New Mexico Medical Board

Legislative Health and Human Services Committee Meeting
November 20, 2024

Karen Carson, MD, Chair
Monique Parks, Interim Executive Director

Medical Board Members

Karen Carson MD	Roswell	Chair
Kathy Johnson PA	Santa Fe	Vice Chair
Bradley Scoggins DO	Farmington	Secretary/Treasurer
Eileen Barrett MD	Albuquerque	Physician Member
Mark Unverzagt MD	Albuquerque	Physician Member
Kristin Reidy DO	Santa Fe	Physician Member
Jeanine Daniels	Albuquerque	Public Member
Paul Roth MD	Albuquerque	Physician Member
Michael Richards MD	Albuquerque	Physician Member
Vacant		Physician Member
Vacant		Public Member

Mission of the Board

The New Mexico Medical Board was established by the State Legislature "in the interest of the public health, safety and welfare and to protect the public from the improper, unprofessional, incompetent and unlawful practice of medicine.“

Relevant Statutes:

- Medical Practice Act
- Genetic Counseling Act
- Polysomnography Practice Act
- Physician Assistant Act
- Anesthesiologist Assistant Act
- Naprapathic Practice Act
- Naturopathic Doctors’ Practice Act
- Podiatry Act
- Impaired Health Care Provider Act
- Pain Relief Act
- Uniform Licensing Act

<u>NMMB</u>: The state agency responsible for the regulation and licensing of medical doctors, physician assistants, podiatrists, anesthesiologist assistants, genetic counselors, polysomnographic technologists, naprapaths and naturopaths.

- State medical boards are the agencies that license medical doctors, investigate complaints, discipline physicians who violate the medical practice act, and refer physicians for evaluation and rehabilitation when appropriate.
- ***The overriding mission of medical boards is to serve the public by protecting it from incompetent, unprofessional, and improperly trained physicians.***
- Medical boards accomplish this by striving to ensure that only qualified physicians are licensed to practice medicine and that those physicians provide their patients with a high standard of care.
- The right to practice medicine is a privilege granted by the state. Each state has laws and regulations that govern the practice of medicine and specify the responsibilities of the medical board in regulating that practice. These regulations are laid out in a state statute, usually called a medical practice act.
- State medical boards establish the standards for the profession through their interpretation and enforcement of this act.

NMMB

- The duty of the medical board goes beyond the licensing and reregistration of physicians, physician assistants, and other health-care professionals. As previously noted, the board is charged with the responsibility of evaluating whether a licensee's professional conduct or ability to practice medicine warrants modification, suspension, or revocation of the license to practice.

- Board members devote a great deal of time and attention to overseeing the practice of licensee by reviewing complaints from patients, malpractice data, information from hospitals and other health care institutions, and reports from government agencies.

Chapter 61 - Professional and Occupational Licenses
Article 6 - Medicine and Surgery
Section 2 - New Mexico medical board; appointment; terms; qualifications.

A. There is created the "New Mexico medical board", ***consisting of eleven members. The board shall be composed of two public members, one physician assistant and eight reputable physicians, at least two of whom shall be osteopathic physicians and at least two of whom shall be medical physicians.*** The osteopathic physicians and the medical physicians shall be of known ability, shall be graduates of medical colleges or schools in good standing and shall have been licensed physicians in and bona fide residents of New Mexico for a period of five years immediately preceding the date of their appointment. ***The physician assistant shall have been a licensed physician assistant and a resident of New Mexico for at least five years immediately preceding the date of appointment. Public members of the board shall be residents of New Mexico, shall not have been licensed by the board as a health care practitioner over which the board has licensure authority and shall have no significant financial interest, direct or indirect, in the occupation regulated.***

B. ***The governor shall appoint the medical physician members from a list of names submitted to the governor by the New Mexico medical society or its authorized governing body or council.*** The list shall contain five names of qualified medical physicians for each medical physician member to be appointed. Medical physician member vacancies shall be filled in the same manner.

C***. The governor shall appoint osteopathic physician members from a list of names submitted to the governor by the New Mexico osteopathic medical association or its authorized governing body or council.*** The list shall contain five names of qualified osteopathic physicians for each osteopathic physician member to be appointed. Osteopathic physician member vacancies shall be filled in the same manner.

