

1 State of Arkansas
2 91st General Assembly
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4

As Engrossed: H2/22/17

A Bill

SENATE BILL 78

5 By: Senator Bledsoe
6

For An Act To Be Entitled

8 AN ACT TO REQUIRE THE ARKANSAS STATE MEDICAL BOARD TO
9 PERFORM AN ANALYSIS OF THE INTERSTATE MEDICAL
10 LICENSURE COMPACT TO DETERMINE WHETHER THE STATE OF
11 ARKANSAS SHOULD PARTICIPATE IN THE INTERSTATE MEDICAL
12 LICENSURE COMPACT; AND FOR OTHER PURPOSES.
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14

Subtitle

15 TO REQUIRE THE ARKANSAS STATE MEDICAL
16 BOARD TO PERFORM AN ANALYSIS OF THE
17 INTERSTATE MEDICAL LICENSURE COMPACT TO
18 DETERMINE WHETHER THE STATE OF ARKANSAS
19 SHOULD PARTICIPATE IN THE INTERSTATE
20 MEDICAL LICENSURE COMPACT.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. DO NOT CODIFY. Interstate Medical Licensure Compact Study.

27 (a)(1) The Arkansas State Medical Board shall conduct an analysis of
28 the Interstate Medical Licensure Compact issued by the Federation of State
29 Medical Boards to determine the practicality of enacting the compact given
30 the statutory, regulatory, and licensing processes governing the practice of
31 medicine in Arkansas.

32 (2) The analysis shall include without limitation:

33 (A) An assessment of whether participation in the compact
34 is likely to shorten the time period for medical licensure in the State of
35 Arkansas;

36 (B) A fiscal impact statement;



1 (C) An assessment of whether the compact would conflict
2 with the purposes and operations of the state-sponsored Centralized
3 Credentials Verification Service; and

4 (D) Information on the experiences of other states that
5 have joined the compact.

6 (b)(1) On or before December 1, 2017, the board shall report on the
7 findings of the analysis to:

8 (A) The Governor;

9 (B) The House Committee on Public Health, Welfare, and
10 Labor; and

11 (C) The Senate Committee on Public Health, Welfare, and
12 Labor.

13 (2) The report shall include a recommendation as to whether the
14 State of Arkansas should participate in the compact.

15 (c) After a review of the report described in subsection (b) of this
16 section, the House Committee on Public Health, Welfare, and Labor and the
17 Senate Committee on Public Health, Welfare, and Labor shall recommend to the
18 Legislative Council as to whether the State of Arkansas should participate in
19 the compact.

20 (d)(1) On or before July 1, 2018, the board shall issue
21 recommendations regarding any legislation needed based upon the
22 recommendations of the House Committee on Public Health, Welfare, and Labor
23 and the Senate Committee on Public Health, Welfare, and Labor to:

24 (A) The Governor;

25 (B) The Legislative Council;

26 (C) The House Committee on Public Health, Welfare, and
27 Labor; and

28 (D) The Senate Committee on Public Health, Welfare, and
29 Labor.

30 (2) The recommendations regarding any legislation needed shall
31 include whether the proposed legislation has received approval from the
32 Governor.

33
34 SECTION 2. DO NOT CODIFY. Full text of compact.

35 As directed in Section 1 of this act, the Arkansas State Medical Board
36 shall study the Interstate Medical Licensure Compact as set out below:

1 Interstate Medical Licensure Compact

2
3 SECTION 1. PURPOSE

4 In order to strengthen access to health care, and in recognition of the
5 advances in the delivery of health care, the member states of the Interstate
6 Medical Licensure Compact have allied in common purpose to develop a
7 comprehensive process that complements the existing licensing and regulatory
8 authority of state medical boards, provides a streamlined process that allows
9 physicians to become licensed in multiple states, thereby enhancing the
10 portability of a medical license and ensuring the safety of patients. The
11 Compact creates another pathway for licensure and does not otherwise change a
12 state's existing Medical Practice Act. The Compact also adopts the prevailing
13 standard for licensure and affirms that the practice of medicine occurs where
14 the patient is located at the time of the physician-patient encounter, and
15 therefore, requires the physician to be under the jurisdiction of the state
16 medical board where the patient is located. State medical boards that
17 participate in the Compact retain the jurisdiction to impose an adverse
18 action against a license to practice medicine in that state issued to a
19 physician through the procedures in the Compact.

20
21 SECTION 2. DEFINITIONS

22 In this compact:

23 (a) "Bylaws" means those bylaws established by the Interstate
24 Commission pursuant to Section 11 for its governance, or for directing and
25 controlling its actions and conduct.

