SESSION OF 2016

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2456

As Amended by Senate Committee on Public Health and Welfare

Brief*

HB 2456, as amended, would allow Kansas to join the Interstate Medical Licensure Compact (Compact). The Compact would be governed by the Interstate Medical Licensure Compact Commission (Commission) and the Commission would have the authority to develop rules to implement the provisions of the Compact. Once effective, the Compact would remain in force unless a member state withdraws from the Compact by repealing the statute that enacted the Compact into law; however, the withdrawal would not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given to the governor of each other member state.

The bill would be in effect upon publication in the *Kansas Register* and would establish the 24 sections of the Compact as follows:

Section 1 – Purpose of the Compact

The purpose of the Compact would be for the member states of the Compact to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards and would provide a streamlined process for physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. Joining the Compact would not change a state's existing medical practice

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

act and would require the physician to be under the jurisdiction of the state medical board where the patient is located. Participating state medical boards would retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the Compact.

Section 2 – Definitions

A number of terms would be defined, including the following:

- "Expedited license" would mean a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the Compact;
- "Interstate commission" would mean the interstate commission created pursuant to Section 11;
- "License" would mean the authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization;
- "Member board" would mean a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians, as directed by the state government;
- "Member state" would mean a state that has enacted the Compact; and
- "State of principal license" would mean a member state where a physician holds a license to practice medicine and that has been designated as such by the physician for purposes of registration and participation in the Compact.

Section 3 – Eligibility

A physician would be eligible to receive an expedited license if the physician met the requirements in the Compact's definition of a physician. A physician who does not meet the Compact's definition of physician would be eligible to receive a license in a member state if the physician complies with all laws and requirements relating to the issuance of a license to practice medicine in that state.

Section 4 – Designation of State of Principal License

A physician would be required to designate a member state as the state of principal license for purposes of registration for expedited licensure through the Compact if the physician possesses a full and unrestricted license to practice medicine in that state and the state is:

- The state of primary residence for the physician;
- The state where at least 25 percent of the practice of medicine occurs;
- The location of the physician's employer; or
- If no state meets the above qualifications, the state designated as state of residence for purposes of federal income tax.

Section 5 – Application and Issuance of Expedited Licensure

A physician seeking an expedited license would be required to file an application with the member board of the state selected by the physician as the state of principal license. Upon receipt of the application, such member board would be required to evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification verifying or denying the physician's eligibility to

the Commission. The member board would be required to perform a criminal background check of the applicant in compliance with the requirements of the Federal Bureau of Investigation. If a physician is deemed eligible, the physician would be required to submit applicable fees and complete the registration process. [See Section 6 regarding fees for expedited licensure.] Upon receipt of the completed registration, a member state would be required to issue the applying physician an expedited license, which would allow the physician to practice medicine in the issuing state.

Section 6 – Fees for Expedited Licensure

A member state issuing an expedited license would be allowed to impose a fee for a license issued or renewed through the Compact.

Section 7 – Renewal and Continued Participation

A physician seeking to renew an expedited license granted in a member state would be required to complete a renewal process with the Commission and pay applicable renewal fees. A physician also would be required to comply with all continuing education requirements.

Section 8 – Coordinated Information System

The Commission would be required to establish a database of all physicians licensed or who have applied for licensure. Member states would be required to report to the Commission complaints against a licensed physician who has applied for or received an expedited license. Member boards also would be required to report disciplinary or investigatory information determined as necessary by rule of the Commission.

Section 9 – Joint Investigations

A member board would be allowed to participate with other member boards in joint investigations of physicians licensed by the member boards and would be allowed to share investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

Section 10 – Disciplinary Actions

Any member board would be allowed to take disciplinary action against a physician licensed through the Compact. This section would set forth the implications to a license granted to a physician through the Compact when such license is revoked, surrendered or relinquished in lieu of discipline, or suspended by any member board.

Section 11 – Interstate Medical Licensure Compact Commission

This section would create the Commission; set forth its purpose as the administrator of the Compact; and set forth the Commission membership, rules, and meeting schedule.

The Commission would consist of two voting representatives appointed by each member state who would serve as Commissioners. A Commissioner would be:

- An allopathic or osteopathic physician appointed to a member board;
- An executive director, executive secretary, or similar executive of a member board; or
- A member of the public appointed to a member board.

Section 12 – Powers and Duties of the Commission

The powers and duties of the Commission would be set forth, including the following:

- Oversee and maintain the administration of the Compact;
- Promulgate rules;
- Enforce compliance with the Compact;
- Employ an executive director;
- Accept donations and grants;
- Establish a budget and make expenditures;
- Conduct business as it relates to the Commission's real and personal property; and
- Report annually to the legislatures and governors of the member states concerning the activities of the Commission during the preceding year. Such reports would include reports of financial audits and any recommendations adopted by the Commission.

Section 13 – Finance Powers

The Commission would be allowed to collect an annual assessment from each member state to cover the cost of the operations and activities of the Commission and its staff. The Commission would be subject to a yearly financial audit and the report of the audit would be included in the annual report of the Commission.

