

1 SENATE BILL 67

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Bill B. O'Neill

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10 AN ACT

11 RELATING TO LICENSURE; ENACTING THE INTERSTATE MEDICAL
12 LICENSURE COMPACT; PROVIDING FOR THE APPOINTMENT OF NEW MEXICO
13 COMPACT COMMISSIONERS; REQUIRING THE FILING OF INTERSTATE
14 COMMISSION BYLAWS AND RULES WITH THE STATE RECORDS
15 ADMINISTRATOR.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
19 cited as the "Interstate Medical Licensure Compact".

20 SECTION 2. [NEW MATERIAL] INTERSTATE MEDICAL LICENSURE
21 COMPACT ENTERED INTO.--The "Interstate Medical Licensure
22 Compact" is enacted into law and entered into on behalf of New
23 Mexico with any and all other states legally joining therein in
24 a form substantially as follows:

25 "INTERSTATE MEDICAL LICENSURE COMPACT

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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 that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, enhances the portability of a medical license and ensures the safety of patients. The compact creates another pathway for licensure and does not otherwise change a state's existing medical practice act. The compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter and, therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the compact.

ARTICLE 2 - Definitions

In the Interstate Medical Licensure Compact:

A. "bylaws" means those bylaws established by the interstate commission;

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1 B. "commissioner" means the voting representative
2 appointed by each member board;

3 C. "conviction" means a finding by a court that a
4 person is guilty of a criminal offense through adjudication or
5 entry of a plea of guilt or no contest to the charge by the
6 offender. Evidence of an entry of a conviction of a criminal
7 offense by the court shall be considered final for purposes of
8 disciplinary action by a member board;

9 D. "expedited license" means a full and
10 unrestricted medical license granted by a member state to an
11 eligible physician through the process set forth in the
12 Interstate Medical Licensure Compact;

13 E. "interstate commission" means the interstate
14 medical licensure compact commission;

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

18 G. "medical practice act" means laws and rules
19 governing the practice of allopathic and osteopathic medicine
20 within a member state;

21 H. "member board" means a state agency in a member
22 state that acts in the sovereign interests of the state by
23 protecting the public through licensure, regulation and
24 education of physicians as directed by the state government;

25 I. "member state" means a state that has enacted

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1 the Interstate Medical Licensure Compact;

2 J. "offense" means a felony or gross misdemeanor;

3 K. "physician" means a person who:

4 (1) is a graduate of a medical school
5 accredited by the liaison committee on medical education, the
6 commission on osteopathic college accreditation or a medical
7 school listed in the *World Directory of Medical Schools* or its
8 equivalent;

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

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

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

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

24 (6) has never been convicted or received
25 adjudication, deferred adjudication, community supervision or

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1 deferred disposition for any offense by a court of appropriate
2 jurisdiction;

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

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

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

13 L. "practice of medicine" means that clinical
14 prevention, diagnosis or treatment of human disease, injury or
15 condition requiring a physician to obtain and maintain a
16 license in compliance with the medical practice act of a member
17 state;

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

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1 rule;

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

4 O. "state of principal license" means a member
5 state in which a physician holds a license to practice medicine
6 and that has been designated as such by the physician for
7 purposes of registration and participation in the Interstate
8 Medical Licensure Compact.

9 ARTICLE 3 - Eligibility

10 A. A physician must meet the eligibility
11 requirements as defined in Subsection K of Article 2 of the
12 Interstate Medical Licensure Compact to receive an expedited
13 license under the terms and provisions of that compact.

14 B. A physician who does not meet the requirements
15 of Subsection K of Article 2 of the Interstate Medical
16 Licensure Compact may obtain a license to practice medicine in
17 a member state if the person complies with all laws and
18 requirements other than that compact relating to the issuance
19 of a license to practice medicine in that state.

20 ARTICLE 4 - Designation of State of Principal License

21 A. A physician shall designate a member state as
22 the state of principal license for purposes of registration for
23 expedited licensure through the Interstate Medical Licensure
24 Compact if the physician possesses a full and unrestricted
25 license to practice medicine in that state, and the state is:

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1 (1) the state of principal residence for the
2 physician;

3 (2) the state in which at least twenty-five
4 percent of the physician's practice of medicine occurs;

5 (3) the location of the physician's employer;
6 or

7 (4) the state designated as state of residence
8 for the purpose of federal income tax if a state does not
9 qualify under Paragraph (1), (2) or (3) of this subsection.

