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SENATE BILL 97

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Bill B. O'Neill

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO HEALTH; ENACTING THE INTERSTATE MEDICAL LICENSURE
COMPACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] INTERSTATE MEDICAL LICENSURE
COMPACT ENTERED INTO.--The "Interstate Medical Licensure
Compact" is enacted into law and entered into on behalf of New
Mexico with any and all other states legally joining therein in
a form substantially as follows:

"INTERSTATE MEDICAL LICENSURE COMPACT

ARTICLE 1 - Purpose

In order to strengthen access to health care, and in
recognition of the advances in the delivery of health care, the
member states of the Interstate Medical Licensure Compact have
allied in common purpose to develop a comprehensive process

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1 that complements the existing licensing and regulatory
2 authority of state medical boards, provides a streamlined
3 process that allows physicians to become licensed in multiple
4 states, thereby enhancing the portability of a medical license
5 and ensuring the safety of patients. The compact creates
6 another pathway for licensure and does not otherwise change a
7 state's existing medical practice act. The compact also adopts
8 the prevailing standard for licensure and affirms that the
9 practice of medicine occurs where the patient is located at the
10 time of the physician-patient encounter and therefore requires
11 the physician to be under the jurisdiction of the state medical
12 board where the patient is located. State medical boards that
13 participate in the compact retain the jurisdiction to impose an
14 adverse action against a license to practice medicine in that
15 state issued to a physician through the procedures in the
16 compact.

17 ARTICLE 2 - Definitions

18 In the Interstate Medical Licensure Compact:

- 19 A. "bylaws" means those bylaws established by the
20 interstate commission pursuant to Article 11;
21 B. "commissioner" means the voting representative
22 appointed by each member board pursuant to Article 11;
23 C. "conviction" means a finding by a court that an
24 individual is guilty of a criminal offense through
25 adjudication, or entry of a plea of guilt or no contest to the

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1 charge by the offender. Evidence of an entry of a conviction
2 of a criminal offense by the court shall be considered final
3 for purposes of disciplinary action by a member board;

4 D. "expedited license" means a full and
5 unrestricted medical license granted by a member state to an
6 eligible physician through the process set forth in the
7 Interstate Medical Licensure Compact;

8 E. "interstate commission" means the interstate
9 commission created pursuant to Article 11;

10 F. "license" means authorization by a member state
11 for a physician to engage in the practice of medicine, which
12 would be unlawful without authorization;

13 G. "medical practice act" means laws and
14 regulations governing the practice of allopathic and
15 osteopathic medicine within a member state;

16 H. "member board" means a state agency in a member
17 state that acts in the sovereign interests of the state by
18 protecting the public through licensure, regulation and
19 education of physicians as directed by the state government;

20 I. "member state" means a state that has enacted
21 the Interstate Medical Licensure Compact;

22 J. "practice of medicine" means that clinical
23 prevention, diagnosis or treatment of human disease, injury or
24 condition requiring a physician to obtain and maintain a
25 license in compliance with the medical practice act of a member

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1 state;

2 K. "physician" means any person who:

3 (1) is a graduate of a medical school
4 accredited by the liaison committee on medical education, the
5 commission on osteopathic college accreditation or a medical
6 school listed in the international medical education directory
7 or its equivalent;

8 (2) passed each component of the United States
9 medical licensing examination or the comprehensive osteopathic
10 medical licensing examination within three attempts, or any of
11 its predecessor examinations accepted by a state medical board
12 as an equivalent examination for licensure purposes;

13 (3) successfully completed graduate medical
14 education approved by the accreditation council for graduate
15 medical education or the American osteopathic association;

16 (4) holds specialty certification or a
17 time-unlimited specialty certificate recognized by the American
18 board of medical specialties or the American osteopathic
19 association's bureau of osteopathic specialists;

20 (5) possesses a full and unrestricted license
21 to engage in the practice of medicine issued by a member board;

22 (6) has never been convicted or received
23 adjudication, deferred adjudication, community supervision or
24 deferred disposition for any offense by a court of appropriate
25 jurisdiction;

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

5 (8) has never had a controlled substance
6 license or permit suspended or revoked by a state or the United
7 States drug enforcement administration; and

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

11 L. "offense" means a felony, gross misdemeanor or
12 crime of moral turpitude;

13 M. "rule" means a written statement by the
14 interstate commission promulgated pursuant to Article 12 of the
15 Interstate Medical Licensure Compact that is of general
16 applicability, implements, interprets or prescribes a policy or
17 provision of the compact, or an organizational, procedural or
18 practice requirement of the interstate commission, and has the
19 force and effect of statutory law in a member state, and
20 includes the amendment, repeal or suspension of an existing
21 rule;

22 N. "state" means any state, commonwealth, district
23 or territory of the United States; and

24 O. "state of principal license" means a member
25 state where a physician holds a license to practice medicine

1 and which has been designated as such by the physician for
2 purposes of registration and participation in the Interstate
3 Medical Licensure Compact.