Section 14 – Organization and Operation of the Commission

The Compact would set forth the following operational procedures of the Commission:

- Adopt bylaws within 12 months of the first Commission meeting;
- Elect or appoint annually from among the Commissioners a chairperson, a vice-chairperson, and a treasurer; and
- Defend the executive director, its employees, and in some instances, Commission representatives in legal matters, as specified in the Compact.

Section 15 – Rule-Making Functions of the Commission

The Commission would be required to promulgate reasonable rules in order to effectively achieve the purposes of the Compact and such rules would be subject to judicial review upon the filing of a petition by any person.

Section 16 – Oversight of Interstate Compact

The executive, legislative, and judicial branches of state government in each member state would be required to enforce the Compact and take all actions necessary to effectuate the Compact's purposes and intent. The provisions of the Compact and the rules would have standing as statutory law but would not override existing state authority to regulate the practice of medicine.

Section 17 – Enforcement of Interstate Compact

The Commission would be required to enforce the provision and rules of the Compact. In its discretion, the

Commission would be allowed to initiate legal action and avail itself of any other remedies available under state law or the regulation of a profession.

Section 18 – Default Procedures

The grounds for default would include failure of a member state to perform obligations or responsibilities imposed upon it by the Compact, or the rules and bylaws of the Commission.

The Commission would be required to do the following if it determined a member state had defaulted:

- Provide written notice to the defaulting state and other member states, the nature of the default, the means of curing the default, and any action taken by the Commission. The Commission would be required to specify the conditions by which the defaulting state must cure its default; and

- Provide remedial training and specific technical assistance regarding the default.

If the defaulting state failed to cure the default, the defaulting state would be terminated from the Compact upon an affirmative vote of the majority of the Commissioners.

Notice of intent to terminate would be given by the Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states. The terminated state would be responsible for all dues, obligations, and liabilities incurred though the effective date of termination. The defaulting state would be allowed to appeal the action of the Commission to the U.S. District Court for the District of Columbia or the federal district where the Commission has its offices.

Section 19 – Dispute Resolution

The Commission would be required to promulgate rules providing for mediation and binding dispute resolution.

Section 20 – Member States, Effective Date and Amendment

The Compact would become effective and binding upon legislative enactment of the Compact into law by no less than seven states (there are currently 12 member states). Thereafter, it would become effective and binding on a state upon enactment of the Compact into law by that state.

The Commission would be allowed to propose amendments to the Compact for enactment by member states; however, no amendment would be effective and binding unless and until it was enacted into law by unanimous consent of the member states.

Section 21 – Withdrawal

Once effective, the Compact would continue in force and remain binding upon every member state. A member state would be allowed to withdrawal from the Compact by the enactment of a repealing statute; however, the withdrawal would not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state. The withdrawing state would be responsible for all dues, obligations, and liabilities incurred through the effective date of the withdrawal.

Section 22 – Dissolution

The Compact would dissolve effective upon the date of the withdrawal or default of the member state, which would reduce the membership in the Compact to one member state.

Section 23 – Severability and Construction

The provisions of the Compact would be severable, and liberally construed to effectuate the purpose of the Compact.

Section 24 – Binding Effect of Compact and Other Laws

The Compact would address the binding effect of the Compact and the potential conflict of laws as follows:

- Nothing in the Compact would prevent enforcement of any other law of a member state that is not inconsistent with the Compact;
- All laws in a member state in conflict with the Compact would be superseded to the extent of the conflict;
- All lawful action of the Commission would be binding upon the member states;
- All agreements between the Commission and the member states would be binding in accordance with the terms; and
- In the event any provision of the Compact would exceed the constitutional limits imposed on the legislature of any member state, such provision would be ineffective to the extent of the conflict with that constitutional provision in question in that member state.

Background

At the House Health and Human Services hearing, representatives from the Kansas Medical Society (KMS), the Kansas State Board of Healing Arts (Board), and the Kansas Association of Osteopathic Medicine (KAOM) testified in favor of the bill. The proponents stated the Compact would provide

an expedited process of medical licensure in multiple states. The Compact requires 7 member states to become effective and the proponents testified there are currently 12 member states. No opponent or neutral testimony was provided.

At the Senate Committee on Public Health and Welfare hearing, Representative Kelly testified in favor of the bill stating the bill would help alleviate physician shortages and would increase access to healthcare for individuals in underserved or rural areas. Representatives of the Board, KAOM, and KMS also testified in favor of the bill. There was no neutral or opponent testimony.

The Senate Committee amended the bill to change the effective date from publication in the statute book to publication in the *Kansas Register*.

According to the fiscal note prepared by the Division of the Budget on the original bill, the Board indicates the enactment of the bill would increase expenditures by $3,000 in FY 2016 and $6,000 in FY 2017 for the cost of travel to Commission meetings. The Board also estimates approximately ten medical doctors licenses would be issued licenses through the Compact during FY 2017 at a renewal cost of $320 each and this licensure would increase revenue to the Healing Arts Fee Fund by $3,200. The fiscal note also states the enactment of the bill would have no fiscal effect for the Office of the Attorney General. Any fiscal effect associated with the bill is not reflected in *The FY 2017 Governor's Budget Report*.