10 B. A physician may redesignate a member state as a
11 state of principal license at any time; provided that the state
12 meets the requirements of Subsection A of this article.

13 C. The interstate commission is authorized to
14 develop rules to facilitate redesignation of another member
15 state as the state of principal license.

16 ARTICLE 5 - Application and Issuance of Expedited Licensure

17 A. A physician seeking licensure through the
18 Interstate Medical Licensure Compact shall file an application
19 for an expedited license with the member board of the state
20 selected by the physician as the state of principal license.

21 B. Upon receipt of an application for an expedited
22 license, the member board within the state of principal license
23 shall evaluate whether the physician is eligible for expedited
24 licensure and issue a letter of qualification, verifying or
25 denying the physician's eligibility, to the interstate

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1 commission.

2 (1) Static qualifications, which include
3 verification of medical education, graduate medical education,
4 results of any medical or licensing examination and other
5 qualifications as determined by the interstate commission
6 through rule, shall not be subject to additional primary-source
7 verification if primary-source verification has been conducted
8 by the state of principal license.

9 (2) The member board of the state of principal
10 license shall, in the course of verifying eligibility, perform
11 a criminal background check of an applicant, including the use
12 of the results of fingerprint or other biometric data checks
13 compliant with the requirements of the federal bureau of
14 investigation, with the exception of federal employees who have
15 suitability determination in accordance with 5 Code of Federal
16 Register Section 731.202.

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

20 C. Upon verification pursuant to Subsection B of
21 this article, physicians eligible for an expedited license
22 shall complete the registration process established by the
23 interstate commission to receive a license in a member state
24 selected pursuant to Subsection A of this article, including
25 the payment of applicable fees.

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1 D. After receiving verification of eligibility
2 pursuant to Subsection B of this article and payment of fees
3 pursuant to Subsection C of this article, a member board shall
4 issue an expedited license to the physician. This license
5 shall authorize the physician to practice medicine in the
6 issuing state consistent with the medical practice act and all
7 applicable laws and rules of the issuing member board and
8 member state.

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

13 F. An expedited license obtained through the
14 Interstate Medical Licensure Compact shall be terminated if a
15 physician fails to maintain the license in the state of
16 principal licensure for a non-disciplinary reason, without
17 redesignation of a new state of principal licensure.

18 G. The interstate commission is authorized to
19 develop rules regarding the application process, including
20 payment of any applicable fees, and the issuance of an
21 expedited license.

22 ARTICLE 6 - Fees for Expedited Licensure

23 A. A member state issuing an expedited license
24 authorizing the practice of medicine in that state may impose a
25 fee for a license issued or renewed through the Interstate

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1 Medical Licensure Compact.

2 B. The interstate commission is authorized to
3 develop rules regarding fees for expedited licenses.

4 ARTICLE 7 - Renewal and Continued Participation

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

8 (1) maintains a full and unrestricted license
9 in the state of principal license;

10 (2) has not been convicted, received
11 adjudication, deferred adjudication, community supervision or
12 deferred disposition for an offense by a court of appropriate
13 jurisdiction;

14 (3) has not had a license authorizing the
15 practice of medicine subject to discipline by a licensing
16 agency in any state, federal or foreign jurisdiction, excluding
17 any action related to nonpayment of fees related to a license;
18 and

19 (4) has not had a controlled substance license
20 or permit suspended or revoked by a state or the United States
21 drug enforcement administration.

22 B. Physicians shall comply with all continuing
23 professional development or continuing medical education
24 requirements for renewal of a license issued by a member state.

25 C. The interstate commission shall collect the

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1 renewal fees charged for the renewal of a license and
2 distribute the fees to the applicable member board.

3 D. Upon receipt of the renewal fees collected in
4 Subsection C of this article, a member board shall renew the
5 physician's license.

