



Legislative Fiscal Bureau

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April 7, 2010

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Section 13.10 Request: Department of Regulation and Licensing, Use of Federal Economic Stimulus Funding for Interstate Licensure Portability for Health Professionals

REQUEST

The Governor has submitted a request dated March 31, 2010 for approval of the use of federal economic stimulus funding for an interstate portability project designed to implement a cross-border interstate licensure agreement that supports multi-state licensing of health professionals. The request would provide \$500,000 in stimulus funding to create a physician licensing collaboration for Wisconsin, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, and Missouri.

BACKGROUND

The U.S. Department of Health and Human Services (US DHHS), Health Resources Administration provided a funding opportunity totaling \$1.5 million in grants for a license portability initiative. Funding is provided on a one-time basis for a two-year project period. For the Midwestern project, the budget period began March 1, 2010, and is scheduled to be completed on February 28, 2012. On February 26, 2010, the US DHHS awarded \$498,000 FED for the project.

The primary goal of the initiative is to reduce statutory and regulatory barriers to telemedicine. According to the funding opportunity announcement, there are concerns among telemedicine providers about state license restrictions in working across multiple states, particularly for professionals in highly specialized fields that may travel around the country to work on rare health conditions.

ANALYSIS

The Wisconsin Medical Examining Board within the Department of Regulation and Licensing (DRL) is the midwest grant applicant, and requests Committee approval under 2009 Act 2 section 9131(1)(b) for expenditure of federal economic stimulus funds. If approved by the Committee, DRL would provide overall coordination on all grant project activities, management of the funds, subcontracting for services associated with the project, submission of required reports, and any other business associated with coordinating and conducting the grant project.

The Wisconsin Department of Regulation and Licensing entered into memorandums of agreement (MOA) with other proposed participating states in the fall of 2009, which were to act as an initial agreement to "collaboratively engage in developing an interstate licensure portability program that fosters multi-state licensure to assist in meeting the unmet healthcare needs of remote underserved populations in our mutual state-based communities."

According to the MOA, the participating states would contribute in task force meetings to help determine the criteria and implementation needs for a model interstate licensure. Participants would also agree to: (a) provide administrative staff for scheduling personnel from the member state to work on task force and implementation work group projects; (b) coordinate the selection of additional committee members that may be needed for specific work group projects; and (c) coordination with legal council for review of interstate licensure portability criteria and implementation needs of the task force and work groups.

In connection with the grant, it is anticipated that an executive committee would be formed from representatives of each state's medical board and that the chair and vice-chair would be selected by those representatives. A larger task force would include members of the executive committee, state medical societies, state insurance commissioners, telemedicine representatives, state nursing boards, legislative representatives, legal advisors, information technology advisors, and other members identified by each state.

The application identifies seven areas that would be addressed in developing a comprehensive portable license agreement: (a) cross-border enforcement; (b) ensuring the authenticity of credentials; (c) verification of credentials; (d) differences in required standards of care; (e) portability of patient compensation funds; (f) medical malpractice liability coverage and premiums based on area covered; and (g) information privacy.

The table below shows the amount of federal funding that would be provided for specific tasks and the amount of in-kind funding that would be provided by the participating states:

Funding for Health Care Licensure Portability Program

	First Year		Second Year	
	<u>Federal</u>	<u>States</u>	<u>Federal</u>	<u>States</u>
Personnel - Wisconsin		\$20,000		\$20,000
Personnel - Illinois		10,000		10,000
Personnel - Indiana		10,000		10,000
Personnel - Iowa		10,000		10,000
Personnel - Kansas		10,000		10,000
Personnel - Michigan		10,000		10,000
Personnel - Minnesota		10,000		10,000
Personnel - Private*		8,000		8,000
Project Coordinator	\$55,000		\$55,000	
Information Systems Specialist	50,000		50,000	
Travel	37,000	7,000	15,000	7,000
Database	36,000			
Office Supplies	4,000	7,000	4,000	7,000
Web Design	133,000	210,000	29,000	210,000
Legal Council	20,000	140,000		140,000
Copying and Printing	3,000	3,500	3,000	3,500
Mailing	<u>2,000</u>	<u>7,000</u>	<u>2,000</u>	<u>7,000</u>
 Total	 \$340,000	 \$462,500	 \$158,000	 \$462,500

*Marshfield Clinic would contribute 0.1 FTE in-kind position time for its Director of TeleHealth.