D. ***The governor shall appoint the physician assistant member from a list of names submitted to the governor by the New Mexico academy of physician assistants or its authorized governing body or council.*** The list shall contain five names of qualified physician assistants.

E. Members shall be appointed to four-year terms, staggered so that not more than three terms expire in a year. All board members shall hold office until their successors are appointed.

Licensing Statistics FY24

Total Active Licenses:

- Physicians: 12,900
- Physician Assistants: 1,321
- Podiatrists: 163
- Genetic Counselors: 345
- Doctors of Naprapathy: 38
- Naturopathic Doctors: 27
- Polysomnographic Technologists (Sleep Techs): 113
- Anesthesiologist Assistants: 70

Licensing Statistics FY24 Continued

- FY24 Total New Licenses Issued: 2,002
- FY24 Total Licenses Renewed: 4,567

- FY23 Total New Licenses Issued: 1,819
- FY23 Total Licenses Renewed: 4,092

- FY22 Total New Licenses Issued: 1,773
- FY22 Total Licenses Renewed: 4,352

Application Processing Times:

- **Complete Application Received (New Licensure) -**
5 DAYS TO PROCESS and ISSUE

- **License Renewal Applications** – Immediate Automatic Renewal (no wait time)

Complaints and Investigation Process

	Complaints can come to the board via:	Patients, colleagues, employers, pharmacists, DEA, insurance entities
	Complaints are reviewed for applicability to Medical Practice Act, relevance, frivolity, and if appropriate, are investigated.	
	Results presented to a subcommittee of board members who make a recommendation for action to the board as a whole	
	Levels of action:	Not reportable: no action, advisory letter Reportable: reprimand, fines, stipulated license, suspension, revocation

Applications Requiring Further Investigation

1. An application for licensure that is noted by staff to require further investigation.
2. Staff consults applicant, reviews records and then may require further information which is obtained by staff.
3. Committee of Board Members reviews the application, and additional information provided, and makes recommendations for action to the full Board.
4. A quorum of Board Members makes a decision (committee members are recused from the voting).

**Example on next slide.*

Example of Application Approved by Board:

Plastic Surgeon retired to Santa Fe and is immediately needed at Christus St. Vincent's. <u>Problem is that he was out of clinical practice for 2.5 years.</u>

BACKGROUND:

- MD Degree: University of Zimbabwe 1977
- Postgraduate Training:
    - Fellowship Cosmetic Surgery: E Virginia Graduate School of Medicine 1988
    - Residency Plastic Surgery: Emory University 1989
    - Fellowship Hand Surgery: Barnes-Jewish/Washington University School of Medicine 1990
- Continuous Clinical Practice in US 1990- 2022
- Other licenses: GA, IL, MO, VA
- NON-Clinical practice: Chief Medical Officer at medical device company 2022-present.
- One of the first foreign trained physicians to be Board Certified by the Plastic Surgery Board thru a special exemption in 2009 and was re-certified in 2019.

NM License issued 11/2024

Examples of Applications Denied by the Board:

1. Applicant with recent criminal felony charges for medical insurance fraud to which he pled guilty and sentenced to probation and restitution. State in which he was licensed revoked his license.

2. Applicant who has been out of practice for 15 years and who during his period of non-practice suffered a stroke from which he did not fully recover – clinical skills assessment by CPEP revealed that he could return to practice but only under supervision of another physician and prohibited from practicing in rural area due to lack of needed support. A health evaluation revealed applicant not fit for duty physically.

3. Applicant with severe impairment due to alcohol/substance use that resulted in long history of adverse licensure actions being taken due to the disorder, recommended treatment, and then noncompliance with treatment and other state licensing board orders. During the processing of his application, applicant again relapsed and was evaluated with results showing not fit to practice at this time.

New Mexico Health Professionals Wellness Program

- The New Mexico Health Professionals Wellness Program (HPWP) provides CONFIDENTIAL services statewide for health professionals with substance abuse, mental health, physical health impairment and workplace issues.
- The Impaired Healthcare Provider Act created this system where both the licensing agency and the individual health professional can obtain assistance for potentially impairing conditions while simultaneously protecting the public.
- Services can be accessed by either voluntarily (self-referred) or via mandatory referral (licensing board or employer) routes.
- Services include assessments, treatment referrals, treatment planning, monitoring, and reporting.

NMMB Efforts to Expand Access to Care and Expedite Licensure

2018 - NMMB worked with the NM Academy of Physician Assistants to amend the Medical Practice Act to allow appropriately experienced PAs to practice primary care without physician supervision.

