

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4
5 By: Senator Bledsoe
6

A Bill

SENATE BILL 78

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.
13

Subtitle

14
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 the House Committee on Public Health, Welfare,
8 and Labor and the Senate Committee on Public Health, Welfare, and Labor.

9 (2) The report shall include:

10 (A) A recommendation as to whether the State of Arkansas
11 should participate in the compact; and

12 (B) A statement as to whether the Governor approves the
13 recommendation of the board described in subdivision (b)(2)(A) of this
14 section.

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
21 SECTION 2. Arkansas Code Title 17, Chapter 95, is amended to add an
22 additional subchapter to read as follows:

23 Subchapter 10 – Interstate Medical Licensure Compact

24
25 17-95-1001. Text of compact.

26 The Interstate Medical Licensure Compact is enacted into law and
27 entered into with all other jurisdictions legally joining in the compact in
28 the form substantially as follows:

29
30 SECTION 1. PURPOSE

31 In order to strengthen access to health care, and in recognition of the
32 advances in the delivery of health care, the member states of the Interstate
33 Medical Licensure Compact have allied in common purpose to develop a
34 comprehensive process that complements the existing licensing and regulatory
35 authority of state medical boards, provides a streamlined process that allows
36 physicians to become licensed in multiple states, thereby enhancing the

1 portability of a medical license and ensuring the safety of patients. The
2 Compact creates another pathway for licensure and does not otherwise change a
3 state's existing Medical Practice Act. The Compact also adopts the prevailing
4 standard for licensure and affirms that the practice of medicine occurs where
5 the patient is located at the time of the physician-patient encounter, and
6 therefore, requires the physician to be under the jurisdiction of the state
7 medical board where the patient is located. State medical boards that
8 participate in the Compact retain the jurisdiction to impose an adverse
9 action against a license to practice medicine in that state issued to a
10 physician through the procedures in the Compact.

11

12 SECTION 2. DEFINITIONS

13 In this compact:

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

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

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

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

27 (e) "Interstate Commission" means the interstate commission created
28 pursuant to Section 11.

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

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

34 (h) "Member Board" means a state agency in a member state that acts in
35 the sovereign interests of the state by protecting the public through
36 licensure, regulation, and education of physicians as directed by the state

1 government.

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

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

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

8 (1) Is a graduate of a medical school accredited by the Liaison
9 Committee on Medical Education, the Commission on Osteopathic College
10 Accreditation, or a medical school listed in the International Medical
11 Education Directory or its equivalent;

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

17 (3) Successfully completed graduate medical education approved
18 by the Accreditation Council for Graduate Medical Education or the American
19 Osteopathic Association;

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

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

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

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

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

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

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

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

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

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

16
17 SECTION 3. ELIGIBILITY

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

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

25
26 SECTION 4. DESIGNATION OF STATE OF PRINCIPAL LICENSE

27 (a) A physician shall designate a member state as the state of
28 principal license for purposes of registration for expedited licensure
29 through the Compact if the physician possesses a full and unrestricted
30 license to practice medicine in that state, and the state is:

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

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

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

35 (4) if no state qualifies under subsection (1), subsection (2),
36 or subsection (3), the state designated as state of residence for purpose of

1 federal income tax.

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

5 (c) The Interstate Commission is authorized to develop rules to
6 facilitate redesignation of another member state as the state of principal
7 license.

8
9 SECTION 5. APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

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

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

18 (i) Static qualifications, which include verification of medical
19 education, graduate medical education, results of any medical or licensing
20 examination, and other qualifications as determined by the Interstate
21 Commission through rule, shall not be subject to additional primary source
22 verification where already primary source verified by the state of principal
23 license.

24 (ii) The member board within the state selected as the state of
25 principal license shall, in the course of verifying eligibility, perform a
26 criminal background check of an applicant, including the use of the results
27 of fingerprint or other biometric data checks compliant with the requirements
28 of the Federal Bureau of Investigation, with the exception of federal
29 employees who have suitability determination in accordance with U.S. C.F.R. §
30 731.202.

