



**National Center for
Interstate Compacts**
THE COUNCIL OF STATE GOVERNMENTS

Presentation for ASHA Recognized State Associations

8/27/2019

WHAT IS AN INTERSTATE COMPACT?



WHAT IS AN INTERSTATE COMPACT?

- Simple, versatile and proven tool
- Effective means of cooperatively addressing common problems
- Allows states to respond to national priorities with one voice
- Retains collective state sovereignty over issues belonging to the states



THREE PRIMARY USES

1. Used to resolve boundary disputes.
2. Used to manage shared natural resources.
3. Used to create administrative agencies which have jurisdiction over a wide variety of state concerns:
 - ✓ State transportation
 - ✓ Taxation
 - ✓ Environmental matters
 - ✓ Regulation
 - ✓ Education
 - ✓ Corrections
 - ✓ Public safety
 - ✓ Occupational Licensure



EVOLVING COMPACT LANDSCAPE

- Threat of a federally mandated solution
- Advances in technology
- Increasingly mobile world
- Distrust of federal government
- Proven track record



CONGRESSIONAL CONSENT

Compacts between States are authorized under Art. I, Sec. 10, Cl. 3 of the U. S. Constitution:

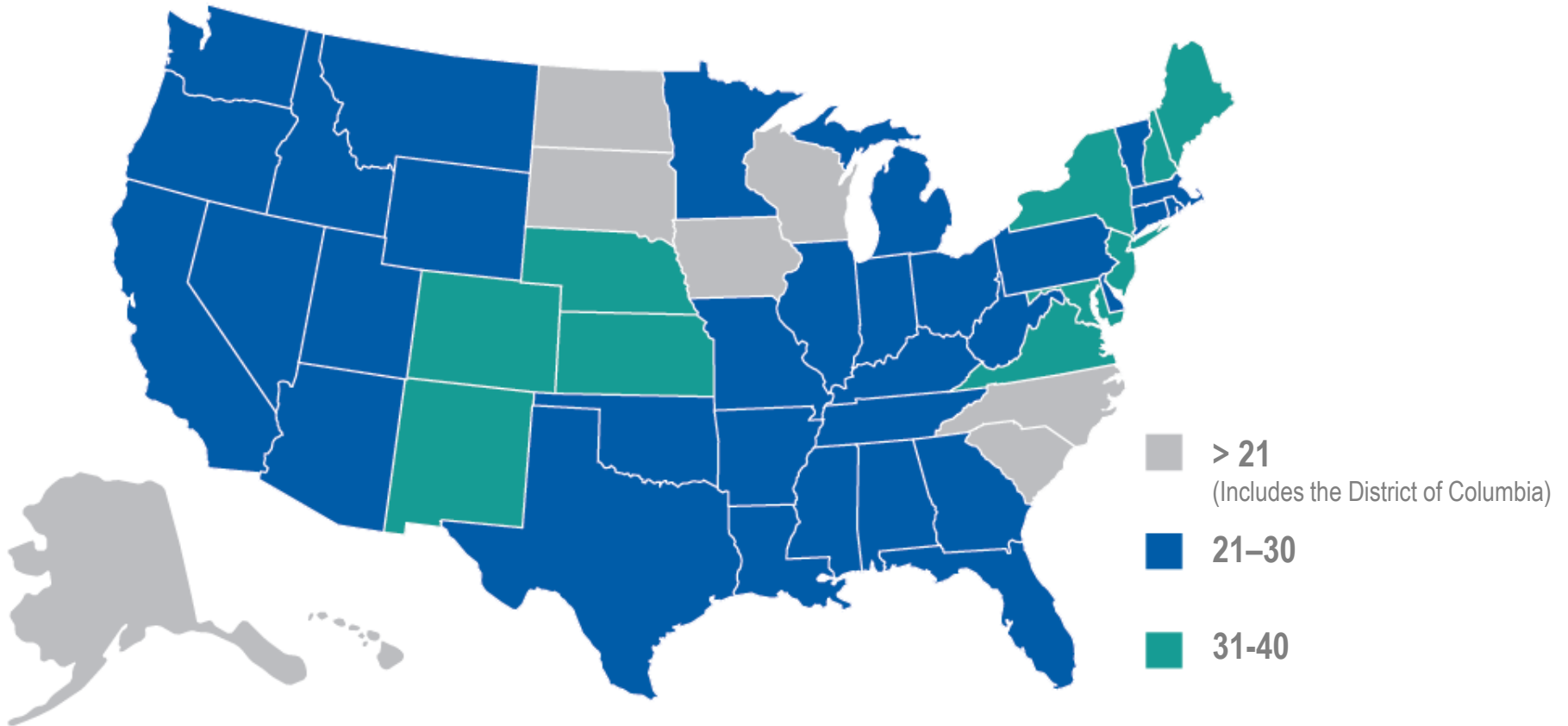
No State shall, without the Consent of Congress . . . enter into any Agreement Compact with another State . . . “ U.S. Supreme Court holds, in effect, that “any” doesn’t mean “all” and consent isn’t required unless the compact infringes on the federal supremacy.

