

1 COMMITTEE SUBSTITUTE

2 FOR

3 H. B. 2496

4
5 (By Delegates Ellington, Howell, Householder, Sobonya, Fleischauer and Frich)

6 (Originating in the Committee on the Judiciary.)

7 (February 2, 2015)

8
9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
11 designated §30-1C-1, §30-1C-2, §30-1C-3, §30-1C-4, §30-1C-5, §30-1C-6, §30-1C-7,
12 §30-1C-8, §30-1C-9, §30-1C-10, §30-1C-11, §30-1C-12, §30-1C-13, §30-1C-14, §30-
13 1C-15, §30-1C-16, §30-1C-17, §30-1C-18, §30-1C-19, §30-1C-20, §30-1C-21, §30-1C-
14 22, §30-1C-23 and §30-1C-24, all relating to the establishment and operation of an
15 interstate compact for medical licensure of physicians in multiple states; setting forth
16 purposes for the compact; setting forth definitions; providing physician eligibility
17 requirements; requiring a physician to designate a state of principal license; setting forth
18 the procedure for application and issuance of an expedited license; providing for fees
19 regarding expedited licensure; providing requirements for renewal of an expedited
20 license; establishing a shared database for member boards; providing for joint
21 investigation of physicians by member boards; establishing the effect of disciplinary
22 actions against a physician; creating the interstate medical licensure compact commission

1 to administer the compact; setting forth commission composition; establishing the
2 authority of the commission; providing for commission meetings; setting forth provisions
3 relating to disclosure of commission information and records; establishing an executive
4 committee; setting forth provisions for funding; establishing member state's right to
5 charge licensing fees; limiting commission authority to incur financial obligation;
6 requiring a financial audit; requiring the creation of bylaws; requiring annual election or
7 appointment of commission officers; establishing that commission officers serve without
8 remuneration; providing certain individuals defense, immunity, or limitation of liability
9 for civil actions in certain circumstances unless their conduct was intentional willful and
10 wanton; requiring the commission to defend certain civil actions; establishing
11 commission rule making authority and procedure; providing for judicial review;
12 providing for state enforcement; requiring state courts take judicial notice of certain
13 matters; providing the commission may intervene in proceedings; requiring service of
14 process upon the commission; establishing that failure to serve process upon the
15 commission voids a judicial decision; providing for legal enforcement of compact rules
16 and provisions; setting forth provisions for default; providing for termination or
17 withdrawal of a member state; setting forth provisions for resolution of disputes;
18 establishing provisions for state eligibility; setting forth the circumstances under which
19 the compact will become effective; providing for amending the compact; setting forth
20 procedures for states to withdraw from the compact; establishing circumstances, effect
21 and procedures related to dissolution of the compact; establishing provisions related to
22 severability; and, establishing provisions related to the binding effect of the compact.

1 *Be it enacted by the Legislature of West Virginia:*

2 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
3 article, designated §30-1C-1, §30-1C-2, §30-1C-3, §30-1C-4, §30-1C-5, §30-1C-6, §30-1C-7, §30-
4 1C-8, §30-1C-9, §30-1C-10, §30-1C-11, §30-1C-12, §30-1C-13, §30-1C-14, §30-1C-15, §30-1C-16,
5 §30-1C-17, §30-1C-18, §30-1C-19, §30-1C-20, §30-1C-21, §30-1C-22, §30-1C-23 and §30-1C-24,
6 all to read as follows:

7 **ARTICLE 1C. INTERSTATE MEDICAL LICENSURE COMPACT.**

8 **§30-1C-1. Purpose.**

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

19 State medical boards that participate in the Compact retain the jurisdiction to impose an
20 adverse action against a license to practice medicine in that state issued to a physician through the
21 procedures in the Compact.

22 **§30-1C-2. Definitions.**

1 In this article adopting the Interstate Medical Licensure Compact:

2 (a) "Bylaws" means those bylaws established by the Interstate Commission pursuant to
3 section eleven of this article for its governance, or for directing and controlling its actions and
4 conduct.

