

# INTERSTATE COMPACTS FOR OCCUPATIONAL LICENSING

## BACKGROUND

In August 2021, staff from the Department of Defense (DOD) contacted the State Administration and Veterans' Affairs and Economic Affairs Interim Committees to share DOD priorities for military families for the upcoming year, highlighting occupational licensing for military spouses and licensing compacts. Both committees directed staff to gather information about the issues and how they are currently being addressed in Montana. This briefing paper is intended to serve as a high-level summary of those findings. A memo and data sheet from the Montana Department of Labor and Industry are attached and include additional information.

## WHAT IS AN INTERSTATE COMPACT?

Interstate compacts are authorized in Article I, Section 10 of the U.S. Constitution. Historically used to settle boundary disputes between a pair of neighboring states, modern day interstate compacts are contracts between two or more states used to address common problems, adopt standards, and create agreements on policy issues.

Interstate compacts are used for a variety of policy areas, including transportation, taxation, environmental matters, education, public safety, corrections, and occupational licensing.

## BENEFITS AND DRAWBACKS OF INTERSTATE COMPACTS

The growing use of interstate compacts is largely a function of their potential for states to address shared problems, promote a common agenda, or produce collective goods. Further, by joining a compact, a state can reduce the costs associated with policy design and experimentation.

BENEFITS	DRAWBACKS
<ul style="list-style-type: none"> <li>• Effective and efficient (economies of scale)</li> <li>• Flexible and autonomous compared to national policy</li> <li>• Dispute settlement among the states</li> <li>• State and Federal partnership – "collective cooperation"</li> </ul>	<ul style="list-style-type: none"> <li>• Difficult and time-consuming to develop and implement</li> <li>• Difficult to revise once enacted</li> <li>• Compacts may need congressional approval</li> <li>• Language of the compact may not align with the state's intent for the topic</li> </ul>

## INTERSTATE COMPACTS FOR OCCUPATIONAL LICENSING

Interstate compacts create mobility and portability of occupational licenses. A licensee who is a member of a compact has an easier time relocating to different states if both states are members of the compact. Interstate compacts for occupational licensing were developed to create reciprocal professional licensing practices between states, while ensuring the quality and safety of the services and maintaining the sovereignty of the states involved.

Depending on how the compact is structured, the licensee may be able to retain licensure in a "home state" and establish a "privilege to practice" in a member state through the compact, or the compact may simply reduce the application time for a licensee and create efficiencies in processing with standardized requirements.

## OCCUPATIONAL LICENSING IN MONTANA

The Montana Department of Labor and Industry (DLI) oversees the professional licensing boards for the state. MCA Title 37 provides for general duties and authority of the Department and the boards, as well as uniform professional licensing and regulation procedures.

Occupational licensing standards are set by the individual professional boards. There are 37 professional boards in the state, with certain boards governing multiple professions. For example, the Board of Medical Examiners oversees physicians, podiatrists, acupuncturists, nutritionists, and physician assistants.

Under 37-1-131, MCA, each board has the authority to:

"(1)(a)(i) set and enforce standards and adopt and enforce rules governing the licensing, certification, registration, and conduct of the members of the particular profession or occupation within the board's jurisdiction;"

Within the authority of each board is the review and adoption of interstate compacts. Montana has adopted three occupational licensure compacts to date:

- Physical Therapy Compact (PT)
- Interstate Medical Licensure Compact (IMLC)
- Enhanced Nurse Licensure Compact (ENLC)

While most boards have not adopted an interstate compact, 37-1-304, MCA, states that an applicant who holds a current, valid license from another state is exempt from examination, and shall be granted a license by the board within certain parameters.

Many boards issue temporary licenses to out-of-state applicants so licensees can begin work while the application is pending approval. This uniform statute allows for flexibility and portability for out-of-state applicants who move to Montana with current professional licenses.

According to DLI, 59.6% of licenses issued from FY 2018 to FY 2021 were to out-of-state applicants and the average number of days to issue these licenses was 18.95 calendar days.

## DOD INITIATIVE TO SUPPORT MILITARY FAMILIES

The DOD, through their Defense-State Liaison Office (DSLO), works with state policymakers to adjust state laws and policies to improve active military family well-being. Each year, the DSLO focuses on 10 key issues. For 2022, the top three are:

- Enhanced Military Spouse Licensure Portability
- Military Spouse Occupational Licensure Access
- Licensing Compacts

Many military spouses must relicense each time they move to a new state with their active-duty spouse. In order to reduce obstacles for military spouses, the DSLO is encouraging states to adopt the following licensing compacts:

- Nurse Licensure (NLC)
- Advanced Practice Registered Nurse (APRN)
- Physical Therapy (PT)
- Occupational Therapy (OT)
- Emergency Medical Services (EMS)
- Psychology Interjurisdictional Compact (PSYPACT)
- Counseling Compact
- Audiology and Speech-Language-Hearing Interstate Compact (ASLP-IC)

## ACTIVE MILITARY FAMILIES IN MONTANA

In Montana, there are currently over 3,200 active military personnel assigned to Malmstrom Air Force Base in Great Falls and an additional 100 active military members spread across the state, primarily in Butte, Missoula, and Bozeman. Their assignment to Montana typically runs about 3 years. Along with these individuals, there are more than 2,400 active duty dependents – spouses and children – in Montana.

