Memo

To: South Dakota Professional Associations, Members and Staff
From: Kelsey Smith & Ellie Bailey, Office of the Governor
Re: Licensure Compact
Date: January 04, 2018

Background and Introduction
Workforce development is not a new challenge for South Dakota, and it's an issue that states across the nation face. In early August, US Department of Labor Secretary Alexander Acosta attended a workforce forum hosted by Governor Daugaard in Sioux Falls. After the governor made comments about workforce challenges and barriers professional licenses can present, the governor and Sec. Acosta agreed to take action to eliminate bureaucratic barriers to licensed occupations. Later in August, Gov. Daugaard had individual conversations with governors from Colorado, Montana, North Dakota and Wyoming. All were in agreement a licensure reciprocity compact made sense.

Since that time, staff from the US Dept. of Labor, South Dakota licensure boards and the governor's office has been working on a compact which offers a temporary, 18-month license for individuals. Our hope is for each state to follow South Dakota's lead and introduce this compact in their 2018 legislative session (2019 for North Dakota). The idea is that if you're good enough to be licensed in State A, you're good enough for a temporary license in State B.

Gov. Daugaard has asked us to share this draft with you and the following background information. For those interested, a briefing will be offered via phone and in-person on Wednesday, January 10th at 3:00pm CT.

- *In-person: Governor's Large Conference Room in the SD State Capitol, 2nd floor, 500 East Capitol Avenue, Pierre*
- *Via phone: 1.866.410.8397 / passcode: 365.105.9243#*

Purpose
The purpose of this draft legislation is to eliminate bureaucratic barriers to licensed occupations.

- The idea behind the temporary license is to give the licensee additional time to meet stricter requirements in the state to which he or she is moving.
- The state issuing the temporary license will have the authority to communicate directly with other states to ensure the applicant is in good standing in the original licensing state (no pending disciplinary actions, etc.).
- There should be a fee for the temporary license that is commensurate with what's already required.
- The temporary license should be non-renewable, unless a member state chooses to offer that option. South Dakota is not proposing renewable temporary licenses at this time.
- The board receiving the application should have limited discretion to deny the application if (1) the individual has a full license in another compacting state, (2) the individual is in good standing in all states in which he or she is licensed, or (3) the individual is ineligible based on the results of a background check.
- The bill does not require that an individual establish residency in the incoming state to be eligible for a temporary license.
- Every state would be "eligible" to join in this compact if they were to adopt the model legislation.
- The intention is that the compact cover occupational credentials for individuals, not establishments/businesses.

This will be a governor's bill introduced in the 2018 legislative session.

Questions and Comments

1. *How is this compact different from and/or work with the current state laws (SDCL 36-1B) related to expedited licensure for spouses of military personnel? Does it invalidate those statutes?*

The USDOL staff recommended we include a provision for military spouses. We pointed out that South Dakota and many other states already passed legislation to give preferential treatment to military spouses, understanding how mobile those spouses can be.

SDCL 36-1B-3 allows for the issuance of a temporary license, certificate, registration or permit. The statute specifies, however, that it applies to licenses issued pursuant to SDCL 36-1B-2. As such, there does not appear to be a conflict that would invalidate any of the statutes set forth in SDCL 36-1B.

2. *How does this compact impact existing multi-state compacts?*

Section IX of the bill addresses how the compact is intended to work with other schemes. The compact creates an additional path to licensure and is intended to coexist with other compacts. The key difference is that this compact allows for a temporary licensure.

3. *What level of licensure does the temporary license grant the licensee when there are multiple levels of licensure?*

The temporary license shouldmatch the professional license level held at the home state. Secretary Acosta's Office prepared a chart that compares licenses among Montana, Wyoming, Colorado, South Dakota, and North Dakota. See attached.

4. *Is this intended for temporary work/projects?*

An individual could utilize the compact for a short-term project but only if the project is completed within 18 months. Further, under the current draft of the bill, if an individual takes advantage of this once, there is no opportunity to renew.

5. *What is the minimum amount of info the application has to include? Can we draft our own application that requires more?*

Sec. Acosta's office has drafted a one-page application for discussion purposes, but each licensing authority can determine what works best for that occupation.

6. *The Board believes it is important to validate the knowledge of applicants on administrative rules. For permanent licenses, the board validates this knowledge through a jurisprudence examination. That examination is not contemplated in the current legislation.*

That's accurate. A board could not require an examination prior to granting the temporary license. It is within a licensee's best interest to follow South Dakota law as there may be adverse consequences for failure to do so.

7. *Who will notify the destination state if member state revokes? Is that automatic denial or revocation of a temporary license?*

The compact contemplates a reliance on state to state communication rather than a national database. Section V of the bill allows a state to ask that the home state notify the state issuing the temporary license if the home state takes adverse action against a licensee.

8. *Should there be time requirements for home states have to verify information for destination states?*

A home state has 10 days. This is set forth in Section V.

9. *How would all of the logistics for each licensing board and each state's potential for enacting the compact be documented and kept track of?*

Many compacts create some sort of oversight board that controls the compact. This compact does not. The idea is that state to state communication will allow for the compact to succeed. Further, each licensing authority or board will be required to maintain its own information in a manner that works best for that board, just as each board does now.

10. *Is "full" necessary?*

The intent of the term "full" is to include licenses with no provisions, such as a student or apprentice.

11. *Should there be language for the individual continuing to work towards a permanent license?*

There is no requirement that the individual eventually seek a regular license.

12. *How does this apply to someone who works in a state that doesn't require a license in State A, but moves to State B which does?*

The intent of this compact is to address workforce challenges and offer mobility to licensed practitioners – if you're good enough for them, you're good enough for us. The issue with the unlicensed occupations is there is no "good enough" standard proven by a license from another state.

13. *Who gets to decide if an occupation gets to opt out?*

The legislature would make that determination. This is set forth in Section VI of the compact.

Closing

The governor will be mentioning the temporary licensure compact in his State of the State Address on Tuesday, Jan. 9 at 1:00pm CT. Gov. Daugaard shares the concerns of the Trump Administration that professional licensure standards hurt the economy by creating a barrier to entering many professions. Licensure can also make it difficult for professionals to move, because each state has its own licensure requirements. Clearly, professional licensure plays an important role in protecting the public – no one wants to be operated on by an unlicensed doctor or have one's house wired by an unlicensed electrician. But we must be sure that licensure isn't used to keep qualified workers out of the market.

Thanks in advance for taking the time to review this compact. On behalf of Governor Daugaard, we look forward to working together on this important issue.