4 ARTICLE 3 - Eligibility

5 A. A physician must meet the eligibility
6 requirements as defined in Article 2(k) to receive an expedited
7 license under the terms and provisions of the Interstate
8 Medical Licensure Compact.

9 B. A physician who does not meet the requirements
10 of Article 2(k) may obtain a license to practice medicine in a
11 member state if the individual complies with all laws and
12 requirements other than the Interstate Medical Licensure
13 Compact relating to the issuance of a license to practice
14 medicine in that state.

15 ARTICLE 4 - Designation of State of Principal License

16 A. A physician shall designate a member state as
17 the state of principal license for purposes of registration for
18 expedited licensure through the Interstate Medical Licensure
19 Compact if the physician possesses a full and unrestricted
20 license to practice medicine in that state, and the state is:

21 (1) the state of principal residence for the
22 physician;

23 (2) the state where at least twenty-five
24 percent of the practice of medicine occurs; or

25 (3) the location of the physician's employer;

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1 if no state qualifies under Paragraph (1), Paragraph (2) or
2 this paragraph, the state designated as state of residence for
3 purpose of federal income tax.

4 B. A physician may redesignate a member state as a
5 state of principal license at any time, as long as the state
6 meets the requirements of Subsection A.

7 C. The interstate commission is authorized to
8 develop rules to facilitate redesignation of another member
9 state as the state of principal license.

10 ARTICLE 5 - Application and Issuance of Expedited Licensure

11 A. A physician seeking licensure through the
12 Interstate Medical Licensure Compact shall file an application
13 for an expedited license with the member board of the state
14 selected by the physician as the state of principal license.

15 B. Upon receipt of an application for an expedited
16 license, the member board within the state selected as the
17 state of principal license shall evaluate whether the physician
18 is eligible for expedited licensure and issue a letter of
19 qualification, verifying or denying the physician's
20 eligibility, to the interstate commission.

21 (1) Static qualifications, which include
22 verification of medical education, graduate medical education,
23 results of any medical or licensing examination, and other
24 qualifications as determined by the interstate commission
25 through rule, shall not be subject to additional primary-source

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1 verification where already primary-source verified by the state
2 of principal license.

3 (2) The member board within the state selected
4 as the state of principal license shall, in the course of
5 verifying eligibility, perform a criminal background check of
6 an applicant, including the use of the results of fingerprint
7 or other biometric data checks compliant with the requirements
8 of the federal bureau of investigation, with the exception of
9 federal employees who have suitability determination in
10 accordance with 5 CFR §731.202.

11 (3) Appeal on the determination of eligibility
12 shall be made to the member state where the application was
13 filed and shall be subject to the law of that state.

14 C. Upon verification in Subsection B, physicians
15 eligible for an expedited license shall complete the
16 registration process established by the interstate commission
17 to receive a license in a member state selected pursuant to
18 Subsection A, including the payment of any applicable fees.

19 D. After receiving verification of eligibility
20 under Subsection B and any fees under Subsection C, a member
21 board shall issue an expedited license to the physician. This
22 license shall authorize the physician to practice medicine in
23 the issuing state consistent with the medical practice act and
24 all applicable laws and regulations of the issuing member board
25 and member state.

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1 E. An expedited license shall be valid for a period
2 consistent with the licensure period in the member state and in
3 the same manner as required for other physicians holding a full
4 and unrestricted license within the member state.

5 F. An expedited license obtained through the
6 Interstate Medical Licensure Compact shall be terminated if a
7 physician fails to maintain a license in the state of principal
8 licensure for a non-disciplinary reason, without redesignation
9 of a new state of principal licensure.

10 G. The interstate commission is authorized to
11 develop rules regarding the application process, including
12 payment of any applicable fees, and the issuance of an
13 expedited license.

