



Interstate Medical Licensure Compact Buried in Governor's Budget Bill Poses Grave Disciplinary Risks to New York Physicians and P.A.s

The Interstate Medical Licensure Compact offers an expedited and uniform process to physicians seeking licensure in multiple states. While it has been adopted by 37 states (and the District of Columbia), despite several legislative initiatives, it has not yet been adopted in New York. Most recently, because both the Assembly and the Senate failed to pass the measure, it could not be signed into law by the governor. Nonetheless, the Compact was quietly tucked into the Governor's most recent budget bill and now moves like a "trojan horse" through the legislative process. If passed, it exposes New York physicians to the risk of professional discipline based solely upon actions taken by other member states and does so without regard to the fairness of the proceeding or the level of due process afforded the target-physician.

The bill:

- now requires the New York State Board for Professional Medical Conduct (the "NYS Board") to share otherwise confidential complaint information about New York physicians with other states;
- provides that member states must enforce subpoenas issued by other state boards but provides for no notice and no mechanism to challenge improper, burdensome or overbroad subpoenas directed at physicians. Likewise, it offers no protection from a subpoena issued by a sister state investigating conduct that may be protected by New York, such as the provision of abortion services;
- permits other members states to conduct their own investigations of alleged misconduct that occurred solely within New York State and do so without regard to New York's sovereign and non-delegable responsibility to enforce its own laws and police the profession;
- holds that if a physician's license is revoked, surrendered (or relinquished in lieu of surrender) in one member state, the physician's license will be automatically revoked, surrendered, or relinquished in New York without any measure of due process prior to imposition of the New York suspension;
- holds that if a physician is disciplined elsewhere, New York will now be free to impose the same sanction imposed by the other state, without regard to the quality or measure of due process afforded (so long as the prescribed conduct is inconsistent with the Education Law's existing definitions of Professional Misconduct).

The New York Board is statutorily mandated to investigate and adjudicate allegations of misconduct. The statutory scheme that governs physician discipline in New York also provides a modicum of due process for physicians facing such investigations and proceedings. In part, however, the proposed legislation appears to be an improper delegation of responsibility (conferred upon the New York Board by statute) to other states and may be subject to challenge. If passed, the Compact will also expose New York physicians to discipline here without the due process protections that New York law is supposed to afford.

Joint budget hearings before the Assembly and Senate began in late January during which the New York State Nurses Association opposed the Compact. The Medical Society of the State of New York, which previously opposed the Compact, articulated no position on the Compact during these hearings. Conversely, the Greater New York Hospital Association supported the measure. The Senate and the Assembly are each expected to introduce their own budget proposals in the coming weeks and negotiations will ensue. We will monitor the negotiations and provide updates about this crucial piece of legislation.

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