26 (b) "Commissioner" means the voting representative appointed by each
27 member board pursuant to Section 11.

28 (c) "Conviction" means a finding by a court that an individual is
29 guilty of a criminal offense through adjudication, or entry of a plea of
30 guilt or no contest to the charge by the offender. Evidence of an entry of a
31 conviction of a criminal offense by the court shall be considered final for
32 purposes of disciplinary action by a member board.

33 (d) "Expedited License" means a full and unrestricted medical license
34 granted by a member state to an eligible physician through the process set
35 forth in the Compact.

36 (e) "Interstate Commission" means the interstate commission created

1 pursuant to Section 11.

2 (f) "License" means authorization by a state for a physician to engage
3 in the practice of medicine, which would be unlawful without the
4 authorization.

5 (g) "Medical Practice Act" means laws and regulations governing the
6 practice of allopathic and osteopathic medicine within a member state.

7 (h) "Member Board" means a state agency in a member state that acts in
8 the sovereign interests of the state by protecting the public through
9 licensure, regulation, and education of physicians as directed by the state
10 government.

11 (i) "Member State" means a state that has enacted the Compact.

12 (j) "Practice of Medicine" means the clinical prevention, diagnosis,
13 or treatment of human disease, injury, or condition requiring a physician to
14 obtain and maintain a license in compliance with the Medical Practice Act of
15 a member state.

16 (k) "Physician" means any person who:

17 (1) Is a graduate of a medical school accredited by the Liaison
18 Committee on Medical Education, the Commission on Osteopathic College
19 Accreditation, or a medical school listed in the International Medical
20 Education Directory or its equivalent;

21 (2) Passed each component of the United States Medical Licensing
22 Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing
23 Examination (COMLEX-USA) within three attempts, or any of its predecessor
24 examinations accepted by a state medical board as an equivalent examination
25 for licensure purposes;

26 (3) Successfully completed graduate medical education approved
27 by the Accreditation Council for Graduate Medical Education or the American
28 Osteopathic Association;

29 (4) Holds specialty certification or a time-unlimited specialty
30 certificate recognized by the American Board of Medical Specialties or the
31 American Osteopathic Association's Bureau of Osteopathic Specialists;

32 (5) Possesses a full and unrestricted license to engage in the
33 practice of medicine issued by a member board;

34 (6) Has never been convicted, received adjudication, deferred
35 adjudication, community supervision, or deferred disposition for any offense
36 by a court of appropriate jurisdiction;

1 (7) Has never held a license authorizing the practice of
2 medicine subjected to discipline by a licensing agency in any state, federal,
3 or foreign jurisdiction, excluding any action related to non-payment of fees
4 related to a license;

5 (8) Has never had a controlled substance license or permit
6 suspended or revoked by a state or the United States Drug Enforcement
7 Administration; and

8 (9) Is not under active investigation by a licensing agency or
9 law enforcement authority in any state, federal, or foreign jurisdiction.

10 (l) "Offense" means a felony, gross misdemeanor, or crime of moral
11 turpitude.

12 (m) "Rule" means a written statement by the Interstate Commission
13 promulgated pursuant to Section 12 of the Compact that is of general
14 applicability, implements, interprets, or prescribes a policy or provision of
15 the Compact, or an organizational, procedural, or practice requirement of the
16 Interstate Commission, and has the force and effect of statutory law in a
17 member state, and includes the amendment, repeal, or suspension of an
18 existing rule.

19 (n) "State" means any state, commonwealth, district, or territory of
20 the United States.

21 (o) "State of Principal License" means a member state where a
22 physician holds a license to practice medicine and which has been designated
23 as such by the physician for purposes of registration and participation in
24 the Compact.

25

26 SECTION 3. ELIGIBILITY

27 (a) A physician must meet the eligibility requirements as defined in
28 Section 2(k) to receive an expedited license under the terms and provisions
29 of the Compact.

30 (b) A physician who does not meet the requirements of Section 2(k) may
31 obtain a license to practice medicine in a member state if the individual
32 complies with all laws and requirements, other than the Compact, relating to
33 the issuance of a license to practice medicine in that state.

34

35 SECTION 4. DESIGNATION OF STATE OF PRINCIPAL LICENSE

36 (a) A physician shall designate a member state as the state of

1 principal license for purposes of registration for expedited licensure
2 through the Compact if the physician possesses a full and unrestricted
3 license to practice medicine in that state, and the state is:

4 (1) the state of primary residence for the physician, or

5 (2) the state where at least 25% of the practice of medicine
6 occurs, or

7 (3) the location of the physician's employer, or

8 (4) if no state qualifies under subsection (1), subsection (2),
9 or subsection (3), the state designated as state of residence for purpose of
10 federal income tax.