6 E. Physician information collected by the
7 interstate commission during the renewal process will be
8 distributed to all member boards.

9 F. The interstate commission is authorized to
10 develop rules to address renewal of licenses obtained through
11 the Interstate Medical Licensure Compact.

12 ARTICLE 8 - Coordinated Information System

13 A. The interstate commission shall establish a
14 database of all physicians licensed, or who have applied for
15 licensure, pursuant to Article 5 of the Interstate Medical
16 Licensure Compact.

17 B. Notwithstanding any other provision of law,
18 member boards shall report to the interstate commission any
19 public action or complaint against a licensed physician who has
20 applied or received an expedited license through the Interstate
21 Medical Licensure Compact.

22 C. Member boards shall report disciplinary or
23 investigatory information determined as necessary and proper by
24 rule of the interstate commission.

25 D. Member boards may report any nonpublic

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1 complaint, disciplinary or investigatory information not
2 required by Subsection C of this article to the interstate
3 commission.

4 E. Member boards shall share complaint or
5 disciplinary information about a physician upon request of
6 another member board.

7 F. All information provided to the interstate
8 commission or distributed by member boards shall be
9 confidential, filed under seal and used only for investigatory
10 or disciplinary matters.

11 G. The interstate commission is authorized to
12 develop rules for mandated or discretionary sharing of
13 information by member boards.

14 ARTICLE 9 - Joint Investigations

15 A. Licensure and disciplinary records of physicians
16 are deemed investigative.

17 B. In addition to the authority granted to a member
18 board by its respective medical practice act or other
19 applicable state law, a member board may participate with other
20 member boards in joint investigations of physicians licensed by
21 the member boards.

22 C. A subpoena issued by a member state shall be
23 enforceable in other member states.

24 D. Member boards may share investigative,
25 litigation or compliance materials in furtherance of any joint

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1 or individual investigation initiated under the Interstate
2 Medical Licensure Compact.

3 E. A member state may investigate actual or alleged
4 violations of the statutes authorizing the practice of medicine
5 in any other member state in which a physician holds a license
6 to practice medicine.

7 ARTICLE 10 - Disciplinary Actions

8 A. A disciplinary action taken by a member board
9 against a physician licensed through the Interstate Medical
10 Licensure Compact shall be deemed unprofessional conduct that
11 may be subject to discipline by other member boards, in
12 addition to a violation of the medical practice act or rules in
13 that state.

14 B. If a license granted to a physician by the
15 member board in the state of principal license is revoked,
16 surrendered or relinquished in lieu of discipline or suspended,
17 then all licenses issued to the physician by member boards
18 shall automatically be placed, without further action necessary
19 by any member board, on the same status. If the member board
20 in the state of principal license subsequently reinstates the
21 physician's license, a license issued to the physician by any
22 other member board shall remain encumbered until that
23 respective member board takes action to reinstate the license
24 in a manner consistent with the medical practice act of that
25 state.

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

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

8 (2) pursue separate disciplinary action
9 against the physician under that state's respective medical
10 practice act, regardless of the action taken in other member
11 states.

12 D. If a license granted to a physician by a member
13 board is revoked, surrendered or relinquished in lieu of
14 discipline or suspended, then any licenses issued to the
15 physician by other member boards shall be suspended,
16 automatically and immediately without further action necessary
17 by the other member boards, for ninety days upon entry of the
18 order by the disciplining board, to permit the member boards to
19 investigate the basis for the action under the medical practice
20 act of that state. A member board may terminate the automatic
21 suspension of the license the member board issued prior to the
22 completion of the ninety-day suspension period in a manner
23 consistent with the medical practice act of that state.

24 ARTICLE 11 - Interstate Medical Licensure Compact Commission

25 A. The "interstate medical licensure compact

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1 commission" is created by the member states in accordance with
2 the provisions of this article.

3 B. The purpose of the interstate commission is the
4 administration of the Interstate Medical Licensure Compact,
5 which is a discretionary state function.

6 C. The interstate commission shall be a body
7 corporate and joint agency of the member states and shall have
8 all the responsibilities, powers and duties set forth in the
9 Interstate Medical Licensure Compact and such additional powers
10 as may be conferred upon it by a subsequent concurrent action
11 of the respective legislatures of the member states in
12 accordance with the terms of the compact.

