

## Patient Access Expansion Act – Background Information

### Overview

Physicians are thoroughly tested and re-tested during medical school and residency training. They must also pass the 3-step national examinations, with Step 1 traditionally administered after the first two years of medical school, Step 2 prior to graduation, and Step 3 after one year of residency. This rigorous testing is fundamental and essential, and this model legislation in no way changes this. It also does not alter the many additional examinations during medical school and specialty medical training.

### Commonly Used Terms

#### *Maintenance of Licensure (MOL)*

State Medical Boards currently do not require MOL, even though there is an initiative of the Federation of State Medical Boards (FSMB) to require additional periodic testing other than Continuous Medical Education (CME) credits. FSMB contemplates additional requirements which are expensive, unnecessary, and not shown to be effective in improving the quality of medical care. This legislation bans the introduction of MOL.

#### *Continuous Medical Education (CME)*

Each state medical board sets its own requirements for CME, which may vary from 0 hours to 50 hours per year. For the most part, physicians choose their own CME, generally choosing activities which are germane to their practice and which will advance the quality of their healthcare delivery. Even in states not imposing this requirement, physicians generally voluntarily obtain CME anyway. CME is an essential component of postgraduate medical learning. This legislation does not in any way alter CME requirements. Indeed, CME has greater value when physicians can choose educational activities which are relevant to their practices.

#### *Specialty Medical Board Certification*

After the completion of medical specialty training, physicians strive to obtain medical board certification. These exams can be very rigorous and expensive, with some boards requiring both written as well as oral examinations. Some have very high failure rates, limits to the number of attempts, as well as time limitations from the completion of residency. Some very highly qualified physicians have been unable to pass these specialty board examinations. State medical boards do not currently require passage of these examinations in order to practice medicine. Currently, only approximately 74.5% of U.S. physicians are specialty board certified.

#### *American Board of Medical Specialties (ABMS)*

This is the parent organization to the 24 medical specialty boards. It lobbies to create an environment in which a physician might not be able to practice medicine without being board certified and board re-certified.

#### *Maintenance of Certification (MOC)*

In the past, specialty board certification was valid for the duration of a physician's career. However, specialty medical boards are now requiring periodic re-certification exams (MOC) in order to “maintain certification”. The American Board of Pediatrics has instituted a continuous re-certification process. Specialty medical boards have been developing many hurdles that have nothing to do with quality or ability. For instance, the American Board of Obstetrics and Gynecology recently refused to offer re-certification to its physicians who treated men (except in very limited circumstances). Fortunately, public pressure prompted this board to re-think this absurd stipulation. Some of these re-certification exams are “secure”, and do not reflect the real world in which data and information is

available instantaneously. Some re-certifications intrude into physician offices and demand access to confidential patient records. Some examiners are not familiar with certain sub-specialty practices, and they themselves must be educated. Many physicians have considered these MOC activities to be expensive and irrelevant to their practices. There is no reliable data indicating that these MOC efforts are conducive to better care.

#### *American Board of Internal Medicine (ABIM)*

This specialty medical board has discovered that MOC exams have dramatically increased its revenue, and even copyrights its materials and examinations, hardly the traditional Hippocratic way of disseminating medical knowledge. Its past CEO has become CEO of National Quality Forum (NQF), while its current CEO came from NQF.

#### *National Quality Forum (NQF)*

This is a public-private partnership that determines “quality” standards for the medical community. It is largely funded by Medicare and the Robert Wood Johnson Foundation. For-profits and non-profits vie to get their products/services listed on the NQF “approved list”. This is a fertile environment for promoting rules, regulations, products, and services in the name of “quality”. These can be costly to the consumer and potentially harmful. The relationship between the ABIM MOC program and NQF is obvious.

#### *Choosing Wisely*

This is a program started by the ABIM Foundation which has spread to other specialty medical boards. Its goal is to decrease medical care, and some of its recommendations are blurred and ill-defined, if not misguided. Physicians are being advised to NOT prescribe antibiotics for children with ear infections. Physicians are being advised to NOT routinely screen for prostate cancer by performing PSA tests or digital examinations. Traditionally, physicians aim to treat disease and diagnose cancer early. Some of these recommendations are highly controversial. Physicians who fall out of line with “recommendations” of Choosing Wisely (Medical Specialty Boards) might be in jeopardy of losing MOC, and thus risk their careers. Honest, competent physicians will be conflicted between their patients' best interests and the Choosing Wisely “recommendations”.

1 **Patient Access Expansion Act**  
2 **(DRAFT, May 2, 2014)**  
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4 ***Summary***  
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6 This act prohibits the state from requiring any form of the Federation of State Medical Boards'  
7 proprietary Maintenance of Licensure program, including any Maintenance of Licensure program tied  
8 to Maintenance of Certification, as a condition of medical licensure, and additionally prohibits the state  
9 from requiring Specialty Medical Board Certification and Maintenance of Certification in order to  
10 practice medicine within the state. This act also prohibits state medical boards, and any agencies or  
11 facilities accepting state funding, from discriminating against physicians who do not maintain specialty  
12 medical board re-certification. This act in no way is intended to discourage lifelong learning or  
13 continuing medical education, and does not change the current status of physician licensure.  
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15 ***Model Policy***  
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17 **Section 1. Title.** This Act shall be known as the "Patient Access Expansion Act."  
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19 **Section 2. Definitions.**  
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21 (A) As used in this Act:  
22

23 (1) "Maintenance of Licensure" means the Federation of State Medical Boards' proprietary  
24 framework for physician license renewal, including additional periodic testing other than  
25 Continuous Medical Education. State medical boards currently do not require Maintenance of  
26 Licensure.  
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28 (2) "Continuous Medical Education" means continued postgraduate medical education intended  
29 to provide medical professionals with knowledge of new developments in their field.  
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31 (3) "Specialty Medical Board Certification" means certification by a board that specializes in  
32 one particular area of medicine and typically requires additional and more strenuous exams than  
33 state boards of medicine requirements to practice medicine.  
34

35 (4) "Maintenance of Certification" means any process requiring periodic re-certification  
36 examinations to maintain Specialty Medical Board Certification.  
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38 **Section 3. Prohibition of Maintenance of Licensure.**  
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40 The state of {insert state} is prohibited from requiring any form of Maintenance of Licensure as a  
41 condition of physician licensure, including requiring any form of Maintenance of Licensure tied to  
42 Maintenance of Certification. Current requirements, including Continuous Medical Education, shall  
43 suffice to demonstrate professional competency.  
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45 **Section 4. Prohibition of Maintenance of Certification to Practice Medicine.**  
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47 The state of {insert state} is prohibited from requiring any form of Specialty Medical Board  
48 Certification and any Maintenance of Certification to practice medicine within the state. Within the

49 state, there shall be no discrimination by the {insert state medical board}, or any other agency or  
50 facility which accepts state funds, against physicians who do not maintain Specialty Medical Board  
51 Certification, including re-certification.

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53 **Section 5. Severability Clause.**

54 **Section 6. Repealer Clause.**

55 **Section 7. Effective Date.**

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