14 ARTICLE 6 - Fees for Expedited Licensure

15 A. A member state issuing an expedited license
16 authorizing the practice of medicine in that state may impose a
17 fee for a license issued or renewed through the Interstate
18 Medical Licensure Compact.

19 B. The interstate commission is authorized to
20 develop rules regarding fees for expedited licenses.

21 ARTICLE 7 - Renewal and Continued Participation

22 A. A physician seeking to renew an expedited
23 license granted in a member state shall complete a renewal
24 process with the interstate commission if the physician:

25 (1) maintains a full and unrestricted license

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1 in a state of principal license;

2 (2) has not been convicted, received
3 adjudication, deferred adjudication, community supervision or
4 deferred disposition for any offense by a court of appropriate
5 jurisdiction;

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

11 (4) has not had a controlled substance license
12 or permit suspended or revoked by a state or the United States
13 drug enforcement administration.

14 B. Physicians shall comply with all continuing
15 professional development or continuing medical education
16 requirements for renewal of a license issued by a member state.

17 C. The interstate commission shall collect any
18 renewal fees charged for the renewal of a license and
19 distribute the fees to the applicable member board.

20 D. Upon receipt of any renewal fees collected in
21 Subsection C, a member board shall renew the physician's
22 license.

23 E. Physician information collected by the
24 interstate commission during the renewal process will be
25 distributed to all member boards.

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1 F. The interstate commission is authorized to
2 develop rules to address renewal of licenses obtained through
3 the Interstate Medical Licensure Compact.

4 ARTICLE 8 - Coordinated Information System

5 A. The interstate commission shall establish a
6 database of all physicians licensed, or who have applied for
7 licensure, under Article 5.

8 B. Notwithstanding any other provision of law,
9 member boards shall report to the interstate commission any
10 public action or complaints against a licensed physician who
11 has applied or received an expedited license through the
12 Interstate Medical Licensure Compact.

13 C. Member boards shall report disciplinary or
14 investigatory information determined as necessary and proper by
15 rule of the interstate commission.

16 D. Member boards may report any non-public
17 complaint, disciplinary or investigatory information not
18 required by Subsection C to the interstate commission.

19 E. Member boards shall share complaint or
20 disciplinary information about a physician upon request of
21 another member board.

22 F. All information provided to the interstate
23 commission or distributed by member boards shall be
24 confidential, filed under seal and used only for investigatory
25 or disciplinary matters.

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1 G. The interstate commission is authorized to
2 develop rules for mandated or discretionary sharing of
3 information by member boards.

4 ARTICLE 9 - Joint Investigations

5 A. Licensure and disciplinary records of physicians
6 are deemed investigative.

7 B. In addition to the authority granted to a member
8 board by its respective medical practice act or other
9 applicable state law, a member board may participate with other
10 member boards in joint investigations of physicians licensed by
11 the member boards.

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

14 D. Member boards may share any investigative,
15 litigation or compliance materials in furtherance of any joint
16 or individual investigation initiated under the Interstate
17 Medical Licensure Compact.

18 E. Any member state may investigate actual or
19 alleged violations of the statutes authorizing the practice of
20 medicine in any other member state in which a physician holds a
21 license to practice medicine.

22 ARTICLE 10 - Disciplinary Actions

23 A. Any disciplinary action taken by any member
24 board against a physician licensed through the Interstate
25 Medical Licensure Compact shall be deemed unprofessional

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1 conduct that may be subject to discipline by other member
2 boards, in addition to any violation of the medical practice
3 act or regulations in that state.

4 B. If a license granted to a physician by the
5 member board in the state of principal license is revoked,
6 surrendered or relinquished in lieu of discipline or suspended,
7 then all licenses issued to the physician by member boards
8 shall automatically be placed, without further action necessary
9 by any member board, on the same status. If the member board
10 in the state of principal license subsequently reinstates the
11 physician's license, a license issued to the physician by any
12 other member board shall remain encumbered until that
13 respective member board takes action to reinstate the license
14 in a manner consistent with the medical practice act of that
15 state.

16 C. If disciplinary action is taken against a
17 physician by a member board not in the state of principal
18 license, any other member board may deem the action conclusive
19 as to matter of law and fact decided and:

20 (1) impose the same or lesser sanctions
21 against the physician so long as such sanctions are consistent
22 with the medical practice act of that state; or

23 (2) pursue separate disciplinary action
24 against the physician under its respective medical practice
25 act, regardless of the action taken in other member states.