13 D. The interstate commission shall consist of two
14 voting representatives appointed by each member state who shall
15 serve as commissioners. In states where allopathic and
16 osteopathic physicians are regulated by separate member boards
17 or if the licensing and disciplinary authority is split between
18 separate member boards or if the licensing and disciplinary
19 authority is split between multiple member boards within a
20 member state, the member state shall appoint one representative
21 from each member board. A commissioner shall be:

22 (1) an allopathic or osteopathic physician
23 appointed to a member board;

24 (2) an executive director, executive secretary
25 or similar executive of a member board; or

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1 (3) a member of the public appointed to a
2 member board.

3 E. The interstate commission shall meet at least
4 once each calendar year. A portion of this meeting shall be a
5 business meeting to address such matters as may properly come
6 before the commission, including the election of officers. The
7 chair may call additional meetings and shall call for a meeting
8 upon the request of a majority of the member states.

9 F. The bylaws may provide for meetings of the
10 interstate commission to be conducted by telecommunication or
11 electronic communication.

12 G. Each commissioner participating at a meeting of
13 the interstate commission is entitled to one vote. A majority
14 of commissioners shall constitute a quorum for the transaction
15 of business unless a larger quorum is required by the bylaws of
16 the interstate commission. A commissioner shall not delegate a
17 vote to another commissioner. In the absence of a member
18 state's commissioner, the member state may delegate voting
19 authority for a specified meeting to another person from that
20 state who shall meet the requirements of Subsection D of this
21 article.

22 H. The interstate commission shall provide public
23 notice of all meetings, and all meetings shall be open to the
24 public. The interstate commission may close a meeting, in full
25 or in portion, where the interstate commission determines by a

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1 two-thirds' vote of the commissioners present that an open
2 meeting would be likely to:

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

5 (2) discuss matters specifically exempted from
6 disclosure by federal statute;

7 (3) discuss trade secrets or commercial or
8 financial information that is privileged or confidential;

9 (4) involve accusing a person of a crime or
10 formally censuring a person;

11 (5) discuss information of a personal nature,
12 in which disclosure would constitute a clearly unwarranted
13 invasion of personal privacy;

14 (6) discuss investigative records compiled for
15 law enforcement purposes; or

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

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

22 J. The interstate commission shall make its
23 information and official records, to the extent not otherwise
24 designated in the Interstate Medical Licensure Compact or by
25 its rules, available to the public for inspection.

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1 K. The interstate commission shall establish an
2 executive committee that shall include officers, members and
3 others as determined by the bylaws. The executive committee
4 shall have the power to act on behalf of the interstate
5 commission, with the exception of rulemaking, during periods
6 when the interstate commission is not in session. When acting
7 on behalf of the interstate commission, the executive committee
8 shall oversee the administration of the Interstate Medical
9 Licensure Compact, including enforcement and compliance with
10 the provisions of the compact, its bylaws and rules and other
11 such duties as necessary.

12 L. The interstate commission shall establish other
13 committees for governance and administration of the Interstate
14 Medical Licensure Compact.

15 ARTICLE 12 - Powers and Duties of the Interstate Commission

16 The interstate commission shall have the duty and power
17 to:

18 A. oversee and maintain the administration of the
19 Interstate Medical Licensure Compact;

20 B. promulgate rules that shall be binding to the
21 extent and in the manner provided for in the Interstate Medical
22 Licensure Compact;

23 C. issue, upon the request of a member state or
24 member board, advisory opinions concerning the meaning or
25 interpretation of the Interstate Medical Licensure Compact, its

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1 bylaws, rules and actions;

2 D. enforce compliance with Interstate Medical
3 Licensure Compact provisions, the rules promulgated by the
4 interstate commission and the bylaws, using all necessary and
5 proper means, including the use of judicial process;

6 E. establish and appoint committees, including an
7 executive committee as required by Article 11 of the Interstate
8 Medical Licensure Compact, which shall have the power to act on
9 behalf of the interstate commission in carrying out the
10 interstate commission's powers and duties;

