ALLIANCE for CONNECTED CARE

Promoting Patient Access to Health Care Across State Lines Act

The Promoting Patient Access to Health Care Across State Lines Act would create a national framework for interstate licensure using a system of mutual recognition, allowing patients to seek care, and providers to give care, across state borders. Designed with the patient at the center, this national approach maintains the important role of state licensing boards while establishing the licensure portability necessary to ensure that all Americans have access to care regardless of where they live.

Why do we need licensure portability?

Our country has practitioners in all areas of health care, but who are not always accessible to the people who need them. Parents with children with diseases like epilepsy, pediatric cancer, autism, and others often have to drive across states to get needed specialty care. Elderly patients with mobility issues have to find ways to be seen by specialists. Americans across the demographic spectrum suffering from mental health and substance use disorders have to drive long distances for care. Sometimes even getting appointments for primary care issues is difficult in a geographic area.

Digital technology is giving health care professionals new tools to deliver care to patients, and is giving patients new tools to access care. The pandemic demonstrated that digital care can build capacity for care in rural and underserved areas, or areas experiencing provider shortages. The problem is antiquated state licensure rules have limited providers' ability to give care across state lines.

Health care professionals are prohibited from treating patients in states where they are not licensed, but the state-by-state licensing processes are burdensome and expensive. Uniform national standards across clinical practice areas are in place, but there is wide variation in state licensing processes. In the case of physician licensure, for example, all states require postgraduate training, proof of successful completion of all three steps of the U.S. Medical Licensing Examination, and training verification forms. However, some states add additional unique requirements for medical licensure such as background checks, fingerprinting, completing continuing medical education requirements, providing additional documents such as birth certificates, or even character witnesses. Another barrier is the expense. Licenses in a single state can cost upwards of $1,000, and application fees on top of the licensing fees can add up.

COVID-19 has exposed the barriers posed by the fragmentation of state practice act laws and regulations. The ability for licensed, credentialed health care professionals to provide patient care across state lines during the pandemic helped maintain continuity of care, promoted patient choice, and improved care coordination. Telehealth also helped improve patient access to primary and specialty care, boosted patient and caregiver engagement, reduced missed appointments, and improved post-operative care.

This success was due in part to the action taken by state governors across the US. As state emergency declarations enacted at the start of COVID-19, including licensure and telehealth flexibilities, begin to expire, providers have to go back to cumbersome and expensive state-by-state licensing requirements if they want to continue to help patients in other states. Without a glidepath or permanent policy measures to adjust to these changes, patients have to either travel long distances to see a provider in person or cancel appointments, which creates a barrier to accessing convenient care and to continuity of care.

Why do we need a voluntary interstate licensure compact structure?

Several health care professional groups have existing state compacts. The most common include the Interstate Medical Licensure Compact (IMLC), the Nurse Licensure Compact (NLC), and the Psychology Interjurisdictional Compact (PSYPACT). State compacts also exist for physical therapists or physical therapist assistants, EMS personnel, and audiology and speech-language pathology professionals.

While the purpose of such compacts is to facilitate cross-state licensing to make it easier for health care professionals to practice across state lines, most are not mutual recognition compacts, meaning providers must still be licensed in each state where they are treating patients. The IMLC, for example, maintains that providers cannot participate in the compact unless they live in a state that has adopted it, and they must still hold a license in every state where they are treating patients. In addition, while the compact may streamline some aspects of the license application process, there are still varying state-by-state requirements that providers must meet to participate.

The Nurse Licensure Compact is considered the gold standard of existing licensure compacts, as it has true licensure portability as a key feature of the compact. This means nurses in a state that has adopted the compact can practice in other NLC states, both in person or via telenursing, without having to obtain additional licenses. The NLC also increases access to care while maintaining public protection at the state level. This compact has helped remove the burdensome expense for organizations that employ nurses and may share the cost of having to purchase and maintain multiple licenses.

What are the key features of the Promoting Patient Access to Health Care Across State Lines Act?

- Allows the Secretary of the Department of Health and Human Services (HHS) to convene experts and support the development of a voluntary framework for interstate licensure using a system of mutual recognition, which would allow patients to receive care beyond their state borders and allow providers to treat patients without the costly and time-consuming burden associated with purchasing and renewing multiple state licenses.
- Allows multiple provider types to participate, including Doctors of Medicine or Osteopathy, Physician Assistants, Physical Therapists, Clinical Psychologists, Pharmacists, and more.
- Maintains state control over licensure and does not preempt state law or take away authority from the state licensing boards. State governments must authorize the State's decision to do so through legislation or gubernatorial action.
- Creates a consistent federal framework for cross-state licensure drafted with the patient at the center, so that the focus is on patient access to care, and that has true licensure reciprocity for providers licensed and in good standing in at least one participating state.
- Creates an advisory commission on Care Across State Lines to develop the framework and engage in a robust stakeholder engagement process to hear from a broad range of groups on this issue.
- Ensures that health care professionals: must be listed in a central database of those who have been deemed eligible to practice across state lines by their home state licensing board; may not establish physical practices in states where they are not licensed; will be disciplined by their home state licensing board.

- Prohibits health care professionals from practicing beyond the scope of practice authorized by any jurisdiction that adopts this framework, and from providing any service or subset of services prohibited by any such authority in the jurisdiction in which the patient receiving services is located.

Are there other examples of when the federal government created consistency across states?

America's armed forces and veterans are currently treated effectively, efficiently, and safely by physicians, practitioners, and other licensed health care professionals across the country regardless of location of the treating provider or patient. In 2018, the Department of Veterans' Affairs (VA) issued a final rule that allows VA health care providers to offer services via telehealth across state lines. The rule – part of VA's 'Anywhere to Anywhere' initiative, exercises federal preemption to override licensing restrictions and state-specific telehealth laws to allow VA doctors, nurses and other health-care providers to administer care to Veterans using telehealth, or virtual technology, regardless of where in the United States the provider or Veteran is located, including when care will occur across state lines or outside a VA facility.

Another example of a federal-state legal framework is the Driver License Compact (DLC), which is an agreement between member states that allows states to share driver's license information and traffic violation records with other states for legal purposes. Data is exchanged through the National Driver Register (NDR), a computerized database of information about drivers who have had their licenses revoked or suspended, or who have been convicted of serious traffic violations such as driving under the influence. The DLC establishes procedures for reporting traffic offenses, convictions, and license suspensions of persons from a DLC member state within its jurisdiction to the offending individual's home licensing state. Currently, 44 states and the District of Columbia have joined the DLC. The DLC allows drivers to be punished for an out-of-state offense so long as the driver's state has an equivalent statute of the out-of-state offense.

The federal-state legal framework for interstate adoption also presents a useful case study when considering federal options to accelerate telehealth and interstate licensure. The Interstate Compact on the Placement of Children (ICPC) is a contract among member states and U.S. territories authorizing them to work together to ensure that children who are placed across state lines for foster care or adoption receive adequate protection and support services. The ICPC establishes procedures for the placement of children and fixes responsibility for agencies and individuals involved in placing children. The federal interstate adoption framework leverages a nationwide interstate compact, while at the same time empowering the federal government to review and approve state plans in order to receive federal dollars.