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1 D. If a license granted to a physician by a member
2 board is revoked, surrendered or relinquished in lieu of
3 discipline or suspended, then any licenses issued to the
4 physician by any other member boards shall be suspended,
5 automatically and immediately without further action necessary
6 by the other member boards, for ninety days upon entry of the
7 order by the disciplining board, to permit the member boards to
8 investigate the basis for the action under the medical practice
9 act of that state. A member board may terminate the automatic
10 suspension of the license it issued prior to the completion of
11 the ninety-day suspension period in a manner consistent with
12 the medical practice act of that state.

13 ARTICLE 11 - Interstate Medical Licensure Compact Commission

14 A. The member states hereby create the "interstate
15 medical licensure compact commission".

16 B. The purpose of the interstate commission is the
17 administration of the Interstate Medical Licensure Compact,
18 which is a discretionary state function.

19 C. The interstate commission shall be a body
20 corporate and joint agency of the member states and shall have
21 all the responsibilities, powers and duties set forth in the
22 Interstate Medical Licensure Compact and such additional powers
23 as may be conferred upon it by a subsequent concurrent action
24 of the respective legislatures of the member states in
25 accordance with the terms of the compact.

1 D. The interstate commission shall consist of two
2 voting representatives appointed by each member state who shall
3 serve as commissioners. In states where allopathic and
4 osteopathic physicians are regulated by separate member boards,
5 or if the licensing and disciplinary authority is split between
6 separate member boards, or if the licensing and disciplinary
7 authority is split between multiple member boards within a
8 member state, the member state shall appoint one representative
9 from each member board. A commissioner shall be:

10 (1) an allopathic or osteopathic physician
11 appointed to a member board;

12 (2) an executive director, executive secretary
13 or similar executive of a member board; or

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

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

22 F. The bylaws may provide for meetings of the
23 interstate commission to be conducted by telecommunication or
24 electronic communication.

25 G. Each commissioner participating at a meeting of

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1 the interstate commission is entitled to one vote. A majority
2 of commissioners shall constitute a quorum for the transaction
3 of business, unless a larger quorum is required by the bylaws
4 of the interstate commission. A commissioner shall not
5 delegate a vote to another commissioner. In the absence of its
6 commissioner, a member state may delegate voting authority for
7 a specified meeting to another person from that state who shall
8 meet the requirements of Subsection D.

9 H. The interstate commission shall provide public
10 notice of all meetings and all meetings shall be open to the
11 public. The interstate commission may close a meeting, in full
12 or in portion, where it determines by a two-thirds vote of the
13 commissioners present that an open meeting would be likely to:

14 (1) relate solely to the internal personnel
15 practice and procedures of the interstate commission;

16 (2) discuss matters specifically exempted from
17 disclosure by federal statute;

18 (3) discuss trade secrets or commercial or
19 financial information that is privileged or confidential;

20 (4) involve accusing a person of a crime or
21 formally censuring a person;

22 (5) discuss information of a personal nature,
23 where disclosure would constitute a clearly unwarranted
24 invasion of personal privacy;

25 (6) discuss investigative records compiled for

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1 law enforcement purposes; or

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

4 I. The interstate commission shall keep minutes
5 that shall fully describe all matters discussed in a meeting
6 and shall provide a full and accurate summary of actions taken,
7 including record of any roll call votes.

8 J. The interstate commission shall make its
9 information and official records, to the extent not otherwise
10 designated in the Interstate Medical Licensure Compact or by
11 its rules, available to the public for inspection.

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

23 L. The interstate commission shall establish other
24 committees for governance and administration of the Interstate
25 Medical Licensure Compact.