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

34 (c) Upon verification in subsection (b), physicians eligible for an
35 expedited license shall complete the registration process established by the
36 Interstate Commission to receive a license in a member state selected

1 pursuant to subsection (a), including the payment of any applicable fees.

2 (d) After receiving verification of eligibility under subsection (b)
3 and any fees under subsection (c), a member board shall issue an expedited
4 license to the physician. This license shall authorize the physician to
5 practice medicine in the issuing state consistent with the Medical Practice
6 Act and all applicable laws and regulations of the issuing member board and
7 member state.

8 (e) An expedited license shall be valid for a period consistent with
9 the licensure period in the member state and in the same manner as required
10 for other physicians holding a full and unrestricted license within the
11 member state.

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

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

20 SECTION 6. FEES FOR EXPEDITED LICENSURE

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

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

27 SECTION 7. RENEWAL AND CONTINUED PARTICIPATION

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

31 (1) Maintains a full and unrestricted license in a state of
32 principal license;

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

36 (3) Has not had a license authorizing the practice of medicine

1 subject to discipline by a licensing agency in any state, federal, or foreign
2 jurisdiction, excluding any action related to non-payment of fees related to
3 a license; and

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

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

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

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

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

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

19
20 SECTION 8. COORDINATED INFORMATION SYSTEM

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

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

27 (c) Member boards shall report disciplinary or investigatory
28 information determined as necessary and proper by rule of the Interstate
29 Commission.

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

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

35 (f) All information provided to the Interstate Commission or
36 distributed by member boards shall be confidential, filed under seal, and

1 used only for investigatory or disciplinary matters.

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

4
5 SECTION 9. JOINT INVESTIGATIONS

6 (a) Licensure and disciplinary records of physicians are deemed
7 investigative.

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

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

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

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

20
21 SECTION 10. DISCIPLINARY ACTIONS

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

26 (b) If a license granted to a physician by the member board in the
27 state of principal license is revoked, surrendered or relinquished in lieu of
28 discipline, or suspended, then all licenses issued to the physician by member
29 boards shall automatically be placed, without further action necessary by any
30 member board, on the same status. If the member board in the state of
31 principal license subsequently reinstates the physician's license, a license
32 issued to the physician by any other member board shall remain encumbered
33 until that respective member board takes action to reinstate the license in a
34 manner consistent with the Medical Practice Act of that state.

35 (c) If disciplinary action is taken against a physician by a member
36 board not in the state of principal license, any other member board may deem

1 the action conclusive as to matter of law and fact decided, and:

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

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

8 (d) If a license granted to a physician by a member board is revoked,
9 surrendered or relinquished in lieu of discipline, or suspended, then any
10 license(s) issued to the physician by any other member board(s) shall be
11 suspended, automatically and immediately without further action necessary by
12 the other member board(s), for ninety (90) days upon entry of the order by
13 the disciplining board, to permit the member board(s) to investigate the
14 basis for the action under the Medical Practice Act of that state. A member
15 board may terminate the automatic suspension of the license it issued prior
16 to the completion of the ninety (90) day suspension period in a manner
17 consistent with the Medical Practice Act of that state.

18
19 SECTION 11. INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

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

22 (b) The purpose of the Interstate Commission is the administration of
23 the Interstate Medical Licensure Compact, which is a discretionary state
24 function.

25 (c) The Interstate Commission shall be a body corporate and joint
26 agency of the member states and shall have all the responsibilities, powers,
27 and duties set forth in the Compact, and such additional powers as may be
28 conferred upon it by a subsequent concurrent action of the respective
29 legislatures of the member states in accordance with the terms of the
30 Compact.