11 (b) A physician may redesignate a member state as state of principal
12 license at any time, as long as the state meets the requirements in
13 subsection (a).

14 (c) The Interstate Commission is authorized to develop rules to
15 facilitate redesignation of another member state as the state of principal
16 license.

17

18 SECTION 5. APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

19 (a) A physician seeking licensure through the Compact shall file an
20 application for an expedited license with the member board of the state
21 selected by the physician as the state of principal license.

22 (b) Upon receipt of an application for an expedited license, the
23 member board within the state selected as the state of principal license
24 shall evaluate whether the physician is eligible for expedited licensure and
25 issue a letter of qualification, verifying or denying the physician's
26 eligibility, to the Interstate Commission.

27 (i) Static qualifications, which include verification of medical
28 education, graduate medical education, results of any medical or licensing
29 examination, and other qualifications as determined by the Interstate
30 Commission through rule, shall not be subject to additional primary source
31 verification where already primary source verified by the state of principal
32 license.

33 (ii) The member board within the state selected as the state of
34 principal license shall, in the course of verifying eligibility, perform a
35 criminal background check of an applicant, including the use of the results
36 of fingerprint or other biometric data checks compliant with the requirements

1 of the Federal Bureau of Investigation, with the exception of federal
2 employees who have suitability determination in accordance with U.S. C.F.R. §
3 731.202.

4 (iii) Appeal on the determination of eligibility shall be made
5 to the member state where the application was filed and shall be subject to
6 the law of that state.

7 (c) Upon verification in subsection (b), physicians eligible for an
8 expedited license shall complete the registration process established by the
9 Interstate Commission to receive a license in a member state selected
10 pursuant to subsection (a), including the payment of any applicable fees.

11 (d) After receiving verification of eligibility under subsection (b)
12 and any fees under subsection (c), a member board shall issue an expedited
13 license to the physician. This license shall authorize the physician to
14 practice medicine in the issuing state consistent with the Medical Practice
15 Act and all applicable laws and regulations of the issuing member board and
16 member state.

17 (e) An expedited license shall be valid for a period consistent with
18 the licensure period in the member state and in the same manner as required
19 for other physicians holding a full and unrestricted license within the
20 member state.

21 (f) An expedited license obtained through the Compact shall be
22 terminated if a physician fails to maintain a license in the state of
23 principal licensure for a non-disciplinary reason, without redesignation of a
24 new state of principal licensure.

25 (g) The Interstate Commission is authorized to develop rules regarding
26 the application process, including payment of any applicable fees, and the
27 issuance of an expedited license.

28

29 SECTION 6. FEES FOR EXPEDITED LICENSURE

30 (a) A member state issuing an expedited license authorizing the
31 practice of medicine in that state may impose a fee for a license issued or
32 renewed through the Compact.

33 (b) The Interstate Commission is authorized to develop rules regarding
34 fees for expedited licenses.

35

36 SECTION 7. RENEWAL AND CONTINUED PARTICIPATION

1 (a) A physician seeking to renew an expedited license granted in a
2 member state shall complete a renewal process with the Interstate Commission
3 if the physician:

4 (1) Maintains a full and unrestricted license in a state of
5 principal license;

6 (2) Has not been convicted, received adjudication, deferred
7 adjudication, community supervision, or deferred disposition for any offense
8 by a court of appropriate jurisdiction;

9 (3) Has not had a license authorizing the practice of medicine
10 subject to discipline by a licensing agency in any state, federal, or foreign
11 jurisdiction, excluding any action related to non-payment of fees related to
12 a license; and

13 (4) Has not had a controlled substance license or permit
14 suspended or revoked by a state or the United States Drug Enforcement
15 Administration.

16 (b) Physicians shall comply with all continuing professional
17 development or continuing medical education requirements for renewal of a
18 license issued by a member state.

19 (c) The Interstate Commission shall collect any renewal fees charged
20 for the renewal of a license and distribute the fees to the applicable member
21 board.

22 (d) Upon receipt of any renewal fees collected in subsection (c), a
23 member board shall renew the physician's license.

24 (e) Physician information collected by the Interstate Commission
25 during the renewal process will be distributed to all member boards.

26 (f) The Interstate Commission is authorized to develop rules to
27 address renewal of licenses obtained through the Compact.