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1 ARTICLE 12 - Powers and Duties of the Interstate Commission

2 The interstate commission shall have the duty and power
3 to:

4 A. oversee and maintain the administration of the
5 Interstate Medical Licensure Compact;

6 B. promulgate rules that shall be binding to the
7 extent and in the manner provided for in the Interstate Medical
8 Licensure Compact;

9 C. issue, upon the request of a member state or
10 member board, advisory opinions concerning the meaning or
11 interpretation of the Interstate Medical Licensure Compact, its
12 bylaws, rules and actions;

13 D. enforce compliance with Interstate Medical
14 Licensure Compact provisions, the rules promulgated by the
15 interstate commission and the bylaws, using all necessary and
16 proper means, including but not limited to the use of judicial
17 process;

18 E. establish and appoint committees including, but
19 not limited to, an executive committee as required by Article
20 11, which shall have the power to act on behalf of the
21 interstate commission in carrying out its powers and duties;

22 F. pay, or provide for the payment of, the expenses
23 related to the establishment, organization and ongoing
24 activities of the interstate commission;

25 G. establish and maintain one or more offices;

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1 H. borrow, accept, hire, or contract for services
2 of personnel;

3 I. purchase and maintain insurance and bonds;

4 J. employ an executive director who shall have such
5 powers to employ, select or appoint employees, agents or
6 consultants and to determine their qualifications, define their
7 duties and fix their compensation;

8 K. establish personnel policies and programs
9 relating to conflicts of interest, rates of compensation and
10 qualifications of personnel;

11 L. accept donations and grants of money, equipment,
12 supplies, materials and services and to receive, utilize and
13 dispose of it in a manner consistent with the conflict of
14 interest policies established by the interstate commission;

15 M. lease, purchase, accept contributions or
16 donations of or otherwise to own, hold, improve or use, any
17 property, real, personal or mixed;

18 N. sell, convey, mortgage, pledge, lease, exchange,
19 abandon or otherwise dispose of any property, real, personal or
20 mixed;

21 O. establish a budget and make expenditures;

22 P. adopt a seal and bylaws governing the management
23 and operation of the interstate commission;

24 Q. report annually to the legislatures and
25 governors of the member states concerning the activities of the

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

5 R. coordinate education, training and public
6 awareness regarding the Interstate Medical Licensure Compact,
7 its implementation and its operation;

8 S. maintain records in accordance with the bylaws;

9 T. seek and obtain trademarks, copyrights and
10 patents; and

11 U. perform such functions as may be necessary or
12 appropriate to achieve the purpose of the Interstate Medical
13 Licensure Compact.

14 ARTICLE 13 - Finance Powers

15 A. The interstate commission may levy on and
16 collect an annual assessment from each member state to cover
17 the cost of the operations and activities of the interstate
18 commission and its staff. The total assessment must be
19 sufficient to cover the annual budget approved each year for
20 which revenue is not provided by other sources. The aggregate
21 annual assessment amount shall be allocated upon a formula to
22 be determined by the interstate commission, which shall
23 promulgate a rule binding upon all member states.

24 B. The interstate commission shall not incur
25 obligations of any kind prior to securing the funds adequate to

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1 meet the same.

2 C. The interstate commission shall not pledge the
3 credit of any of the member states, except by, and with the
4 authority of, the member state.

5 D. The interstate commission shall be subject to a
6 yearly financial audit conducted by a certified or licensed
7 accountant and the report of the audit shall be included in the
8 annual report of the interstate commission.

9 ARTICLE 14 - Organization and Operation of the Interstate
10 Commission

11 A. The interstate commission shall, by a majority
12 of commissioners present and voting, adopt bylaws to govern its
13 conduct as may be necessary or appropriate to carry out the
14 purposes of the Interstate Medical Licensure Compact within
15 twelve months of the first interstate commission meeting.

16 B. The interstate commission shall elect or appoint
17 annually from among its commissioners a chairperson, a vice-
18 chairperson and a treasurer, each of whom shall have such
19 authority and duties as may be specified in the bylaws. The
20 chairperson, or, in the chairperson's absence or disability,
21 the vice-chairperson, shall preside at all meetings of the
22 interstate commission.

23 C. Officers selected in Subsection B shall serve
24 without remuneration for the interstate commission.

25 D. The officers and employees of the interstate

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

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

25 F. The interstate commission shall defend the

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1 executive director and its employees, and, subject to the
2 approval of the attorney general or other appropriate legal
3 counsel of the member state represented by an interstate
4 commission representative, shall defend such interstate
5 commission representative in any civil action seeking to impose
6 liability arising out of an actual or alleged act, error or
7 omission that occurred within the scope of interstate
8 commission employment, duties or responsibilities, or that the
9 defendant had a reasonable basis for believing occurred within
10 the scope of interstate commission employment, duties or
11 responsibilities; provided that the actual or alleged act,
12 error or omission did not result from intentional or willful
13 and wanton misconduct on the part of such person.