5 (b) "Commissioner" means the voting representative appointed by each member board
6 pursuant to section eleven of this article.

7 (c) "Compact" means the Interstate Medical Licensure Compact.

8 (d) "Conviction" means a finding by a court that an individual is guilty of a criminal offense
9 through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence
10 of an entry of a conviction of a criminal offense by the court shall be considered final for purposes
11 of disciplinary action by a member board.

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

14 (f) "Interstate Commission" means the Interstate Medical Licensure Compact Commission
15 created pursuant to section eleven of this article.

16 (g) "License" means authorization by a state for a physician to engage in the practice of
17 medicine, which would be unlawful without the authorization.

18 (h) "Medical Practice Act" means laws and regulations governing the practice of allopathic
19 and osteopathic medicine within a member state.

20 (i) "Member Board" means a state agency in a member state that acts in the sovereign
21 interests of the state by protecting the public through licensure, regulation, and education of
22 physicians as directed by the state government.

1 (j) "Member State" means a state that has enacted the Compact.

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

5 (l) "Physician" means any person who:

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

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

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

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

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

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

22 (7) Has never held a license authorizing the practice of medicine subjected to discipline by

1 a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to
2 nonpayment of fees related to a license;

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

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

7 (m) "Offense" means a felony, gross misdemeanor, or crime of moral turpitude.

8 (n) "Rule" means a written statement by the Interstate Commission promulgated pursuant
9 to section twelve of this article that is of general applicability, implements, interprets, or prescribes
10 a policy or provision of the Compact, or an organizational, procedural, or practice requirement of
11 the Interstate Commission, and has the force and effect of statutory law in a member state, and
12 includes the amendment, repeal, or suspension of an existing rule.

13 (o) "State" means any state, commonwealth, district, or territory of the United States.

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

17 **§30-1C-3. Eligibility.**

18 (a) A physician must meet the eligibility requirements as defined in section two, subsection
19 (l) of this article to receive an expedited license under the terms and provisions of the Compact.

20 (b) A physician who does not meet the requirements of section two of this article may obtain
21 a license to practice medicine in a member state if the individual complies with all laws and
22 requirements, other than the Compact, relating to the issuance of a license to practice medicine in

1 that state.

2 **§30-1C-4. Designation of state of principal license.**

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

6 (1) The state of primary residence for the physician;

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

8 (3) The location of the physician's employer; or

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

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

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

15 **§30-1C-5. Application and issuance of expedited licensure.**

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

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

1 (1) Static qualifications, which include verification of medical education, graduate medical
2 education, results of any medical or licensing examination, and other qualifications as determined by
3 the Interstate Commission through rule, shall not be subject to additional primary source verification
4 where already primary source verified by the state of principal license.

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

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

12 (c) Upon verification in subsection (b) of this section, physicians eligible for an expedited
13 license shall complete the registration process established by the Interstate Commission to receive a
14 license in a member state selected pursuant to subsection (a) of this section, including the payment
15 of any applicable fees.

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

21 (e) An expedited license shall be valid for a period consistent with the licensure period in the
22 member state and in the same manner as required for other physicians holding a full and unrestricted

1 license within the member state.

2 (f) An expedited license obtained through the Compact shall be terminated if a physician fails
3 to maintain a license in the state of principal licensure for a nondisciplinary reason, without
4 redesignation of a new state of principal licensure.

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

7 **§30-1C-6. Fees for expedited licensure.**

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

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

12 **§30-1C-7. Renewal and continued participation.**

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

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

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

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

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

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

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

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

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

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

11 **§30-1C-8. Coordinated information system.**

12 (a) The Interstate Commission shall establish a database of all physicians licensed, or who
13 have applied for licensure, under section five of this article.

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

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

19 (d) Member boards may report any nonpublic complaint, disciplinary, or investigatory
20 information not required by subsection (c) of this section to the Interstate Commission.