28
29 SECTION 8. COORDINATED INFORMATION SYSTEM

30 (a) The Interstate Commission shall establish a database of all
31 physicians licensed, or who have applied for licensure, under Section 5.

32 (b) Notwithstanding any other provision of law, member boards shall
33 report to the Interstate Commission any public action or complaints against a
34 licensed physician who has applied or received an expedited license through
35 the Compact.

36 (c) Member boards shall report disciplinary or investigatory

1 information determined as necessary and proper by rule of the Interstate
2 Commission.

3 (d) Member boards may report any non-public complaint, disciplinary,
4 or investigatory information not required by subsection (c) to the Interstate
5 Commission.

6 (e) Member boards shall share complaint or disciplinary information
7 about a physician upon request of another member board.

8 (f) All information provided to the Interstate Commission or
9 distributed by member boards shall be confidential, filed under seal, and
10 used only for investigatory or disciplinary matters.

11 (g) The Interstate Commission is authorized to develop rules for
12 mandated or discretionary sharing of information by member boards.

13 14 SECTION 9. JOINT INVESTIGATIONS

15 (a) Licensure and disciplinary records of physicians are deemed
16 investigative.

17 (b) In addition to the authority granted to a member board by its
18 respective Medical Practice Act or other applicable state law, a member board
19 may participate with other member boards in joint investigations of
20 physicians licensed by the member boards.

21 (c) A subpoena issued by a member state shall be enforceable in other
22 member states.

23 (d) Member boards may share any investigative, litigation, or
24 compliance materials in furtherance of any joint or individual investigation
25 initiated under the Compact.

26 (e) Any member state may investigate actual or alleged violations of
27 the statutes authorizing the practice of medicine in any other member state
28 in which a physician holds a license to practice medicine.

29 30 SECTION 10. DISCIPLINARY ACTIONS

31 (a) Any disciplinary action taken by any member board against a
32 physician licensed through the Compact shall be deemed unprofessional conduct
33 which may be subject to discipline by other member boards, in addition to any
34 violation of the Medical Practice Act or regulations in that state.

35 (b) If a license granted to a physician by the member board in the
36 state of principal license is revoked, surrendered or relinquished in lieu of

1 discipline, or suspended, then all licenses issued to the physician by member
2 boards shall automatically be placed, without further action necessary by any
3 member board, on the same status. If the member board in the state of
4 principal license subsequently reinstates the physician's license, a license
5 issued to the physician by any other member board shall remain encumbered
6 until that respective member board takes action to reinstate the license in a
7 manner consistent with the Medical Practice Act of that state.

8 (c) If disciplinary action is taken against a physician by a member
9 board not in the state of principal license, any other member board may deem
10 the action conclusive as to matter of law and fact decided, and:

11 (i) impose the same or lesser sanction(s) against the physician
12 so long as such sanctions are consistent with the Medical Practice Act of
13 that state;

14 (ii) or pursue separate disciplinary action against the
15 physician under its respective Medical Practice Act, regardless of the action
16 taken in other member states.

17 (d) If a license granted to a physician by a member board is revoked,
18 surrendered or relinquished in lieu of discipline, or suspended, then any
19 license(s) issued to the physician by any other member board(s) shall be
20 suspended, automatically and immediately without further action necessary by
21 the other member board(s), for ninety (90) days upon entry of the order by
22 the disciplining board, to permit the member board(s) to investigate the
23 basis for the action under the Medical Practice Act of that state. A member
24 board may terminate the automatic suspension of the license it issued prior
25 to the completion of the ninety (90) day suspension period in a manner
26 consistent with the Medical Practice Act of that state.

27
28 SECTION 11. INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

29 (a) The member states hereby create the "Interstate Medical Licensure
30 Compact Commission".

31 (b) The purpose of the Interstate Commission is the administration of
32 the Interstate Medical Licensure Compact, which is a discretionary state
33 function.

34 (c) The Interstate Commission shall be a body corporate and joint
35 agency of the member states and shall have all the responsibilities, powers,
36 and duties set forth in the Compact, and such additional powers as may be

1 conferred upon it by a subsequent concurrent action of the respective
2 legislatures of the member states in accordance with the terms of the
3 Compact.

4 (d) The Interstate Commission shall consist of two voting
5 representatives appointed by each member state who shall serve as
6 Commissioners. In states where allopathic and osteopathic physicians are
7 regulated by separate member boards, or if the licensing and disciplinary
8 authority is split between multiple member boards within a member state, the
9 member state shall appoint one representative from each member board. A
10 Commissioner shall be a(n):

11 (1) Allopathic or osteopathic physician appointed to a member
12 board;

13 (2) Executive director, executive secretary, or similar
14 executive of a member board; or

15 (3) Member of the public appointed to a member board.