11 F. pay, or provide for the payment of, the expenses
12 related to the establishment, organization and ongoing
13 activities of the interstate commission;

14 G. establish and maintain one or more offices;

15 H. borrow, accept, hire or contract for services of
16 personnel;

17 I. purchase and maintain insurance and bonds;

18 J. employ an executive director who shall have such
19 powers to employ, select or appoint employees, agents or
20 consultants and to determine their qualifications, define their
21 duties and fix their compensation;

22 K. establish personnel policies and programs
23 relating to conflicts of interest, rates of compensation and
24 qualifications of personnel;

25 L. accept donations and grants of money, equipment,

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1 supplies, materials and services and to receive, utilize and
2 dispose of donations and grants of money, equipment, supplies,
3 materials and services in a manner consistent with the conflict
4 of interest policies established by the interstate commission;

5 M. lease, purchase, accept contributions or
6 donations of or otherwise to own, hold, improve or use any
7 property, real, personal or mixed;

8 N. sell, convey, mortgage, pledge, lease, exchange,
9 abandon or otherwise dispose of any property, real, personal or
10 mixed;

11 O. establish a budget and make expenditures;

12 P. adopt a seal and bylaws governing the management
13 and operation of the interstate commission;

14 Q. report annually to the legislatures and
15 governors of the member states concerning the activities of the
16 interstate commission during the preceding year. Such reports
17 shall also include reports of financial audits and any
18 recommendations that may have been adopted by the interstate
19 commission;

20 R. coordinate education, training and public
21 awareness regarding the Interstate Medical Licensure Compact,
22 its implementation and its operation;

23 S. maintain records in accordance with the bylaws;

24 T. seek and obtain trademarks, copyrights and
25 patents; and

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1 U. perform such functions as may be necessary or
2 appropriate to achieve the purpose of the Interstate Medical
3 Licensure Compact.

4 ARTICLE 13 - Finance Powers

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

14 B. The interstate commission shall not incur
15 obligations of any kind prior to securing the funds adequate to
16 meet the same.

17 C. The interstate commission shall not pledge the
18 credit of any of the member states, except by, and with the
19 authority of, the member state.

20 D. The interstate commission shall be subject to a
21 yearly financial audit conducted by a certified or licensed
22 accountant, and the report of the audit shall be included in
23 the annual report of the interstate commission.

24 ARTICLE 14 - Organization and Operation of the Interstate
25 Commission

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1 A. The interstate commission shall, by a majority
2 of commissioners present and voting, adopt bylaws to govern the
3 interstate commission's conduct as may be necessary or
4 appropriate to carry out the purposes of the Interstate Medical
5 Licensure Compact within twelve months of the first interstate
6 commission meeting.

7 B. The interstate commission shall elect or appoint
8 annually from among its commissioners a chair, a vice chair and
9 a treasurer, each of whom shall have such authority and duties
10 as may be specified in the bylaws. The chair or, in the
11 chair's absence or disability, the vice chair, shall preside at
12 all meetings of the interstate commission.

13 C. Officers selected pursuant to Subsection B of
14 this article shall serve without remuneration from the
15 interstate commission.

16 D. The officers and employees of the interstate
17 commission shall be immune from suit and liability, either
18 personally or in their official capacity, for a claim for
19 damage to or loss of property or personal injury or other civil
20 liability caused or arising out of, or relating to, an actual
21 or alleged act, error or omission that occurred, or that such
22 person had a reasonable basis for believing occurred, within
23 the scope of interstate commission employment, duties or
24 responsibilities; provided that such person shall not be
25 protected from suit or liability for damage, loss, injury or

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1 liability caused by the intentional or willful and wanton
2 misconduct of such person.

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

16 F. The interstate commission shall defend the
17 executive director and its employees, and, subject to the
18 approval of the attorney general or other appropriate legal
19 counsel of the member state represented by an interstate
20 commission representative, shall defend such interstate
21 commission representative in any civil action seeking to impose
22 liability arising out of an actual or alleged act, error or
23 omission that occurred within the scope of interstate
24 commission employment, duties or responsibilities, or that the
25 defendant had a reasonable basis for believing occurred within

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1 the scope of interstate commission employment, duties or
2 responsibilities; provided that the actual or alleged act,
3 error or omission did not result from intentional or willful
4 and wanton misconduct on the part of such person.