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

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

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

5 **§30-1C-9. Joint investigations.**

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

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

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

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

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

16 **§30-1C-10. Disciplinary actions.**

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

20 (b) If a license granted to a physician by the member board in the state of principal license is
21 revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the
22 physician by member boards shall automatically be placed, without further action necessary by any

1 member board, on the same status. If the member board in the state of principal license subsequently
2 reinstates the physician's license, a licensed issued to the physician by any other member board shall
3 remain encumbered until that respective member board takes action to reinstate the license in a
4 manner consistent with the Medical Practice Act of that state.

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

8 (i) Impose the same or lesser sanction(s) against the physician so long as such sanctions are
9 consistent with the Medical Practice Act of that state; or

10 (ii) Pursue separate disciplinary action against the physician under its respective Medical
11 Practice Act, regardless of the action taken in other member states.

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

20 **§30-1C-11. Interstate Medical Licensure Compact Commission.**

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

22 (b) The purpose of the Interstate Commission is the administration of the Interstate Medical

1 Licensure Compact, which is a discretionary state function.

2 (c) The Interstate Commission shall be a body corporate and joint agency of the member states
3 and shall have all the responsibilities, powers, and duties set forth in the Compact, and such additional
4 powers as may be conferred upon it by a subsequent concurrent action of the respective Legislatures
5 of the member states in accordance with the terms of the Compact.

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

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

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

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

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

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

20 (g) Each Commissioner participating at a meeting of the Interstate Commission is entitled to
21 one vote. A majority of Commissioners shall constitute a quorum for the transaction of business,
22 unless a larger quorum is required by the bylaws of the Interstate Commission. A Commissioner shall

1 not delegate a vote to another Commissioner. In the absence of its Commissioner, a member state
2 may delegate voting authority for a specified meeting to another person from that state who shall meet
3 the requirements of subsection (d) of this section.

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

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

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

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

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

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

16 (6) Discuss investigative records compiled for law-enforcement purposes; or

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

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

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

1 (k) The Interstate Commission shall establish an executive committee, which shall include
2 officers, members, and others as determined by the bylaws. The executive committee shall have the
3 power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods
4 when the Interstate Commission is not in session. When acting on behalf of the Interstate
5 Commission, the executive committee shall oversee the administration of the Compact including
6 enforcement and compliance with the provisions of the Compact, its bylaws and rules, and other such
7 duties as necessary.

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

10 **§30-1C-12. Powers and duties of the Interstate Commission.**

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

12 (1) Oversee and maintain the administration of the Compact;

13 (2) Promulgate rules which shall be binding to the extent and in the manner provided for in
14 the Compact;

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

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

20 (5) Establish and appoint committees including, but not limited to, an executive committee
21 as required by section eleven of this article, which shall have the power to act on behalf of the
22 Interstate Commission in carrying out its powers and duties;

- 1 (6) Pay, or provide for the payment of the expenses related to the establishment, organization,
2 and ongoing activities of the Interstate Commission;
- 3 (7) Establish and maintain one or more offices;
- 4 (8) Borrow, accept, hire, or contract for services of personnel;
- 5 (9) Purchase and maintain insurance and bonds;
- 6 (10) Employ an executive director who shall have such powers to employ, select or appoint
7 employees, agents, or consultants, and to determine their qualifications, define their duties, and fix
8 their compensation;
- 9 (11) Establish personnel policies and programs relating to conflicts of interest, rates of
10 compensation, and qualifications of personnel;
- 11 (12) Accept donations and grants of money, equipment, supplies, materials and services, and
12 to receive, utilize, and dispose of it in a manner consistent with the conflict of interest policies
13 established by the Interstate Commission;
- 14 (13) Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve
15 or use, any property, real, personal, or mixed;
- 16 (14) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
17 property, real, personal, or mixed;
- 18 (15) Establish a budget and make expenditures;
- 19 (16) Adopt a seal and bylaws governing the management and operation of the Interstate
20 Commission;
- 21 (17) Report annually to the Legislatures and Governors of the member states concerning the
22 activities of the Interstate Commission during the preceding year. Such reports shall also include