16 (e) The Interstate Commission shall meet at least once each calendar
17 year. A portion of this meeting shall be a business meeting to address such
18 matters as may properly come before the Commission, including the election of
19 officers. The chairperson may call additional meetings and shall call for a
20 meeting upon the request of a majority of the member states.

21 (f) The bylaws may provide for meetings of the Interstate Commission
22 to be conducted by telecommunication or electronic communication.

23 (g) Each Commissioner participating at a meeting of the Interstate
24 Commission is entitled to one vote. A majority of Commissioners shall
25 constitute a quorum for the transaction of business, unless a larger quorum
26 is required by the bylaws of the Interstate Commission. A Commissioner shall
27 not delegate a vote to another Commissioner. In the absence of its
28 Commissioner, a member state may delegate voting authority for a specified
29 meeting to another person from that state who shall meet the requirements of
30 subsection (d).

31 (h) The Interstate Commission shall provide public notice of all
32 meetings and all meetings shall be open to the public. The Interstate
33 Commission may close a meeting, in full or in portion, where it determines by
34 a two-thirds vote of the Commissioners present that an open meeting would be
35 likely to:

36 (1) Relate solely to the internal personnel practices and

1 procedures of the Interstate Commission;

2 (2) Discuss matters specifically exempted from disclosure by
3 federal statute;

4 (3) Discuss trade secrets, commercial, or financial information
5 that is privileged or confidential;

6 (4) Involve accusing a person of a crime, or formally censuring
7 a person;

8 (5) Discuss information of a personal nature where disclosure
9 would constitute a clearly unwarranted invasion of personal privacy;

10 (6) Discuss investigative records compiled for law enforcement
11 purposes; or

12 (7) Specifically relate to the participation in a civil action
13 or other legal proceeding.

14 (i) The Interstate Commission shall keep minutes which shall fully
15 describe all matters discussed in a meeting and shall provide a full and
16 accurate summary of actions taken, including record of any roll call votes.

17 (j) The Interstate Commission shall make its information and official
18 records, to the extent not otherwise designated in the Compact or by its
19 rules, available to the public for inspection.

20 (k) The Interstate Commission shall establish an executive committee,
21 which shall include officers, members, and others as determined by the
22 bylaws. The executive committee shall have the power to act on behalf of the
23 Interstate Commission, with the exception of rulemaking, during periods when
24 the Interstate Commission is not in session. When acting on behalf of the
25 Interstate Commission, the executive committee shall oversee the
26 administration of the Compact including enforcement and compliance with the
27 provisions of the Compact, its bylaws and rules, and other such duties as
28 necessary.

29 (l) The Interstate Commission may establish other committees for
30 governance and administration of the Compact.

31
32 SECTION 12. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

33 The Interstate Commission shall have the duty and power to:

34 (a) Oversee and maintain the administration of the Compact;

35 (b) Promulgate rules which shall be binding to the extent and in
36 the manner provided for in the Compact;

1 (c) Issue, upon the request of a member state or member board,
2 advisory opinions concerning the meaning or interpretation of the Compact,
3 its bylaws, rules, and actions;

4 (d) Enforce compliance with Compact provisions, the rules
5 promulgated by the Interstate Commission, and the bylaws, using all necessary
6 and proper means, including but not limited to the use of judicial process;

7 (e) Establish and appoint committees including, but not limited
8 to, an executive committee as required by Section 11, which shall have the
9 power to act on behalf of the Interstate Commission in carrying out its
10 powers and duties;

11 (f) Pay, or provide for the payment of the expenses related to
12 the establishment, organization, and ongoing activities of the Interstate
13 Commission;

14 (g) Establish and maintain one or more offices;

15 (h) Borrow, accept, hire, or contract for services of personnel;

16 (i) Purchase and maintain insurance and bonds;

17 (j) Employ an executive director who shall have such powers to
18 employ, select or appoint employees, agents, or consultants, and to determine
19 their qualifications, define their duties, and fix their compensation;

20 (k) Establish personnel policies and programs relating to
21 conflicts of interest, rates of compensation, and qualifications of
22 personnel;

23 (l) Accept donations and grants of money, equipment, supplies,
24 materials and services, and to receive, utilize, and dispose of it in a
25 manner consistent with the conflict of interest policies established by the
26 Interstate Commission;