14 G. To the extent not covered by the state involved,
15 member state or the interstate commission, the representatives
16 or employees of the interstate commission shall be held
17 harmless in the amount of a settlement or judgment, including
18 attorney fees and costs, obtained against such persons arising
19 out of an actual or alleged act, error or omission that
20 occurred within the scope of the interstate commission
21 employment, duties or responsibilities, or that such persons
22 had a reasonable basis for believing occurred within the scope
23 of interstate commission employment, duties or
24 responsibilities; provided that the actual or alleged act,
25 error or omission did not result from intentional or willful

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1 and wanton misconduct on the part of such person.

2 ARTICLE 15 - Rulemaking Functions of the Interstate Commission

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

12 B. Rules deemed appropriate for the operations of
13 the interstate commission shall be made pursuant to a
14 rulemaking process that substantially conforms to the model
15 state administrative procedure act of 2010 and subsequent
16 amendments thereto.

17 C. Not later than thirty days after a rule is
18 promulgated, any person may file a petition for judicial review
19 of the rule in the United States district court for the
20 District of Columbia or the federal district where the
21 interstate commission has its principal offices; provided that
22 the filing of such a petition shall not stay or otherwise
23 prevent the rule from becoming effective unless the court finds
24 that the petitioner has a substantial likelihood of success.

25 The court shall give deference to the actions of the interstate

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1 commission consistent with applicable law and shall not find
2 the rule to be unlawful if the rule represents a reasonable
3 exercise of the authority granted to the interstate commission.

4 ARTICLE 16 - Oversight of Interstate Medical Licensure Compact

5 A. The executive, legislative and judicial branches
6 of state government in each member state shall enforce the
7 Interstate Medical Licensure Compact and shall take all actions
8 necessary and appropriate to effectuate the compact's purposes
9 and intent. The provisions of the compact and the rules
10 promulgated hereunder shall have standing as statutory law but
11 shall not override existing state authority to regulate the
12 practice of medicine.

13 B. All courts shall take judicial notice of the
14 Interstate Medical Licensure Compact and the rules in any
15 judicial or administrative proceeding in a member state
16 pertaining to the subject matter of the compact that may affect
17 the powers, responsibilities or actions of the interstate
18 commission.

19 C. The interstate commission shall be entitled to
20 receive all services of process in any such proceeding and
21 shall have standing to intervene in the proceeding for all
22 purposes. Failure to provide service of process to the
23 interstate commission shall render a judgment or order void as
24 to the interstate commission, the Interstate Medical Licensure
25 Compact or promulgated rules.

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1 Interstate Medical Licensure Compact or the rules and bylaws of
2 the interstate commission promulgated under the compact.

3 B. If the interstate commission determines that a
4 member state has defaulted in the performance of its
5 obligations or responsibilities under the Interstate Medical
6 Licensure Compact, or the bylaws or promulgated rules, the
7 interstate commission shall:

8 (1) provide written notice to the defaulting
9 state and other member states, of the nature of the default,
10 the means of curing the default and any action taken by the
11 interstate commission. The interstate commission shall specify
12 the conditions by which the defaulting state must cure its
13 default; and

14 (2) provide remedial training and specific
15 technical assistance regarding the default.

16 C. If the defaulting state fails to cure the
17 default, the defaulting state shall be terminated from the
18 Interstate Medical Licensure Compact upon an affirmative vote
19 of a majority of the commissioners and all rights, privileges
20 and benefits conferred by the compact shall terminate on the
21 effective date of termination. A cure of the default does not
22 relieve the offending state of obligations or liabilities
23 incurred during the period of the default.

24 D. Termination of membership in the Interstate
25 Medical Licensure Compact shall be imposed only after all other

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1 means of securing compliance have been exhausted. Notice of
2 intent to terminate shall be given by the interstate commission
3 to the governor, the majority and minority leaders of the
4 defaulting state's legislature and each of the member states.

5 E. The interstate commission shall establish rules
6 and procedures to address licenses and physicians that are
7 materially impacted by the termination of a member state or the
8 withdrawal of a member state.

9 F. The member state that has been terminated is
10 responsible for all dues, obligations and liabilities incurred
11 through the effective date of termination, including
12 obligations, the performance of which extends beyond the
13 effective date of termination.

14 G. The interstate commission shall not bear any
15 costs relating to any state that has been found to be in
16 default or that has been terminated from the Interstate Medical
17 Licensure Compact, unless otherwise mutually agreed upon in
18 writing between the interstate commission and the defaulting
19 state.