2020 - Naturopaths were added as licensed healthcare providers with the NMMB.

2021 - PROTOCOL FOR PHARMACISTS PRESCRIBING OF DANGEROUS DRUGS IN CONJUNCTION WITH POINT-OF-CARE TESTING (POCT) was reviewed and passed by the NMMB (NMAC 16.19.26.14. This protocol was developed in conjunction with the Board of Pharmacy to assist pharmacists in providing safe and effective prescribing of dangerous drugs in conjunction with CLIA-Waived point-of-care testing (POCT) in New Mexico. Additionally, criteria was established for properly trained and certified pharmacists to prescribe in a safe manner for all eligible and appropriately screened patients in New Mexico who would benefit from testing and therapy.

- 1-6a. HIV Post-Exposure Prophylaxis (PEP) therapy for patients who have potentially been exposed to HIV within the past 72 hours, in a manner that puts them at risk for HIV infection;
- b. Statin therapy;
- c. SARS-CoV-2 (“COVID-19”) FDA-approved prophylaxis therapy, and COVID-19 FDA-approved therapy including any FDA-approved Emergency Use Authorization (EUA)COVID-19 therapy;
- d. Group A Beta-Hemolytic Streptococcus (GAS) Pharyngitis antimicrobial therapy;
- e. Influenza antiviral therapy, and influenza antiviral prophylaxis therapy.

NMMB Efforts Continued...

2022 - NMMB approved changes to administrative rules to incorporate licensing and regulation of Doctors of Osteopathic Medicine. During the 2021 Legislative Session SB279 passed and was signed by Governor Lujan Grisham on April 5, 2021. SB279 merged the Osteopathic Examiners Board with the New Mexico Medical Board.

2022 - NMMB promulgated a new rule allowing licensure for residency training by foreign medical graduates who have been vetted and approved for a board-approved post-graduate training program and hold an Educational Commission for Foreign Medical Graduates (ECFMG) certification. This broadened the candidate pool and simplified requirements.

2022 - to expedite the physician licensure process, the NMMB partnered with the New Mexico Hospital Services Corporation (HSC) to process ALL incoming licensure applications.

2022 - NMMB received $1,827,327 to upgrade the licensing system to streamline and unify disparate processes and better serve their constituency by using the Salesforce LPI solution which streamlines back-end processes and standardizes licensing data, providing a comprehensive view of licensing requests and a digital experience for users. This upgrade is now in place and provides real time application status on the NMMB website and allow licensees and applicants to easily communicate with Board staff via chat, email or text messaging.

2023 - NMMB approved a policy to provide guidance on medical board expectations concerning the off-label use of ketamine, especially for mental illness.

2024 - NMMB promulgated rules for expedited licensure. During the 2023 Legislative Session HB384 passed and was signed by Governor Lujan Grisham on April 3, 2023. HB384 enacted new sections and revisions to the Medical Practice Act to provide for an expedited one-year provisional license that confers the same rights, privileges and responsibilities as a regular license issued by the Board.

2024 - during the 2023 Legislative Session HB83 passed and was signed by Governor Lujan Grisham on April 5, 2023. HB83 transferred the Podiatry Board from Regulation and Licensing Department to the New Mexico Medical Board. The NMMB promulgated rules regarding Podiatry practice in August 2024.