27 (m) Lease, purchase, accept contributions or donations of, or
28 otherwise to own, hold, improve or use, any property, real, personal, or
29 mixed;

30 (n) Sell, convey, mortgage, pledge, lease, exchange, abandon, or
31 otherwise dispose of any property, real, personal, or mixed;

32 (o) Establish a budget and make expenditures;

33 (p) Adopt a seal and bylaws governing the management and
34 operation of the Interstate Commission;

35 (q) Report annually to the legislatures and governors of the
36 member states concerning the activities of the Interstate Commission during

1 the preceding year. Such reports shall also include reports of financial
2 audits and any recommendations that may have been adopted by the Interstate
3 Commission;

4 (r) Coordinate education, training, and public awareness
5 regarding the Compact, its implementation, and its operation;

6 (s) Maintain records in accordance with the bylaws;

7 (t) Seek and obtain trademarks, copyrights, and patents; and

8 (u) Perform such functions as may be necessary or appropriate to
9 achieve the purposes of the Compact.

10
11 SECTION 13. FINANCE POWERS

12 (a) The Interstate Commission may levy on and collect an annual
13 assessment from each member state to cover the cost of the operations and
14 activities of the Interstate Commission and its staff. The total assessment
15 must be sufficient to cover the annual budget approved each year for which
16 revenue is not provided by other sources. The aggregate annual assessment
17 amount shall be allocated upon a formula to be determined by the Interstate
18 Commission, which shall promulgate a rule binding upon all member states.

19 (b) The Interstate Commission shall not incur obligations of any kind
20 prior to securing the funds adequate to meet the same.

21 (c) The Interstate Commission shall not pledge the credit of any of
22 the member states, except by, and with the authority of, the member state.

23 (d) The Interstate Commission shall be subject to a yearly financial
24 audit conducted by a certified or licensed public accountant and the report
25 of the audit shall be included in the annual report of the Interstate
26 Commission.

27
28 SECTION 14. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

29 (a) The Interstate Commission shall, by a majority of Commissioners
30 present and voting, adopt bylaws to govern its conduct as may be necessary or
31 appropriate to carry out the purposes of the Compact within twelve (12)
32 months of the first Interstate Commission meeting.

33 (b) The Interstate Commission shall elect or appoint annually from
34 among its Commissioners a chairperson, a vice-chairperson, and a treasurer,
35 each of whom shall have such authority and duties as may be specified in the
36 bylaws. The chairperson, or in the chairperson's absence or disability, the

1 vice-chairperson, shall preside at all meetings of the Interstate Commission.

2 (c) Officers selected in subsection (b) shall serve without
3 remuneration from the Interstate Commission.

4 (d) The officers and employees of the Interstate Commission shall be
5 immune from suit and liability, either personally or in their official
6 capacity, for a claim for damage to or loss of property or personal injury or
7 other civil liability caused or arising out of, or relating to, an actual or
8 alleged act, error, or omission that occurred, or that such person had a
9 reasonable basis for believing occurred, within the scope of Interstate
10 Commission employment, duties, or responsibilities; provided that such person
11 shall not be protected from suit or liability for damage, loss, injury, or
12 liability caused by the intentional or willful and wanton misconduct of such
13 person.

14 (1) The liability of the executive director and employees of the
15 Interstate Commission or representatives of the Interstate Commission, acting
16 within the scope of such person's employment or duties for acts, errors, or
17 omissions occurring within such person's state, may not exceed the limits of
18 liability set forth under the constitution and laws of that state for state
19 officials, employees, and agents. The Interstate Commission is considered to
20 be an instrumentality of the states for the purposes of any such action.
21 Nothing in this subsection shall be construed to protect such person from
22 suit or liability for damage, loss, injury, or liability caused by the
23 intentional or willful and wanton misconduct of such person.

24 (2) The Interstate Commission shall defend the executive
25 director, its employees, and subject to the approval of the attorney general
26 or other appropriate legal counsel of the member state represented by an
27 Interstate Commission representative, shall defend such Interstate Commission
28 representative in any civil action seeking to impose liability arising out of
29 an actual or alleged act, error or omission that occurred within the scope of
30 Interstate Commission employment, duties or responsibilities, or that the
31 defendant had a reasonable basis for believing occurred within the scope of
32 Interstate Commission employment, duties, or responsibilities, provided that
33 the actual or alleged act, error, or omission did not result from intentional
34 or willful and wanton misconduct on the part of such person.