[See U.S. Steel Corp. v. Multi-State Tax Commission, 434 U.S. 452 (1978)]



COMPACTS TODAY

STATE-BY-STATE INTERSTATE COMPACT MEMBERSHIP



COMPACTS TODAY

- Approximately 215 active compacts
- Precedence for international participation
- On average states are members of about 25 compacts
- Port Authority of NY & NJ (1922) signaled a new era in regulatory compacts



BENEFITS OF THE INTERSTATE COMPACT



INTERSTATE COMPACTS – KEY BENEFITS

1. Effectiveness and efficiency
 - Economies of scale
2. Flexibility and autonomy compared to national policy
 - “One size does not fit all”
3. Dispute resolution among the states
4. State and federal partnership
5. Cooperative behaviors leading to “win-win” situations



INTERSTATE COMPACTS – OTHER BENEFITS

1. Agreement on Uniform Licensure Requirements
2. A data system adequate to allow electronic processing of interstate licensure
3. Disciplinary issues related to interstate licensure
4. FBI Fingerprint Based Criminal Background Checks
5. Compact governance issues:
 - I. Legal status of interstate compact governing agency
 - II. Rulemaking and other authority



INTERSTATE COMPACTS – OPERATIONAL BENEFITS

- National data & information sharing systems
- Uniform compact language and rules
- Proven governance structures
- National interface with external stakeholders & national organizations
- Coordination with other interstate compacts
- National office and staff (if necessary)



DEVELOPING AN INTERSTATE COMPACT



INTERSTATE COMPACTS—DEVELOPMENT

Phase I Development

ADVISORY GROUP

- Composed of approx. 20 state officials, stakeholders and issue experts
- Examines issues, current policy, best practices and alternative structures
- Establishes recommendations as to the content of an interstate compact

DRAFTING TEAM

- Composed of 5 to 8 state officials, stakeholders, and issue experts
- Crafts compact based on recommendations
- Circulates draft compact to states and stakeholder groups for comment

FINAL PRODUCT

- Drafting team considers comments and incorporates into compact
- Final product sent to advisory group
- Released to states for consideration

Phase II Education and Enactment

EDUCATION

- Develop comprehensive legislative resource kit
- Develop informational internet site with state-by-state tracking and support documents
- Convene “National Briefing” to educate legislators and key state officials

STATE SUPPORT

- Develop network of “champions”
- Provide on-site technical support and assistance
- Provide informational testimony to legislative committees

STATE ENACTMENTS

- Track and support state enactments
- Prepare for transition and implementation of compact
- Provide requested support as needed

Phase III Transition and Operation

TRANSITION

- Enactment threshold met
- State notification
- Interim Executive Board appointed
- Interim Committee’s established
- Convene first Compact meeting
- Information system development (standards, security, vendors)

OPERATION

- Ongoing state control and governance
- Staff support
- Annual assessment, if necessary
- Annual business meeting
- Information system oversight (maintenance, security, training, etc.)
- Long-term enhancements / up-grades



INTERSTATE COMPACT GOVERNANCE



COMPACT COMMISSION

- Forms when the threshold of jurisdictions pass compact legislation
- Is typically a quasi-governmental entity
- Supra-state, sub-federal nature
- May hire staff and determine physical presence