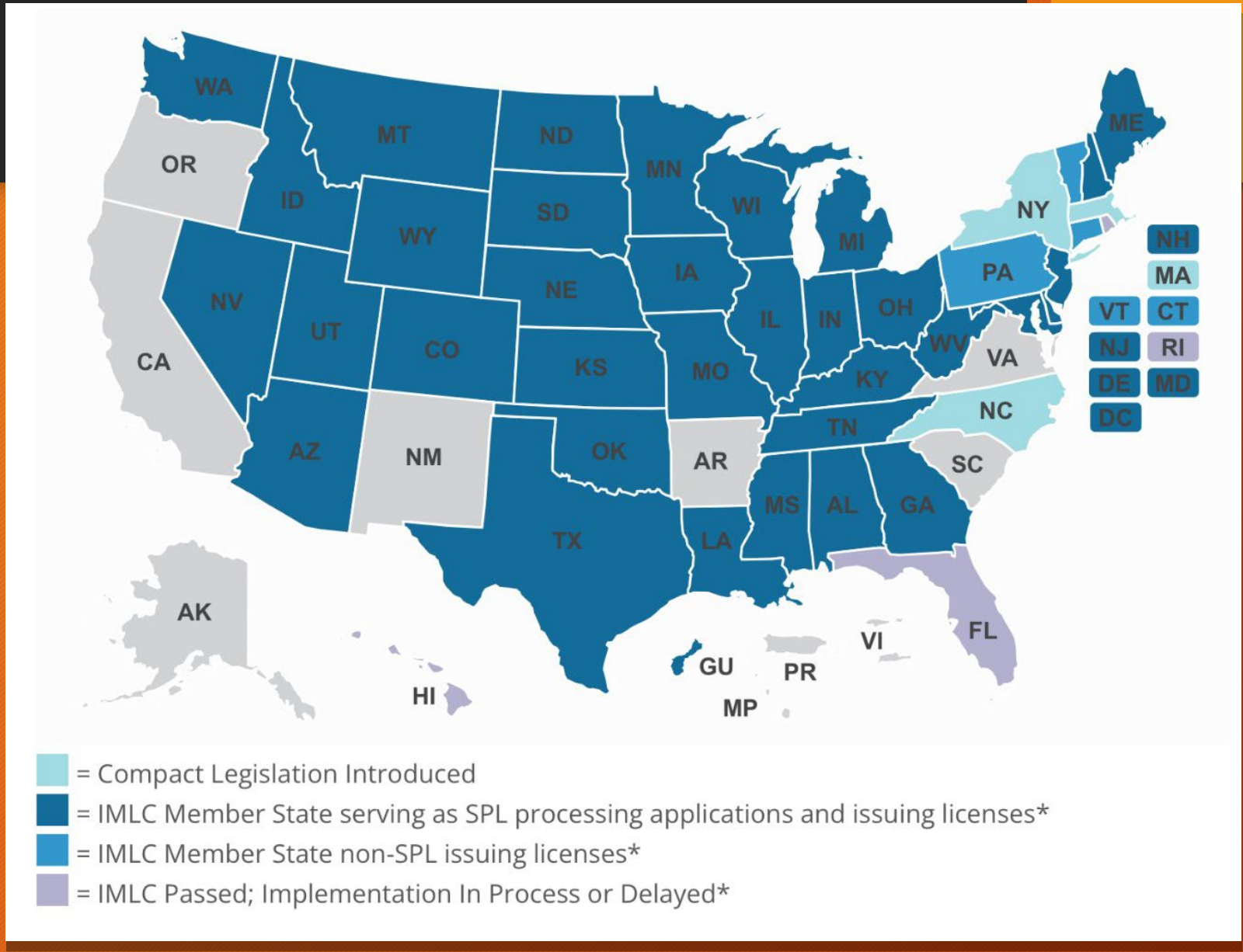
2024 - PROTOCOL FOR PHARMACIST PRESCRIBING OF DANGEROUS DRUGS INCONJUNCTION WITH POINT-OF-CARE TESTING (POCT) for uncomplicated UTIs (see NMAC 16.19.26.14) was reviewed and passed by the NMMB.

Recent NMMB Actions (November 2024 Board Meeting)

- Review and approval of agency policy and position statements:
  - Artificial intelligence
  - IV Therapy
  - Medical Spa treatments and procedures
- Endorsement to join IMLC
- Review and approval of Protocol for Pharmacist prescribing of dangerous drugs in conjunction with point-of-care testing (POCT) for uncomplicated urinary tract infections (uUTIs)

The Interstate Medical Licensure Compact

https://imlcc.com/participating-states/



Interstate Medical Licensure Compact



The Interstate Medical Licensure Compact is an agreement among participating U.S. states to work together to significantly streamline the licensing process for physicians who want to practice in multiple states. It offers a voluntary, expedited pathway to licensure for physicians who qualify.



Eligible physicians can qualify to practice medicine across state lines within the Compact if they meet the Compact's agreed-upon eligibility requirements. Physicians who are eligible can qualify to practice medicine in multiple states by completing just one application within the Compact, receiving separate licenses from each state in which they intend to practice.



These licenses are still issued by the individual states – just as they would be using the standard licensing process – but because the application for licensure in these states is routed through the Compact, the overall process of gaining a license is significantly streamlined. Physicians receive their licenses much faster and with fewer burdens.