5 G. To the extent not covered by the state involved,
6 member state or the interstate commission, the representatives
7 or employees of the interstate commission shall be held
8 harmless in the amount of a settlement or judgment, including
9 attorney fees and costs, obtained against such persons arising
10 out of an actual or alleged act, error or omission that
11 occurred within the scope of the interstate commission
12 employment, duties or responsibilities, or that such persons
13 had a reasonable basis for believing occurred within the scope
14 of interstate commission employment, duties or
15 responsibilities; provided that the actual or alleged act,
16 error or omission did not result from intentional or willful
17 and wanton misconduct on the part of such person.

18 ARTICLE 15 - Rulemaking Functions of the Interstate Commission

19 A. The interstate commission shall promulgate
20 reasonable rules to effectively and efficiently achieve the
21 purpose of the Interstate Medical Licensure Compact; provided
22 that in the event the interstate commission exercises
23 rulemaking authority in a manner that is beyond the scope of
24 the purposes of that compact or the powers granted by that
25 compact, then such an action by the interstate commission shall

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1 be invalid and have no force or effect.

2 B. Rules deemed appropriate for the operations of
3 the interstate commission shall be made pursuant to a
4 rulemaking process that substantially conforms to the model
5 state administrative procedure act of 2010 and subsequent
6 amendments to that act.

7 C. No later than thirty days after a rule is
8 promulgated, a person may file a petition for judicial review
9 of the rule in the United States district court for the
10 District of Columbia or the federal district where the
11 interstate commission has its principal offices; provided that
12 the filing of such a petition shall not stay or otherwise
13 prevent the rule from becoming effective unless the court finds
14 that the petitioner has a substantial likelihood of success.
15 The court shall give deference to the actions of the interstate
16 commission consistent with applicable law and shall not find
17 the rule to be unlawful if the rule represents a reasonable
18 exercise of the authority granted to the interstate commission.

19 ARTICLE 16 - Oversight of Interstate Medical Licensure Compact

20 A. The executive, legislative and judicial branches
21 of state government in each member state shall enforce the
22 Interstate Medical Licensure Compact and shall take all actions
23 necessary and appropriate to effectuate the compact's purposes
24 and intent. The provisions of that compact and the rules
25 promulgated pursuant to that compact shall have standing as

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1 statutory law but shall not override existing state authority
2 to regulate the practice of medicine.

3 B. All courts shall take judicial notice of the
4 Interstate Medical Licensure Compact and rules promulgated
5 pursuant to that compact in any judicial or administrative
6 proceeding in a member state pertaining to the subject matter
7 of that compact that may affect the powers, responsibilities or
8 actions of the interstate commission.

9 C. The interstate commission shall be entitled to
10 receive all services of process in such proceeding and shall
11 have standing to intervene in the proceeding for all purposes.
12 Failure to provide service of process to the interstate
13 commission shall render a judgment or order void as to the
14 interstate commission, the Interstate Medical Licensure Compact
15 or promulgated rules.

16 ARTICLE 17 - Enforcement of Interstate Medical Licensure
17 Compact

18 A. The interstate commission, in the reasonable
19 exercise of its discretion, shall enforce the provisions and
20 rules of the Interstate Medical Licensure Compact.

21 B. The interstate commission may, by majority vote
22 of the commissioners, initiate legal action in the United
23 States district court for the District of Columbia, or, at the
24 discretion of the interstate commission, in the federal
25 district where the interstate commission has its principal

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1 offices, to enforce compliance with the provisions of the
2 Interstate Medical Licensure Compact, and its promulgated rules
3 and bylaws, against a member state in default. The relief
4 sought may include both injunctive relief and damages. In the
5 event judicial enforcement is necessary, the prevailing party
6 shall be awarded all costs of such litigation, including
7 reasonable attorney fees.