31 (d) The Interstate Commission shall consist of two voting
32 representatives appointed by each member state who shall serve as
33 Commissioners. In states where allopathic and osteopathic physicians are
34 regulated by separate member boards, or if the licensing and disciplinary
35 authority is split between multiple member boards within a member state, the
36 member state shall appoint one representative from each member board. A

1 Commissioner shall be a(n):

2 (1) Allopathic or osteopathic physician appointed to a member
3 board;

4 (2) Executive director, executive secretary, or similar
5 executive of a member board; or

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

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

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

14 (g) Each Commissioner participating at a meeting of the Interstate
15 Commission is entitled to one vote. A majority of Commissioners shall
16 constitute a quorum for the transaction of business, unless a larger quorum
17 is required by the bylaws of the Interstate Commission. A Commissioner shall
18 not delegate a vote to another Commissioner. In the absence of its
19 Commissioner, a member state may delegate voting authority for a specified
20 meeting to another person from that state who shall meet the requirements of
21 subsection (d).

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

27 (1) Relate solely to the internal personnel practices and
28 procedures of the Interstate Commission;

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

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

33 (4) Involve accusing a person of a crime, or formally censuring
34 a person;

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

1 (6) Discuss investigative records compiled for law enforcement
2 purposes; or

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

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

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

11 (k) The Interstate Commission shall establish an executive committee,
12 which shall include officers, members, and others as determined by the
13 bylaws. The executive committee shall have the power to act on behalf of the
14 Interstate Commission, with the exception of rulemaking, during periods when
15 the Interstate Commission is not in session. When acting on behalf of the
16 Interstate Commission, the executive committee shall oversee the
17 administration of the Compact including enforcement and compliance with the
18 provisions of the Compact, its bylaws and rules, and other such duties as
19 necessary.

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

22
23 SECTION 12. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

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

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

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

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

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

34 (e) Establish and appoint committees including, but not limited
35 to, an executive committee as required by Section 11, which shall have the
36 power to act on behalf of the Interstate Commission in carrying out its

1 powers and duties;

2 (f) Pay, or provide for the payment of the expenses related to
3 the establishment, organization, and ongoing activities of the Interstate
4 Commission;

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

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

7 (i) Purchase and maintain insurance and bonds;

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

11 (k) Establish personnel policies and programs relating to
12 conflicts of interest, rates of compensation, and qualifications of
13 personnel;

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

18 (m) Lease, purchase, accept contributions or donations of, or
19 otherwise to own, hold, improve or use, any property, real, personal, or
20 mixed;

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

23 (o) Establish a budget and make expenditures;

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

26 (q) Report annually to the legislatures and governors of the
27 member states concerning the activities of the Interstate Commission during
28 the preceding year. Such reports shall also include reports of financial
29 audits and any recommendations that may have been adopted by the Interstate
30 Commission;

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

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

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

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

1
2 SECTION 13. FINANCE POWERS

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

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

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

14 (d) The Interstate Commission shall be subject to a yearly financial
15 audit conducted by a certified or licensed public accountant and the report
16 of the audit shall be included in the annual report of the Interstate
17 Commission.

18
19 SECTION 14. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

24 (b) The Interstate Commission shall elect or appoint annually from
25 among its Commissioners a chairperson, a vice-chairperson, and a treasurer,
26 each of whom shall have such authority and duties as may be specified in the
27 bylaws. The chairperson, or in the chairperson's absence or disability, the
28 vice-chairperson, shall preside at all meetings of the Interstate Commission.

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

31 (d) The officers and employees of the Interstate Commission shall be
32 immune from suit and liability, either personally or in their official
33 capacity, for a claim for damage to or loss of property or personal injury or
34 other civil liability caused or arising out of, or relating to, an actual or
35 alleged act, error, or omission that occurred, or that such person had a
36 reasonable basis for believing occurred, within the scope of Interstate

1 Commission employment, duties, or responsibilities; provided that such person
2 shall not be protected from suit or liability for damage, loss, injury, or
3 liability caused by the intentional or willful and wanton misconduct of such
4 person.