The licensing is all state-based. Physicians do not receive a "Compact license" or a nationally recognized medical license through their participation in the Compact.

Qualifications for Interstate Medical Licensure Compact

Hold a full, unrestricted medical license in a Compact member-state that can serve as a State of Principal License (SPL) and meet the SPL requirements. Physicians must maintain their SPL status at all times. Physicians may change the location of their SPL – through a process known as redesignation – after they receive a Letter of Qualification to participate in the Compact.)

Have graduated from an accredited medical school, or a school listed in the International Medical Education Directory

Have successfully completed ACGME- or AOA-accredited graduate medical education

Passed each component of the USMLE, COMLEX-USA, or equivalent in no more than three attempts for each component

Hold a current specialty certification or time-unlimited certification by an ABMS or AOABOS board

In addition, physicians must:

- Not have any history of disciplinary actions toward their medical license
- Not have any criminal history
- Not have any history of controlled substance actions toward their medical license
- Not currently be under investigation

Interstate Medical Licensure Compact Continued

At the NMMB November 8, 2024, meeting, the New Mexico Medical Board unanimously voted to endorse NM join the IMLC.

There have been questions raised regarding potential for actions against reproductive healthcare providers given that certain states have criminalized some reproductive health services. There are concerns providers in those states may be subject to licensure actions that will affect compact licensing.

•The IMLC rules state that if licensure action occurs, these actions result in an automatic 90-day suspension of the physician's other licenses obtained through the IMLC. However, the IMLC rules allow for the automatic suspension to be terminated within 90 days. Indeed, the rules allow for immediate termination, reversal, or recession of the automatic suspension. The commission advised that this rule was added to address scope of practice concerns which could arise if a state finds that such adverse action was taken as a result of actions that would have been lawful in the state where the patient was located when the treatment was provided.

The IMLCC statute puts a State in a stronger position to protect its physicians and enforce their medical practice act.

The IMLCC Rules regarding the disciplinary actions and requirements on medical boards have been reviewed and changed - putting the power of determination with regard to the license issued by the State into the hands of the State.

IMLCC Rule, Chapter 6, paragraph 6.6 addresses situations where another state has taken action against a physician that New Mexico does not wish to also enforce.

6.5 Disciplinary Actions a. As provided in Section 10a of the Interstate Medical Licensure Compact, any disciplinary action by a disciplining board shall be considered unprofessional conduct and may be a basis for discipline by other member boards. This includes any action that does not have a corresponding ground by the other member board's Medical Practice Act or in addition to any other specific violation of the Medical Practice Act in the other member state. b. **Any member board, including the state of principal license, may: (1) Administratively take reciprocal action against a compact physician who was disciplined by a disciplining board. The administrative reciprocal action of the disciplinary board is deemed conclusive as to matters of law and fact, and a member board may impose the same or lesser sanction that is consistent with the Medical Practice Act of that state; (2) Pursue disciplinary action in accordance with the member board's Medical Practice Act against a Compact physician who was disciplined by a disciplining board. The action of the disciplinary board is deemed conclusive as to matters of law and fact and a member board may impose a more severe sanction; or (3) Take no action.**

https://imlcc.com/wp-content/uploads/2023/11/IMLCC-Rule-Chapter-6-Coordinated-Information-System-Joint-Investigations-and-Disciplinary-Actions-Amended-November-14-2023-FINAL.pdf

ARTIFICIAL INTELLIGENCE

Policy Statement approved November 8, 2024

The New Mexico Medical Board will continue to hold licensees responsible for the care they provide to patients and expects licensees to use technology – including AI – responsibly and ethically. The NMMB will govern the use of AI in medical practice through established ethical principles, including respect for patient autonomy, nonmaleficence, beneficence, and justice, that have served as the foundation of professional expectations and demonstrated applicability in a variety of situations, regardless of treatment modalities or technology involved.

ADDITIONAL PATHWAYS TO LICENSURE

- IMG: International medical graduate. Has not practiced. Needs to follow traditional pathway to US accredited graduate medical education programs (residency)

- FTP: Foreign trained physician. Has practiced in a country other than the United States.
  - Practice differences: shared decision making, honor social determinants of health, sensitivity, quality of care, safety, assimilation to normal activities of daily living
  - How do we protect the PRACTITIONER, so we protect the PATIENT.

