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;
- (c) Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;
- (d) Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense as determined on a case-by-case basis;
- (e) Is subject to self-disclosure requirements regarding current participation in an alternative program;
- (f) Maintains sufficient malpractice and other liability insurance coverage to meet the minimum coverage requirements for each member of the Medical Excellence Zone;
- (g) Has a valid United States Social Security number; and
- (h) Attests to commitment to understanding the state laws in which they will be practicing.

(13) The collaborating states shall engage in a stakeholder engagement process in developing regulations implementing the Medical Excellence Zone Program and provide opportunity for public comment.

(14) The legislature shall appropriate such sums as necessary to develop, implement and maintain the Interstate Medical Excellence Zone as described.

DRAFT