35 (3) To the extent not covered by the state involved, member
36 state, or the Interstate Commission, the representatives or employees of the

1 Interstate Commission shall be held harmless in the amount of a settlement or
2 judgment, including attorney's fees and costs, obtained against such persons
3 arising out of an actual or alleged act, error, or omission that occurred
4 within the scope of Interstate Commission employment, duties, or
5 responsibilities, or that such persons had a reasonable basis for believing
6 occurred within the scope of Interstate Commission employment, duties, or
7 responsibilities, provided that the actual or alleged act, error, or omission
8 did not result from intentional or willful and wanton misconduct on the part
9 of such persons.

10
11 SECTION 15. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

12 (a) The Interstate Commission shall promulgate reasonable rules in
13 order to effectively and efficiently achieve the purposes of the Compact.
14 Notwithstanding the foregoing, in the event the Interstate Commission
15 exercises its rulemaking authority in a manner that is beyond the scope of
16 the purposes of the Compact, or the powers granted hereunder, then such an
17 action by the Interstate Commission shall be invalid and have no force or
18 effect.

19 (b) Rules deemed appropriate for the operations of the Interstate
20 Commission shall be made pursuant to a rulemaking process that substantially
21 conforms to the "Model State Administrative Procedure Act" of 2010, and
22 subsequent amendments thereto.

23 (c) Not later than thirty (30) days after a rule is promulgated, any
24 person may file a petition for judicial review of the rule in the United
25 States District Court for the District of Columbia or the federal district
26 where the Interstate Commission has its principal offices, provided that the
27 filing of such a petition shall not stay or otherwise prevent the rule from
28 becoming effective unless the court finds that the petitioner has a
29 substantial likelihood of success. The court shall give deference to the
30 actions of the Interstate Commission consistent with applicable law and shall
31 not find the rule to be unlawful if the rule represents a reasonable exercise
32 of the authority granted to the Interstate Commission.

33
34 SECTION 16. OVERSIGHT OF INTERSTATE COMPACT

35 (a) The executive, legislative, and judicial branches of state
36 government in each member state shall enforce the Compact and shall take all

1 actions necessary and appropriate to effectuate the Compact's purposes and
2 intent. The provisions of the Compact and the rules promulgated hereunder
3 shall have standing as statutory law but shall not override existing state
4 authority to regulate the practice of medicine.

5 (b) All courts shall take judicial notice of the Compact and the rules
6 in any judicial or administrative proceeding in a member state pertaining to
7 the subject matter of the Compact which may affect the powers,
8 responsibilities or actions of the Interstate Commission.

9 (c) The Interstate Commission shall be entitled to receive all service
10 of process in any such proceeding, and shall have standing to intervene in
11 the proceeding for all purposes. Failure to provide service of process to the
12 Interstate Commission shall render a judgment or order void as to the
13 Interstate Commission, the Compact, or promulgated rules.

14

15 SECTION 17. ENFORCEMENT OF INTERSTATE COMPACT

16 (a) The Interstate Commission, in the reasonable exercise of its
17 discretion, shall enforce the provisions and rules of the Compact.

18 (b) The Interstate Commission may, by majority vote of the
19 Commissioners, initiate legal action in the United States District Court for
20 the District of Columbia, or, at the discretion of the Interstate Commission,
21 in the federal district where the Interstate Commission has its principal
22 offices, to enforce compliance with the provisions of the Compact, and its
23 promulgated rules and bylaws, against a member state in default. The relief
24 sought may include both injunctive relief and damages. In the event judicial
25 enforcement is necessary, the prevailing party shall be awarded all costs of
26 such litigation including reasonable attorney's fees.

27 (c) The remedies herein shall not be the exclusive remedies of the
28 Interstate Commission. The Interstate Commission may avail itself of any
29 other remedies available under state law or the regulation of a profession.

30

31 SECTION 18. DEFAULT PROCEDURES

32 (a) The grounds for default include, but are not limited to, failure
33 of a member state to perform such obligations or responsibilities imposed
34 upon it by the Compact, or the rules and bylaws of the Interstate Commission
35 promulgated under the Compact.

36 (b) If the Interstate Commission determines that a member state has

1 defaulted in the performance of its obligations or responsibilities under the
2 Compact, or the bylaws or promulgated rules, the Interstate Commission shall:

3 (1) Provide written notice to the defaulting state and other
4 member states, of the nature of the default, the means of curing the default,
5 and any action taken by the Interstate Commission. The Interstate Commission
6 shall specify the conditions by which the defaulting state must cure its
7 default; and

8 (2) Provide remedial training and specific technical assistance
9 regarding the default.