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

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

26 (3) To the extent not covered by the state involved, member
27 state, or the Interstate Commission, the representatives or employees of the
28 Interstate Commission shall be held harmless in the amount of a settlement or
29 judgment, including attorney's fees and costs, obtained against such persons
30 arising out of an actual or alleged act, error, or omission that occurred
31 within the scope of Interstate Commission employment, duties, or
32 responsibilities, or that such persons had a reasonable basis for believing
33 occurred within the scope of Interstate Commission employment, duties, or
34 responsibilities, provided that the actual or alleged act, error, or omission
35 did not result from intentional or willful and wanton misconduct on the part
36 of such persons.

1
2 SECTION 15. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

3 (a) The Interstate Commission shall promulgate reasonable rules in
4 order to effectively and efficiently achieve the purposes of the Compact.
5 Notwithstanding the foregoing, in the event the Interstate Commission
6 exercises its rulemaking authority in a manner that is beyond the scope of
7 the purposes of the Compact, or the powers granted hereunder, then such an
8 action by the Interstate Commission shall be invalid and have no force or
9 effect.

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

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

24
25 SECTION 16. OVERSIGHT OF INTERSTATE COMPACT

26 (a) The executive, legislative, and judicial branches of state
27 government in each member state shall enforce the Compact and shall take all
28 actions necessary and appropriate to effectuate the Compact's purposes and
29 intent. The provisions of the Compact and the rules promulgated hereunder
30 shall have standing as statutory law but shall not override existing state
31 authority to regulate the practice of medicine.

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

36 (c) The Interstate Commission shall be entitled to receive all service

1 of process in any such proceeding, and shall have standing to intervene in
2 the proceeding for all purposes. Failure to provide service of process to the
3 Interstate Commission shall render a judgment or order void as to the
4 Interstate Commission, the Compact, or promulgated rules.

5
6 SECTION 17. ENFORCEMENT OF INTERSTATE COMPACT

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

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

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

21
22 SECTION 18. DEFAULT PROCEDURES

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

27 (b) If the Interstate Commission determines that a member state has
28 defaulted in the performance of its obligations or responsibilities under the
29 Compact, or the bylaws or promulgated rules, the Interstate Commission shall:

30 (1) Provide written notice to the defaulting state and other
31 member states, of the nature of the default, the means of curing the default,
32 and any action taken by the Interstate Commission. The Interstate Commission
33 shall specify the conditions by which the defaulting state must cure its
34 default; and

35 (2) Provide remedial training and specific technical assistance
36 regarding the default.

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

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

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

15 (f) The member state which has been terminated is responsible for all
16 dues, obligations, and liabilities incurred through the effective date of
17 termination including obligations, the performance of which extends beyond
18 the effective date of termination.

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

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

28
29 SECTION 19. DISPUTE RESOLUTION

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

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

35
36 SECTION 20. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

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

2 (b) The Compact shall become effective and binding upon legislative
3 enactment of the Compact into law by no less than seven (7) states.

4 Thereafter, it shall become effective and binding on a state upon enactment
5 of the Compact into law by that state.

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

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

13
14 SECTION 21. WITHDRAWAL.

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

19 (b) Withdrawal from the Compact shall be by the enactment of a statute
20 repealing the same, but shall not take effect until one (1) year after the
21 effective date of such statute and until written notice of the withdrawal has
22 been given by the withdrawing state to the governor of each other member
23 state.

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

27 (d) The Interstate Commission shall notify the other member states of
28 the withdrawing state's intent to withdraw within sixty (60) days of its
29 receipt of notice provided under subsection (c).

30 (e) The withdrawing state is responsible for all dues, obligations and
31 liabilities incurred through the effective date of withdrawal, including
32 obligations, the performance of which extend beyond the effective date of
33 withdrawal.

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

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

5
6 SECTION 22. DISSOLUTION

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

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

14
15 SECTION 23. SEVERABILITY AND CONSTRUCTION

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

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

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

23
24 SECTION 24. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

27 (b) All laws in a member state in conflict with the Compact are
28 superseded to the extent of the conflict.