1 reports of financial audits and any recommendations that may have been adopted by the Interstate
2 Commission;

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

5 (19) Maintain records in accordance with the bylaws;

6 (20) Seek and obtain trademarks, copyrights, and patents; and

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

9 **§30-1C-13. Finance powers.**

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

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

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

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

1 **§30-1C-14. Organization and operation of the Interstate Commission.**

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

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

9 (c) Officers selected in subsection (b) of this section shall serve without remuneration from
10 the Interstate Commission.

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

18 (1) The liability of the executive director and employees of the Interstate Commission or
19 representatives of the Interstate Commission, acting within the scope of such person's employment
20 or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits
21 of liability set forth under the Constitution and laws of that state for state officials, employees, and
22 agents. The Interstate Commission is considered to be an instrumentality of the states for the

1 purposes of any such action. Nothing in this subsection may be construed to protect such person from
2 suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton
3 misconduct of such person.

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

13 (3) To the extent not covered by the state involved, member state, or the Interstate
14 Commission, the representatives or employees of the Interstate Commission shall be held harmless
15 in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such
16 persons arising out of an actual or alleged act, error, or omission that occurred within the scope of
17 Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable
18 basis for believing occurred within the scope of Interstate Commission employment, duties, or
19 responsibilities, provided that the actual or alleged act, error, or omission did not result from
20 intentional or willful and wanton misconduct on the part of such persons.

21 **§30-1C-15. Rule making functions of the Interstate Commission.**

22 (a) The Interstate Commission shall promulgate reasonable rules in order to effectively and

1 efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the
2 Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the
3 purposes of the Compact, or the powers granted hereunder, then such an action by the Interstate
4 Commission shall be invalid and have no force or effect.

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

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

16 **§30-1C-16. Oversight of Interstate Compact.**

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

22 (b) All courts shall take judicial notice of the Compact and the rules in any judicial or

1 administrative proceeding in a member state pertaining to the subject matter of the Compact which
2 may affect the powers, responsibilities or actions of the Interstate Commission.

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

7 **§30-1C-17. Enforcement of Interstate Compact.**

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

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

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

20 **§30-1C-18. Default procedures.**

21 (a) The grounds for default include, but are not limited to, failure of a member state to perform
22 such obligations or responsibilities imposed upon it by the Compact, or the rules and bylaws of the

1 Interstate Commission promulgated under the Compact.

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

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

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

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

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

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

22 (f) The member state which has been terminated is responsible for all dues, obligations, and

1 liabilities incurred through the effective date of termination including obligations, the performance
2 of which extends beyond the effective date of termination.

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

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

10 **§30-1C-19. Dispute resolution.**

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

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

16 **§30-1C-20. Member states, effective date and amendment.**

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

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

21 (c) The governors of nonmember states, or their designees, shall be invited to participate in
22 the activities of the Interstate Commission on a nonvoting basis prior to adoption of the Compact by

1 all states.

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

6 **§30-1C-21. Withdrawal.**

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

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

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

16 (d) The Interstate Commission shall notify the other member states of the withdrawing state's
17 intent to withdraw within sixty days of its receipt of notice provided under subsection (c) of this
18 section.

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

22 (f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing

1 state reenacting the Compact or upon such later date as determined by the Interstate Commission.

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

5 **§30-1C-22. Dissolution.**

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

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

11 **§30-1C-23. Severability and construction.**

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

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

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

17 **§30-1C-24. Binding effect of Compact and other laws.**

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

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

22 (c) All lawful actions of the Interstate Commission, including all rules and bylaws

1 promulgated by the Commission, are binding upon the member states.

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

4 (e) In the event any provision of the Compact exceeds the Constitutional limits imposed on
5 the Legislature of any member state, such provision shall be ineffective to the extent of the conflict
6 with the Constitutional provision in question in that member state.