Wisconsin would provide the equivalent of 0.2 FTE position time for wages and fringe benefits of the Bureau Director of the Division of Board Services within DRL. The remaining states would provide 0.1 FTE of in-kind staff time. The project proposal allocates \$105,000 FED annually for 1.5 FED FTE positions, which would include 1.0 project coordinator position responsible for tracking work activities, communicating with task force members, filing required reports, and daily office activities.

The remaining 0.5 position would support an information technology specialist experienced in the database and web-server applications that would be used by the participating states (likely a structured query language (SQL) database and Microsoft Visual Studio). The information technology specialist would coordinate IT activities between private specialists and participating states. The application also calls for \$36,000 FED for a Microsoft SQL server and a web-application.

The application includes a total of \$162,000 FED for design of a standardized on-line application process and a database to handle the applications. Each state would contribute web-related staff time for work with private contractors hired for the project. Each state is expected to

contribute \$30,000 worth of staff time.

States would also be expected to donate \$20,000 worth of state legal representation within the task force's duties. In addition, \$20,000 is budgeted for independent legal counsel to review the work of the task force and to provide legal advice on regulatory issues regarding license portability.

The application calls for two centrally-located meetings, which would be attended by approximately three members per state over two-day periods. Travel costs would include airfare or mileage, meal per diems, and lodging. States would be expected to contribute \$1,000 annually for travel. Additionally, participating states would be expected to contribute \$1,000 annually for office supplies and mailing and \$500 annually for copying and printing.

It should be noted that all of the state in-kind services identified above are based on seven participating states, while the application itself and MOA's with other states would indicate that there are eight total states that would participate on the project (Missouri is included in the application and MOA, but is not shown on the table). The amount of in-kind services is solely an estimate; the federal grant does not change based on the number of participating states and does not specify a minimum match. The Department indicates that the staff resources that are devoted to the project could vary significantly depending on whether emphasis is placed on, for example, legal issues versus information technology issues that need to be overcome in order to increase portability.

Of the total amount provided for in-kind state services, an estimated \$73,500 would be provided through base level salaries and fringe benefits of DRL personnel or base level DRL supplies and services. The Department indicates that these in-kind services can be provided from base resources.

It is likely that the end product of this task force would result in some recommendations to Midwestern states regarding law and administrative rule changes that could be adopted if the states wanted to allow physicians to practice more freely across state lines. This practice could allow Wisconsinites increased access to physicians in other states through telemedicine or rotation visits. It could also allow Wisconsin physicians to expand their service area, particularly related to specialties. Further, research done under the grant could assist the Legislature in understanding ways in which to make physician licenses more portable. Given these considerations, the Committee could approve the release of stimulus funding.

Alternatively, it could be argued that Wisconsin has already established statutes and rules for the regulation of its physicians which consider protections for Wisconsin patients and do not discourage physicians from practicing in this state. While the task force recommendations would not have the force of law, the policy implications of interstate licensure portability may be such that the Committee believes Wisconsin should not participate. If the Committee believes that physicians that practice in Wisconsin should remain solely under the purview of DRL, the request could be denied.

ALTERNATIVES

1. Approve the expenditure of up to \$498,000 FED from federal stimulus funds to study an interstate licensure agreement under the s. 20.165(1)(m) appropriation within the Department of Regulation and Licensing.
2. Deny the request.

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