8 C. The remedies provided in this article shall not
9 be the exclusive remedies of the interstate commission. The
10 interstate commission may avail itself of any other remedies
11 available under state law or regulation of a profession.

12 ARTICLE 18 - Default Procedures

13 A. The grounds for default include failure of a
14 member state to perform such obligations or responsibilities
15 imposed upon the member state by the Interstate Medical
16 Licensure Compact or the rules and bylaws of the interstate
17 commission promulgated pursuant to that compact.

18 B. If the interstate commission determines that a
19 member state has defaulted in the performance of the member
20 state's obligations or responsibilities under the Interstate
21 Medical Licensure Compact, or the bylaws or promulgated rules,
22 the interstate commission shall:

23 (1) provide written notice to the defaulting
24 state and other member states of the nature of the default, the
25 means of curing the default and any action taken by the

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1 interstate commission. The interstate commission shall specify
2 the conditions by which the defaulting state must cure its
3 default; and

4 (2) provide remedial training and specific
5 technical assistance regarding the default.

6 C. If the defaulting state fails to cure the
7 default, the defaulting state shall be terminated from the
8 Interstate Medical Licensure Compact upon an affirmative vote
9 of a majority of the commissioners, and all rights, privileges
10 and benefits conferred by the compact shall terminate on the
11 effective date of termination. A cure of the default does not
12 relieve the offending state of obligations or liabilities
13 incurred during the period of the default.

14 D. Termination of membership in the Interstate
15 Medical Licensure Compact shall be imposed only after all other
16 means of securing compliance have been exhausted. Notice of
17 intent to terminate shall be given by the interstate commission
18 to the governor, the majority and minority leaders of the
19 defaulting state's legislature and each of the member states.

20 E. The interstate commission shall establish rules
21 and procedures to address licenses and physicians that are
22 materially impacted by the termination of a member state or the
23 withdrawal of a member state.

24 F. The member state that has been terminated is
25 responsible for all dues, obligations and liabilities incurred

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1 through the effective date of termination, including
2 obligations, the performance of which extend beyond the
3 effective date of termination.

4 G. The interstate commission shall not bear any
5 costs relating to any state that has been found to be in
6 default or that has been terminated from the Interstate Medical
7 Licensure Compact unless otherwise mutually agreed upon in
8 writing between the interstate commission and the defaulting
9 state.

10 H. The defaulting state may appeal the action of
11 the interstate commission by petitioning the United States
12 district court for the District of Columbia or the federal
13 district where the interstate commission has its principal
14 offices. The prevailing party shall be awarded all costs of
15 such litigation, including reasonable attorney fees.

16 ARTICLE 19 - Dispute Resolution

17 A. The interstate commission shall attempt, upon
18 the request of a member state, to resolve disputes that are
19 subject to the Interstate Medical Licensure Compact and that
20 may arise among member states or member boards.

21 B. The interstate commission shall promulgate rules
22 providing for both mediation and binding dispute resolution as
23 appropriate.

24 ARTICLE 20 - Member States, Effective Date and Amendment

25 A. Any state is eligible to become a member of the

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1 Interstate Medical Licensure Compact.

2 B. The Interstate Medical Licensure Compact shall
3 become effective and binding upon legislative enactment of the
4 compact into law by no less than seven states. Thereafter, it
5 shall become effective and binding on a state upon enactment of
6 the compact into law by that state.

7 C. The governors of nonmember states, or the
8 governors' designees, shall be invited to participate in the
9 activities of the interstate commission on a nonvoting basis
10 prior to adoption of the Interstate Medical Licensure Compact
11 by all states.

12 D. The interstate commission may propose amendments
13 to the Interstate Medical Licensure Compact for enactment by
14 the member states. No amendment shall become effective and
15 binding upon the interstate commission and the member states
16 unless and until the amendment is enacted into law by unanimous
17 consent of the member states.

18 ARTICLE 21 - Withdrawal

19 A. Once effective, the Interstate Medical Licensure
20 Compact shall continue in force and remain binding upon each
21 member state; provided that a member state may withdraw from
22 the compact by specifically repealing the statute that enacted
23 the compact into law.