Can a medical doctor from a foreign country practice medicine in New Mexico?

- Twenty percent of physicians practicing in the US were trained overseas, and have American licenses. Many train and practice in NM and there are no barriers to these physicians obtaining NM licenses.
- Overseas medical training may not be equivalent to US/Canadian training, so for the protection of the public, there are national standards for evaluating the training of these physicians.
- American medical care by MDs and DOs is based on specialty, post-graduate apprenticeships, as medical school alone does not equip a doctor to practice in the American system. Therefore, the national, and NM, standards universally require overseas-trained physicians to complete a US/Canadian specialty apprenticeship (i.e., residency) to be eligible for a US license.
- Many internationally practicing physicians who emigrate to the US find non-physician positions in the medical field, and pursue residencies, which is the only way to confirm competency.
- Efforts to otherwise assess the competency of these physicians is being explored nationally, as to safely license these physicians will require establishment of a program that confirms competence to meet the standards of protection of the public, privileging by hospitals and health systems, coverage by health insurance and malpractice companies.

Foreign Trained Physicians/Practitioners

We need to expand access correctly, avoid maldistribution of healthcare providers	Track and define success	Is there discipline? Malpractice? Misconduct?	Continue to meet competency requirements for how long?
Cultural competence	Contribute to society/communities	How can a rural community evaluate and retain FTPs?	How do we address social isolation in a rural community
Training for FTP and their mentors/preceptors	Pathway to board certification needed	Training in an urban environment does not prepare a practitioner for rural medicine	Protect the practitioner to protect the patient

FSMB advisory committee on additional licensure models draft guidelines

Areas of concordance among most, if not all, state laws, advancing, additional licensure pathways include the following:

- Rulemaking authority should be delegated and resources allocated, to the state Medical Board for implementing additional licensure pathways.
- An offer of employment prior to application for an additional pathway.
- ECFMG certification and graduation from a recognized medical school.
- Completion of postgraduate training outside of the United States.
- Possession of a licensed/registration/authorization to Practice medicine in another country or jurisdiction and medical practice experience.
- A limit on “time out of practice“ before becoming eligible to apply for an additional pathway
- A requirement for a period of temporary provisional licensure prior to eligibility to apply for a full and unrestricted license to practice medicine.
- Eligibility for a fallen unrestricted license to practice medicine.
- Standard data collection requirements.

Telehealth

- All state medical boards require that physicians engaging in telemedicine are licensed in the state in which the patient is located or are registered in the state, if they have a registry for interstate practice.
- 10 states issue a special purpose license, telemedicine license, or permit to practice telemedicine across state lines.
- Nine states require physicians to register or receive a waiver if they wish to practice across state lines.
- Three states, plus the district of Columbia, allow regional or proximal reciprocity for interstate practice.
- 39 States plus the district of Columbia and the Virgin Islands, have licensure exceptions, and or consultation exceptions for services rendered across state lines.