## COMPARING DOD REQUESTS TO MT PRACTICE

ENHANCED MILITARY SPOUSE LICENSURE PORTABILITY	
<b>DOD Request:</b> <ul style="list-style-type: none"> <li>• Streamline state licensing processes for relocating military spouses by providing them with a license within 30 days with minimal initial paperwork</li> </ul>	<b>MT Practice:</b> <ul style="list-style-type: none"> <li>• Average processing time for FY18- FY21 was 18.95 calendar days; average time decreased over the period measured even with a steady increase of applications</li> <li>• Current state statute expedites out-of-state applications (37-1-304, MCA)</li> <li>• 1.5% of total applications received are required to be reviewed by the relevant licensing board and of those, 0.02% are denied</li> </ul>

**MILITARY SPOUSE OCCUPATIONAL LICENSURE ACCESS****DOD Request:**

- Reduce obstacles military spouses experience when applying under state laws by posting easily accessible website content specific to military spouses

**MT Practice:**

- DLI website enhancement effort – ongoing project to offer specific presentation space, guidance, and FAQs for active military and military spouse applicants; will include customer service assistance to get licensed by reciprocity or by equivalent military experience as applicable
- Comprehensive remodel of DLI application processes and software to reduce barriers

**LICENSING COMPACTS****DOD Request:**

- Facilitate the ability of military spouses to work across state lines by enacting occupational licensure interstate compacts

**MT Practice:**

- Already participate in the Physical Therapy Compact (PT), Interstate Medical Licensure Compact (IMLC), and Enhanced Nurse Licensure Compact (ENLC)
- Average processing time for FY18- FY21 was 18.95 calendar days
- Current state statute expedites out-of-state applications (37-1-304, MCA)

**SUMMARY**

After reviewing existing law in Montana, speaking with DLI representatives, reviewing data provided by DLI, and comparing the findings to the information provided by the DOD, it appears that the requests from the DOD are either already being met or are in progress towards being met. Even in professions not currently participating in compacts, the state still has measures in place to clearly communicate the application process and to help facilitate speedy licensure to all out-of-state applicants, including military spouses.

**SOURCES:**

- <https://compacts.csg.org/>
- <https://compacts.csg.org/compacts/>
- <https://counselingcompact.org/wp-content/uploads/2021/08/CC-Summit-Slides-2021.pdf>
- [https://licensing.csg.org/wp-content/uploads/2020/04/OL\\_Compacts\\_InAction\\_Update\\_APR\\_2020-3.pdf](https://licensing.csg.org/wp-content/uploads/2020/04/OL_Compacts_InAction_Update_APR_2020-3.pdf)
- <https://statepolicy.militaryonesource.mil/faq>
- <https://statepolicy.militaryonesource.mil/#key-issues-report>
- [https://www.malmstrom.af.mil/Portals/43/FY20%20EIA%20Factcard\\_1.jpg](https://www.malmstrom.af.mil/Portals/43/FY20%20EIA%20Factcard_1.jpg)
- Montana Department of Labor and Industry
- Department of Defense & Northwest Region Defense-State Liaison Office



To: Rebecca Power, Legislative Research Analyst  
State Administration and Veterans' Affairs Interim Committee  
From: David Cook, Business Standards Division, Deputy Division Administrator  
Colleen White, Attorney  
Date: October 21, 2021

### **Spreadsheet Parameters**

The accompanying spreadsheet includes seven licensing boards identified by committee staff and 16 associated license types from FY 2018-2021 and includes for each license type:

- Total number of licenses issued from completed applications
- Number of total licenses issued that were out of state applicants
- Number of licenses denied for all types of applicants (out of state and original by examination)
- Average **calendar** days from application filing to issuance of license
- Number of total applications that must be heard at a regularly scheduled board meeting – i.e., nonroutine (NR) because they involve lack of qualifications or misconduct
- The only license types currently under mutual recognition compacts in this state are Registered Nurses, (enacted prior to the data capture in FY 2018) and Physical Therapists (beginning in FY 2022 after data capture). The physician's "compact" differs in that it only facilitates individual state licensure, it does not issue a compact license granting mutual recognition to practice in multiple states.