24 B. Withdrawal from the Interstate Medical Licensure
25 Compact shall be by the enactment of a statute repealing the

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1 compact, but shall not take effect until one year after the
2 effective date of that law and until written notice of the
3 withdrawal has been given by the withdrawing state to the
4 governor of each other member state.

5 C. The withdrawing state shall immediately notify
6 the chair of the interstate commission in writing upon the
7 introduction of legislation to repeal the Interstate Medical
8 Licensure Compact in the withdrawing state.

9 D. The interstate commission shall notify the other
10 member states of the withdrawing state's intent to withdraw
11 within sixty days of receipt of notice provided under
12 Subsection C of this article.

13 E. The withdrawing state is responsible for all
14 dues, obligations and liabilities incurred through the
15 effective date of withdrawal, including obligations, the
16 performance of which extend beyond the effective date of
17 withdrawal.

18 F. Reinstatement following withdrawal of a member
19 state shall occur upon the withdrawing state reenacting the
20 Interstate Medical Licensure Compact or upon such later date as
21 determined by the interstate commission.

22 G. The interstate commission is authorized to
23 develop rules to address the impact of the withdrawal of a
24 member state on licenses granted in other member states to
25 physicians who designated the withdrawing member state as the

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1 state of principal license.

2 ARTICLE 22 - Dissolution

3 A. The Interstate Medical Licensure Compact shall
4 dissolve effective upon the date of the withdrawal or default
5 of the member state that reduces the membership of the compact
6 to one member state.

7 B. Upon the dissolution of the Interstate Medical
8 Licensure Compact, the compact becomes void and shall be of no
9 further force, and the business and affairs of the interstate
10 commission shall be concluded and surplus funds shall be
11 distributed in accordance with the bylaws.

12 ARTICLE 23 - Severability and Construction

13 A. The provisions of the Interstate Medical
14 Licensure Compact shall be severable, and if any phrase,
15 clause, sentence or provision is deemed unenforceable, the
16 remaining provisions of the compact shall be enforceable.

17 B. The provisions of the Interstate Medical
18 Licensure Compact shall be liberally construed to effectuate
19 the purposes of that compact.

20 C. Nothing in the Interstate Medical Licensure
21 Compact shall be construed to prohibit the applicability of
22 other interstate compacts to which the member states are
23 members.

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

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1 A. Nothing in the Interstate Medical Licensure
2 Compact prevents the enforcement of any other law of a member
3 state that is not inconsistent with that compact.

4 B. All laws in a member state in conflict with the
5 Interstate Medical Licensure Compact are superseded to the
6 extent of the conflict.

7 C. All lawful actions of the interstate commission,
8 including all rules and bylaws promulgated by the interstate
9 commission, are binding upon the member states.

10 D. All agreements between the interstate commission
11 and the member states are binding in accordance with their
12 terms.

13 E. In the event any provision of the Interstate
14 Medical Licensure Compact exceeds the constitutional limits
15 imposed on the legislature of any member state, such provision
16 shall be ineffective to the extent of the conflict with the
17 constitutional provision in question in that member state."

18 SECTION 3. [NEW MATERIAL] APPOINTMENT OF COMMISSIONERS.--

19 A. The governor shall appoint two members of the
20 New Mexico medical board who are licensed physicians to serve
21 as commissioners. One member shall be a medical doctor and one
22 member shall be an osteopathic physician. A member shall serve
23 until the member's successor has been appointed and qualified.
24 Each member serves at the pleasure of the governor or until the
25 member is no longer a member of the New Mexico medical board.

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1 If a position is vacated, the position shall be filled by
2 appointment by the governor of a medical board member who meets
3 the qualification of the vacating member.

4 B. The governor may appoint an alternative
5 commissioner who meets the qualifications of Subsection D of
6 Article 11 of the Interstate Medical Licensure Compact to serve
7 in the absence of a regular commissioner and who has voting
8 authority only for a specified meeting of the interstate
9 commission.

10 SECTION 4. ~~[NEW MATERIAL]~~ RULES OF INTERSTATE
11 COMMISSION.--The interstate commission shall file copies of its
12 current bylaws and rules with the state records administrator
13 in accordance with the State Rules Act.