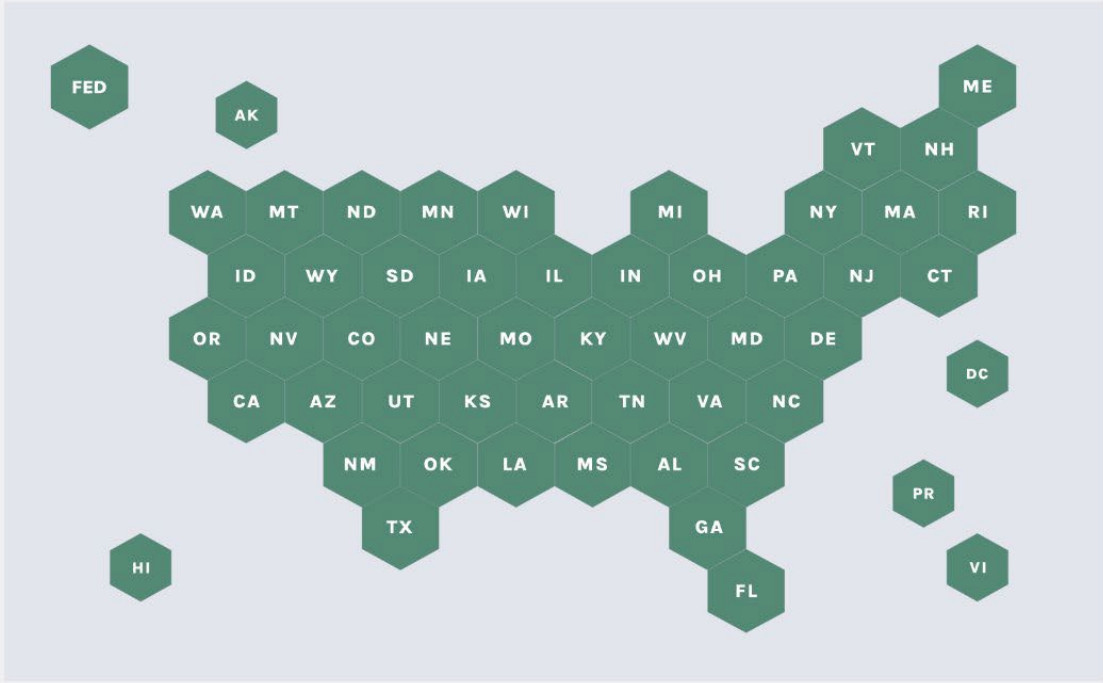
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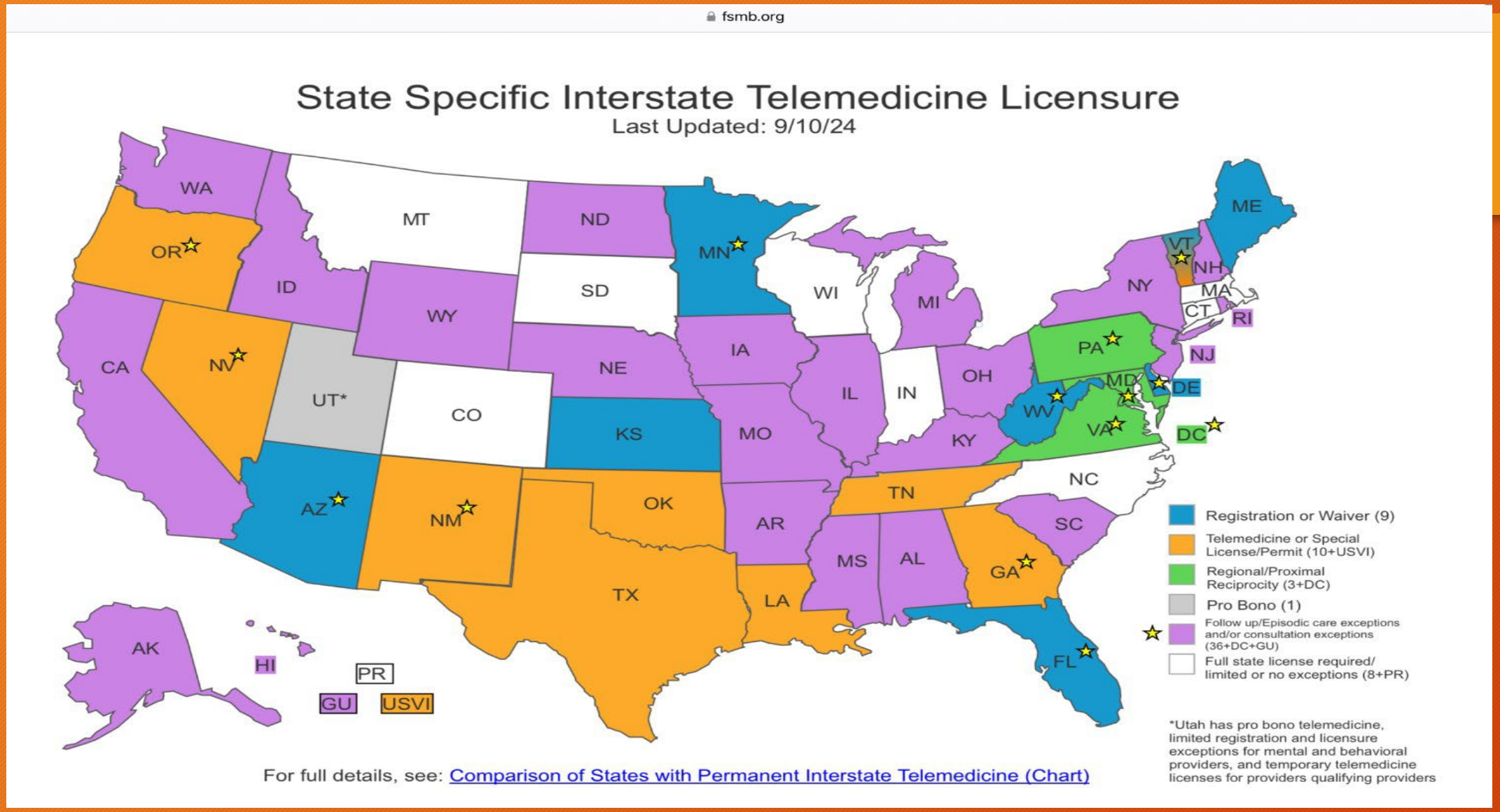
Cross-State Licensing