20 H. The defaulting state may appeal the action of
21 the interstate commission by petitioning the United States
22 district court for the District of Columbia or the federal
23 district where the interstate commission has its principal
24 offices. The prevailing party shall be awarded all costs of
25 such litigation, including reasonable attorney fees.

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ARTICLE 19 - Dispute Resolution

A. The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the Interstate Medical Licensure Compact and that 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.

ARTICLE 20 - Member States, Effective Date and Amendment

A. Any state is eligible to become a member of the Interstate Medical Licensure Compact.

B. The Interstate Medical Licensure Compact shall become effective and binding upon legislative enactment of the compact into law by no less than seven 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 Interstate Medical Licensure Compact by all states.

D. The interstate commission may propose amendments to the Interstate Medical Licensure Compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states

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1 unless and until it is enacted into law by unanimous consent of
2 the member states.

3 ARTICLE 21 - Withdrawal

4 A. Once effective, the Interstate Medical Licensure
5 Compact shall continue in force and remain binding upon each
6 and every member state; provided that a member state may
7 withdraw from the compact by specifically repealing the statute
8 that enacted the compact into law.

9 B. Withdrawal from the Interstate Medical Licensure
10 Compact shall be by the enactment of a statute repealing the
11 same, but shall not take effect until one year after the
12 effective date of such statute and until written notice of the
13 withdrawal has been given by the withdrawing state to the
14 governor of each other member state.

15 C. The withdrawing state shall immediately notify
16 the chairperson of the interstate commission in writing upon
17 the introduction of legislation repealing the Interstate
18 Medical Licensure Compact in the withdrawing state.

19 D. The interstate commission shall notify the other
20 member states of the withdrawing state's intent to withdraw
21 within sixty days of its receipt of notice provided under
22 Subsection C.

23 E. The withdrawing state is responsible for all
24 dues, obligations and liabilities incurred through the
25 effective date of withdrawal, including obligations, the

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1 performance of which extend beyond the effective date of
2 withdrawal.

3 F. Reinstatement following withdrawal of a member
4 state shall occur upon the withdrawing state reenacting the
5 Interstate Medical Licensure Compact or upon such later date as
6 determined by the interstate commission.

7 G. The interstate commission is authorized to
8 develop rules to address the impact of the withdrawal of a
9 member state on licenses granted in other member states to
10 physicians who designated the withdrawing member state as the
11 state of principal license.

12 ARTICLE 22 - Dissolution

13 A. The Interstate Medical Licensure Compact shall
14 dissolve effective upon the date of the withdrawal or default
15 of the member state that reduces the membership of the compact
16 to one member state.

17 B. Upon the dissolution of the Interstate Medical
18 Licensure Compact, the compact becomes null and void and shall
19 be of no further force or effect, and the business and affairs
20 of the interstate commission shall be concluded and surplus
21 funds shall be distributed in accordance with the bylaws.

22 ARTICLE 23 - Severability and Construction

23 A. The provisions of the Interstate Medical
24 Licensure Compact shall be severable, and if any phrase,
25 clause, sentence or provision is deemed unenforceable, the

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1 remaining provisions of the compact shall be enforceable.

2 B. The provisions of the Interstate Medical
3 Licensure Compact shall be liberally construed to effectuate
4 its purposes.

5 C. Nothing in the Interstate Medical Licensure
6 Compact shall be construed to prohibit the applicability of
7 other interstate compacts to which the member states are
8 members.

9 ARTICLE 24 - Binding Effect of the Interstate Medical Licensure
10 Compact and Other Laws

11 A. Nothing herein prevents the enforcement of any
12 other law of a member state that is not inconsistent with the
13 Interstate Medical Licensure Compact.

14 B. All laws in a member state in conflict with the
15 Interstate Medical Licensure Compact are superseded to the
16 extent of the conflict.

17 C. All lawful actions of the interstate commission,
18 including all rules and bylaws promulgated by the commission,
19 are binding upon the member states.

20 D. All agreements between the interstate commission
21 and the member states are binding in accordance with their
22 terms.

23 E. In the event any provision of the Interstate
24 Medical Licensure Compact exceeds the constitutional limits
25 imposed on the legislature of any member state, such provision

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1 shall be ineffective to the extent of the conflict with the
2 constitutional provision in question in that member state."

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