10 (c) If the defaulting state fails to cure the default, the defaulting
11 state shall be terminated from the Compact upon an affirmative vote of a
12 majority of the Commissioners and all rights, privileges, and benefits
13 conferred by the Compact shall terminate on the effective date of
14 termination. A cure of the default does not relieve the offending state of
15 obligations or liabilities incurred during the period of the default.

16 (d) Termination of membership in the Compact shall be imposed only
17 after all other means of securing compliance have been exhausted. Notice of
18 intent to terminate shall be given by the Interstate Commission to the
19 governor, the majority and minority leaders of the defaulting state's
20 legislature, and each of the member states.

21 (e) The Interstate Commission shall establish rules and procedures to
22 address licenses and physicians that are materially impacted by the
23 termination of a member state, or the withdrawal of a member state.

24 (f) The member state which has been terminated is responsible for all
25 dues, obligations, and liabilities incurred through the effective date of
26 termination including obligations, the performance of which extends beyond
27 the effective date of termination.

28 (g) The Interstate Commission shall not bear any costs relating to any
29 state that has been found to be in default or which has been terminated from
30 the Compact, unless otherwise mutually agreed upon in writing between the
31 Interstate Commission and the defaulting state.

32 (h) The defaulting state may appeal the action of the Interstate
33 Commission by petitioning the United States District Court for the District
34 of Columbia or the federal district where the Interstate Commission has its
35 principal offices. The prevailing party shall be awarded all costs of such
36 litigation including reasonable attorney's fees.

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SECTION 19. DISPUTE RESOLUTION

(a) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the Compact and which may arise among member states or member boards.

(b) The Interstate Commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

SECTION 20. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

(a) Any state is eligible to become a member state of the Compact.

(b) The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than seven (7) states. Thereafter, it shall become effective and binding on a state upon enactment of the Compact into law by that state.

(c) The governors of non-member states, or their designees, shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the Compact by all states.

(d) The Interstate Commission may propose amendments to the Compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

SECTION 21. WITHDRAWAL.

(a) Once effective, the Compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the Compact by specifically repealing the statute which enacted the Compact into law.

(b) Withdrawal from the Compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) 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.

(c) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing the Compact in the withdrawing state.

(d) The Interstate Commission shall notify the other member states of

1 the withdrawing state's intent to withdraw within sixty (60) days of its
2 receipt of notice provided under subsection (c).

3 (e) The withdrawing state is responsible for all dues, obligations and
4 liabilities incurred through the effective date of withdrawal, including
5 obligations, the performance of which extend beyond the effective date of
6 withdrawal.

7 (f) Reinstatement following withdrawal of a member state shall occur
8 upon the withdrawing state reenacting the Compact or upon such later date as
9 determined by the Interstate Commission.

10 (g) The Interstate Commission is authorized to develop rules to
11 address the impact of the withdrawal of a member state on licenses granted in
12 other member states to physicians who designated the withdrawing member state
13 as the state of principal license.

14

15 SECTION 22. DISSOLUTION

16 (a) The Compact shall dissolve effective upon the date of the
17 withdrawal or default of the member state which reduces the membership in the
18 Compact to one (1) member state.

19 (b) Upon the dissolution of the Compact, the Compact becomes null and
20 void and shall be of no further force or effect, and the business and affairs
21 of the Interstate Commission shall be concluded and surplus funds shall be
22 distributed in accordance with the bylaws.

23

24 SECTION 23. SEVERABILITY AND CONSTRUCTION

25 (a) The provisions of the Compact shall be severable, and if any
26 phrase, clause, sentence, or provision is deemed unenforceable, the remaining
27 provisions of the Compact shall be enforceable.

28 (b) The provisions of the Compact shall be liberally construed to
29 effectuate its purposes.

30 (c) Nothing in the Compact shall be construed to prohibit the
31 applicability of other interstate compacts to which the states are members.

32

33 SECTION 24. BINDING EFFECT OF COMPACT AND OTHER LAWS

34 (a) Nothing herein prevents the enforcement of any other law of a
35 member state that is not inconsistent with the Compact.

36 (b) All laws in a member state in conflict with the Compact are

1 superseded to the extent of the conflict.

2 (c) All lawful actions of the Interstate Commission, including all
3 rules and bylaws promulgated by the Commission, are binding upon the member
4 states.

5 (d) All agreements between the Interstate Commission and the member
6 states are binding in accordance with their terms.

7 (e) In the event any provision of the Compact exceeds the
8 constitutional limits imposed on the legislature of any member state, such
9 provision shall be ineffective to the extent of the conflict with the
10 constitutional provision in question in that member state.

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