When telehealth is used, it is considered to be rendered at the physical location of the patient, and therefore a provider typically needs to be licensed in the patient's state. A few states have licenses or telehealth specific exceptions that allow an out-of-state provider to render services via telemedicine in a state where they are not located, or allow a clinician to provide services via telehealth in a state if certain conditions are met (such as agreeing that they will not open an office in that state). Still other states have laws that don't specifically address telehealth and/or telemedicine licensing, but make allowances for practicing in contiguous states, or in certain situations where a temporary license might be issued provided the specific state's licensing conditions are met.



The Center for Connected Health Policy

https://www.cchpca.org/topic/cross-state-licensing-professional-requirements/



https://www.fsmb.org/siteassets/advocacy/key-issues/interstate-telemedicine-map.pdf

Telehealth in New Mexico

- A New Mexico license is required to provide care (examination, diagnosis, treatment) to a patient physically in New Mexico.
- **Exemption from licensure requirements** are defined in Section 61-6-17NMSA of the Medical Practice Act and include a physician licensed to practice under the laws of another state who acts as a consultant to a New Mexico licensed physician on an irregular or infrequent basis not to exceed ten patients per year. *N.M. Admin. Code § 16.10.2.11*
- **New Mexico Statutes**
  Chapter 61 - Professional and Occupational Licenses
  Article 6 - Medicine and Surgery
  Section 17 - Exceptions to act
- K. a physician licensed to practice under the laws of another state who acts as a consultant to a New Mexico-licensed physician on an irregular or infrequent basis, as defined by rule of the board; and
- L. a physician who engages in the informal practice of medicine across state lines without compensation or expectation of compensation; provided that the practice of medicine across state lines conducted within the parameters of a contractual relationship shall not be considered informal and is subject to licensure and rule by the board.

Telehealth in NM

- The physician to physician consultation exception permits, a consulting physician, licensed in another state in which they are located to use telemedicine or other means to consult with a licensed practitioner who remains responsible for diagnosing and treating the patient in the state where the patient is located.
- Physicians, providing specialty assessments or consultations, such as at centers for excellence, are not required to obtain a license in the state where the patient is located in order to screen a patient for acceptance of a referral. The out-of-state physician may then provide care via telemedicine, utilizing the physician to physician consultation, exception above.
- If the out-of-state physician agrees to diagnose, counsel, or treat the patient directly, the patient must travel to the state where the physician is licensed or the physician must obtain a licensed to practice medicine in the state where the patient is located.

FSMB Statement on Telemedicine

- Telemedicine is one component of the delivery of healthcare, and it can vary in quality,appropriateness and usefulness. It is important that as telemedicine continues to be utilized,regulatory agencies balance expanding regulatory opportunities for the adoption of telemedicine technologies with ensuring public health and safety.
- physicians who provide medical care, electronically or otherwise, maintain the highest degree of professionalism and should:
  - Place the welfare of patients first;
  - Maintain acceptable and appropriate standards of practice;
  - Adhere to recognized ethical codes governing the medical profession;
  - Properly supervise non-physician clinicians; and
  - Protect patient confidentiality. Physicians are encouraged to comply with nationally recognized health standards and codes of ethics. There should be consistent ethical and professional standards applied to all aspects of a physician's practice.

  A physician's professional discretion as to the diagnoses, scope of care, or treatments should not be limited or influenced by non-clinical considerations of telemedicine technologies, and physician remuneration or treatment recommendations should not be materially based on the delivery of patient-desired outcomes (i.e., a prescription or referral) or the utilization of telemedicine technologies.

THANK YOU

QUESTIONS?

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