### **Conclusions from Data**

1. Over the period examined, an average of 59.6% of total licenses issued arise from out of state applications. Due to current database configurations, the number of license denials, average days to issue a license, and number of nonroutine applications are based on all completed applications received. Notably, physicians have a much higher average of 84% of out of state applications of the total received because of the lack of educational and residency opportunities in this state.

2. Total applications include only compact applicants who are seeking their compact license from Montana as the home state; registered nurses and physical therapists on compact licenses who are temporarily working in Montana are not tracked in this data: Montana would have no reason to know these persons are even in Montana.

3. One and one-half percent (1.5%) of total applications received are required to be reviewed by the board as nonroutine for lack of qualifications or misconduct issues. Only two tenths of a percent (0.02%) of all applications are denied.

4. Over the period examined, the average number of days to license generally declined, even in the face of increasing applications. In the case of psychologists, consistent with efforts by the Division to urge the board to discontinue treating all applications as nonroutine and to discontinue

administering an oral examination, the number of nonroutine applications have been cut in half in the last fiscal year. The average number of days is expected to fall further after the department and board bill passed in 2021 (SB 90) to reduce burdensome and unnecessary license requirements on psychologists applying from other states.

5. The average number of days to issue a license from the date the application is received ranges for each license types approximately two to three weeks. The aggregate average number of days for all license types is 18.95 days. The factors that cause delays are discussed below.

### **Days to Issue License**

1. **DOJ-FBI fingerprint/background check** – This process is dictated by the U.S. and Montana Departments of Justice and impacts four of the seven boards listed on the spreadsheet: Nursing, Behavioral Health, Physical Therapy, and Medical Compact Physicians. Under federal regulations, these applicants must first apply with the Division to sign authorizations for the Division to legally receive and possess the criminal background results. The length of time is controlled by (1) when the applicant presents to a law enforcement agency to capture fingerprints, (2) when the applicant subsequently submits those prints to MDOJ, and (3) how long it takes the FBI and MDOJ to process the results and deliver them to the Division. Depending on the MDOJ/FBI backlog, this process generally takes from between two to six weeks from the time MDOJ receives the fingerprints to the time the Division receives the results. The department would consider legislation to authorize issuance of a temporary license pending the receipt of the DOJ-FBI fingerprint background check (as it now does with license verifications from other states) absent a conflict with compact law.

2. **Applicant engagement and responsiveness** – Most applicants apply early and submit complete information; it is likely that some, for reasons that are either beyond their control or because of personal choice, file their applications late in the process of relocating to Montana or expecting to report for work. The Division encourages and the online system allows for filing an application to start the process and subsequently prompt the applicant for additional information as necessary to allow staff to begin working the application to determine if the applicant meets the standards set by the legislature and board. The Division routinely has applicants who fail to follow up on incomplete applications in a timely manner or abandon the application altogether. These delays are outside of the control of the Division.

3. **Board Review of Nonroutine Application** – Nonroutine applications are applications where staff identify evidence of a failure to meet the qualifications for licensure, which they are required to do within 10 days of receipt of a completed application. Nonroutine applications must be reviewed by the full board. Depending on when the application is received and the nonroutine determination is made, delays of up to 90 days can occur depending on board meeting schedules and demand. The Division attempts to mitigate this type of delay. As shown in the data, the number of nonroutine applications is very small, but can have a significant impact on the average number of days to license.

4. **Testing** – For license types that require board approval or other condition to take the exam after application, delays in registering for, preparing, and taking or retaking the exam on the part of the applicant and sending the results from the exam provider to the board office can delay processing the application and issuing the license. A temporary license is available to applicants awaiting exam, but requires additional maneuvering, e.g., nurses must have a nursing supervisor



designated on the temporary license. However, under current law, fingerprinting is still a prerequisite for the temporary license.

### **Compact Information**

The Division does not believe that failure to join a compact slows down the licensing process in a significant manner.

Non-military compact members who move their residence to Montana are required to make license application and designate Montana as their “home state,” which involves filing an application and the associated fingerprinting and license verification procedures. Individuals who become licensed for the first time and wish to obtain a compact license in Montana must also file an application and undergo fingerprinting.

While the nursing and physical therapy compacts allow military members and their spouses to choose whether to register in the new state or maintain their original home state under the compact license, given that there is only one military base in Montana and we don’t know the number of military members coming into Montana or the number of those that seek a license in this state, the Division’s focus has been to improve license portability for all out of state applicants regardless of their military association. (See description below of website enhancements for military applicants).