TYPICAL COMPACT GOVERNANCE STRUCTURE



INTERSTATE COMPACTS

TYPICAL GOVERNANCE STRUCTURE

- The commission is comprised of voting representatives from each member state and is responsible for key decisions with respect to the compact.
- The commission can form committees, including an executive committee that is responsible for making day-to-day decisions.
- Compact commissions are frequently granted the authority to hire staff, which is responsible for implementing the policies and procedures established by the commission
- Commissions serve agencies of the member states and are tasked with acting on their behalf and not on the behalf of particular groups or organizations.



HEALTH CARE LICENSE RECIPROcity



NOTABLE MEDICAL AND LICENSURE COMPACTS

- Nurse Licensure Compact – 25 states (expired)
- Enhanced Nurse Licensure Compact – 34 states (25)
- Compact on Mental Health – 45 states
- Emergency Management Assistance Compact – 50 states
- EMS Licensure Compact (REPLICA) – 18 states (10)
- Medical Licensure Compact – 29 states (7)
- Physical Therapy Compact – 25 states (10)
- PsyPact – 12 states (7 state threshold)



WHY HEALTH CARE LICENSE RECIPROCIITY?

- Mobile society (patients and practitioners)
- Technological advancements
- Rising population
- Deficit of health care professionals, especially serving rural areas
- Practical advancement for current and future generations of practitioners



HEALTH CARE LICENSE RECIPROcity

SIMILAR PARAMETERS

- Increase public access to health care services
- Enhance the states' ability to protect the public's health and safety
- Support of spouses of relocating military members
- Enhance the exchange of licensure, investigatory, and disciplinary information between member states



HEALTH CARE LICENSE RECIPROcity

SIMILAR PARAMETERS-DEFINITIONS

COMPACT COMMISSION

Administrative body whose membership consists of all states that have enacted the Compact

HOME STATE

The member state that is the licensee's primary state of residence.



HEALTH CARE LICENSE RECIPROCITY

SIMILAR PARAMETERS-DEFINITIONS

Remote/Practice State

A member state other than the home state, where a licensee is seeking to practice.

Member State

A state that is participating in the compact



HEALTH CARE LICENSURE COMPACTS F.A.Q.



HEALTH CARE LICENSURE COMPACTS F.A.Q.

Myth 1:

Interstate compacts are a takeover of state licensing



HEALTH CARE LICENSE RECIPROCALITY

Fact:

Compacts *are not* a takeover of state licensing;

But...

May serve as a way to preserve state control over health
professional licensure and minimize/preempt
federal intervention



HEALTH CARE LICENSE RECIPROcity

Compacts are a State-based approach to multi-state licensure that uses a vehicle for interstate collaboration that is provided for in the U.S. Constitution.

- *State licensure processes remain in place*
- *Licensees voluntarily become part of a Compact*
- *State practice acts are not impacted*



HEALTH CARE LICENSURE COMPACTS F.A.Q.

Myth 2:

Interstate compacts are owned or controlled by an outside organization.



HEALTH CARE LICENSE RECIPROACITY

Fact:

Compacts *are not* owned or controlled by any organization and are governed by a statutorily created governing 'infrastructure' as determined by the member states through the terms of the compact



HEALTH CARE LICENSE RECIPROcity

Compacts are an instrument of interstate cooperation governed by appointed representatives of the adopting states.

Commission members are appointed by and represent the member state.



HEALTH CARE LICENSURE COMPACTS F.A.Q.

MYTH 3:

Commission rules and bylaws thwart state
sovereignty.



HEALTH CARE LICENSE RECIPROCALITY

Fact:

Rules written by compact commission apply only to the specific compact procedures implementing the interstate extension of member state authority across state lines.



HEALTH CARE LICENSE RECIPROcity

- Rules do not change the state practice act
- Rules are specific to the implementation of the Compact's extension of professional licensure across state lines
- Each Member State has a seat at the table to craft rules, bylaws, and other administrative functions of the compact



CONTACT INFORMATION

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