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

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

34 (e) In the event any provision of the Compact exceeds the
35 constitutional limits imposed on the legislature of any member state, such
36 provision shall be ineffective to the extent of the conflict with the

1 constitutional provision in question in that member state.

2
3 17-95-1002. Interstate Medical Licensure Compact Commission.

4 (a) The members of the Interstate Medical Licensure Compact Commission
5 created under § 17-95-1001 shall be:

6 (1) Participating members of the Arkansas State Medical Board;
7 and

8 (2) Appointed by the Chair of the Arkansas State Medical Board,
9 subject to confirmation by the Senate.

10 (b) The commission shall have the powers and duties granted under §
11 17-95-1001.

12
13 17-95-1003. Implementation.

14 (a) The Arkansas State Medical Board may only disclose information
15 about an individual pursuant to the Interstate Medical Licensure Compact if
16 the information meets all of the following criteria:

17 (1) Either:

18 (A) The individual has a current expedited license granted
19 by the board pursuant to the compact;

20 (B) The individual has a current expedited license granted
21 by another member state or is applying to receive an expedited license in
22 another member state, and Arkansas is currently designated as his or her
23 state of principal license;

24 (C) The individual is requesting to designate Arkansas as
25 his or her state of principal license pursuant to the compact; or

26 (D) The individual is applying to receive an expedited
27 license to practice in Arkansas pursuant to the compact;

28 (2) The information is provided only to a member state board
29 with responsibility for authorizing the practice of medicine in the member
30 state or to the Interstate Medical Licensure Compact Commission;

31 (3) All identifying information of an individual or entity other
32 than the individual being investigated or disciplined is removed if the
33 information pertains to an investigation or discipline; and

34 (4) The information is not confidential under the laws of this
35 state.

36 (b) A subpoena issued pursuant to § 17-95-1001 shall only be

1 enforceable in this state or against a citizen of this state if all of the
 2 following applies:

3 (1) The subpoena is issued by a member state board with
 4 responsibility for authorizing the practice of medicine in a member state;
 5 and

6 (2) The individual is a physician with a current expedited
 7 license granted by either:

8 (A) The board under the compact; or

9 (B) Another member state and Arkansas is currently
 10 designated as the state of principal license for the physician.

11 (c) In applying § 17-95-1001, the board may only undertake
 12 investigations of a violation of another state statute authorizing the
 13 practice of medicine if the physician being investigated has a current
 14 expedited license that was granted by:

15 (1) The board and a current expedited license that was granted
 16 by the other state under the compact;

17 (2) The board and the other state is currently designated as the
 18 state of principal license for the physician; or

19 (3) The other state under the compact and Arkansas is currently
 20 designated as the state of principal license for the physician.

21 (d)(1) By January 1 of each year, the board shall report to the
 22 Legislative Council.

23 (2) The report shall include without limitation:

24 (A) The number of individuals investigated by the board
 25 solely under the compact;

26 (B) The expenses incurred by undertaking investigations
 27 pursued solely under the compact; and

28 (C) The rules and all changes to the rules promulgated by
 29 the commission.

30
 31 SECTION 3. DO NOT CODIFY. CONTINGENT EFFECTIVE DATE.

32 (a) Section 2 of this act shall not become effective until:

33 (1) The Arkansas State Medical Board issues a recommendation in
 34 favor of joining the Interstate Medical Licensure Compact with approval from
 35 the Governor to the Senate Committee on Public Health, Welfare, and Labor and
 36 the House Committee on Public Health, Welfare, and Labor;

1 (2) The Senate Committee on Public Health, Welfare, and Labor
2 and the House Committee on Public Health, Welfare, and Labor recommend to the
3 Legislative Council in favor of joining the compact; and

4 (3) The Legislative Council votes in favor of joining the
5 compact.

6 (b) If a recommendation and a vote by the Legislative Council is made
7 under subsection (a) of this section, this act shall be effective on and
8 after the ninety-first day after the vote by the Legislative Council.

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