Each compact must be evaluated on its individual terms in relation to how variable the state-to-state requirements for licensure are. States may hesitate to join a compact that has very few member states and, because applicants will continue to come from non-member states, it continues to be important to provide an efficient process for license portability.

### **Department Efforts to Address License Portability**

1. **Website Enhancement** – When complete, this project will offer specific presentation space and guidance (FAQs) for active military and military spouses license applicants to encourage early application and customer service assistance to get licensed by reciprocity or by equivalent military experience, as applicable.

2. **Comprehensive Remodel of Application Processes and Software** – Recent programming updates have added a fast-track component to many licenses and will continue to seek out pathways to reduce barriers to licensure, especially for applicants where license portability is a supreme issue such as with active military and their spouses who hold credentials in other states.

3. **Current statute expedites out of state applications** – Montana has the authority under § 37-1-304, MCA, to issue reciprocal licenses from jurisdictions that have substantially equivalent standards at the time of application to Montana without examination. This expedited license process applies to all applicants, including military members and their spouses. The department will continue working with boards to interpret the term “substantially equivalent” broadly and avoid decision making that implicates unreasonable restraint of trade. The Division will continue to leverage the existing statute, including possible division-wide rulemaking, to increase license portability and decrease licensing times, while maintaining the public safety component of our mission.

Board	License type	FY 2018					FY 2019					FY 2020					FY 2021				
		Total Lic	Out of State Apps	# Denied	Avg. # calendar days to License	# of Non Routine*	Total Lic	Out of State Apps	# Denied	Avg. # calendar days to License	# of Non Routine*	Total Lic	Out of State Apps	# Denied	Avg. # calendar days to License	# of Non Routine*	Total Lic	Out of State Apps	# Denied	Avg. # calendar days to License	# of Non Routine*
Nursing	Registered Nurse RN	1680	1119	0	27.4	13	1631	1086	2	31.1	18	1688	1100	1	29.6	16	2003	1279	0	32.7	15
	Practical Nurse LPN	150	75	0	29.1		120	64	0	30.5		118	64	0	28.9		122	68	0	25.8	
	APRN	218	133	0	24.7		257	148	0	19.9		314	227	1	20.8		513	405	0	26.9	
Behavioral Health	Professional Counselor LCPC	118	28	0	18.6	10	110	30	0	20.5	15	116	37	0	14.2	12	138	46	0	9.8	9
	Social Worker LCSW	87	25	0	13.9		117	53	0	10.5		101	40	0	9.1		135	60	0	7.7	
	Marriage Therapist LMFT	9	8	0	26.4		13	11	0	21.5		23	19	0	16.5		20	18	0	12.8	
Medical	Emergency Medical Responder EMR	49	7	0	25.2	27	70	8	0	15.2	18	56	8	0	9.9	14	43	1	0	7.2	22
	Emergency Medical Technician EMT	646	154	0	19.7		791	151	0	15.9		694	201	0	9.2		775	142	0	6.8	
	Advanced EMT AEMT	16	9	0	20.4		22	12	0	16.0		43	24	0	10.8		33	14	0	7.0	
	Paramedic	125	88	0	21.5		125	80	0	18.2		180	136	0	10.1		119	92	0	10.4	
	Physician	582	504	0	17.0		863	694	0	12.6		899	643	0	10.4		761	738	0	12.4	
Speech Language	Speech Pathologist	61	35	0	10.4	0	63	43	0	13.2	0	62	49	0	12.2	0	76	49	0	11.2	0
	Audiologist	12	8	0	11.8		14	13	0	12.1		12	11	0	11.7		15	12	0	14.6	
Psychology	Psychologist	13	9	0	66.4	13	17	9	0	71.6	12	11	5	0	59.8	11	26	18	0	31.2	14
Occupational Therapy	Occupational Therapist	62	40	0	9.9	8	75	46	0	7.9	5	71	42	0	5.7	0	85	62	0	5.4	0
Physical Therapy	Physical Therapist	131	110	0	18.1	2	146	113	0	11.9	2	112	93	0	20.3	2	202	94	0	23.1	3
	Totals	3959	2352	0	22.5	73	4434	2561	2	20.5	70	4500	2699	2	17.5	55	5066	3098	0	15.3	63
*NR = Non-Routine applications which require presentation to the board for review and decision - longer processing times.																					

Totals Licenses in 4 years	17,959
Total from Out of State Applicants	10,710
% of Out of State Applicants	59.6%
Number of license denials in 4 years	4
% of denials for total licenses issued	0.02%
Number of Non-Routine applicants in 4 Years	261
% of Non-Routine for total licenses	1.5%
Average license calendar days for all listed licenses in	18.95 Days