

COMMITTEE SUBSTITUTE

for

H. B. 2496

(BY DELEGATE(S) ELLINGTON, HOWELL,
HOUSEHOLDER, SOBONYA, FLEISCHAUER AND FRICH)

(Originating in the Committee on the Judiciary.)
(February 2, 2015)

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-1C-1, §30-1C-2, §30-1C-3, §30-1C-4, §30-1C-5, §30-1C-6, §30-1C-7, §30-1C-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, §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, all relating to the establishment and operation of an interstate compact for medical licensure of physicians in multiple states; setting forth

purposes for the compact; setting forth definitions; providing physician eligibility requirements; requiring a physician to designate a state of principal license; setting forth the procedure for application and issuance of an expedited license; providing for fees regarding expedited licensure; providing requirements for renewal of an expedited license; establishing a shared database for member boards; providing for joint investigation of physicians by member boards; establishing the effect of disciplinary actions against a physician; creating the interstate medical licensure compact commission to administer the compact; setting forth commission composition; establishing the authority of the commission; providing for commission meetings; setting forth provisions relating to disclosure of commission information and records; establishing an executive committee; setting forth provisions for funding; establishing member state's right to charge licensing fees; limiting commission authority to incur financial obligation; requiring a financial audit; requiring the creation of bylaws; requiring annual election or appointment of commission officers; establishing that commission officers serve without remuneration; providing certain individuals defense, immunity, or

limitation of liability for civil actions in certain circumstances unless their conduct was intentional willful and wanton; requiring the commission to defend certain civil actions; establishing commission rule making authority and procedure; providing for judicial review; providing for state enforcement; requiring state courts take judicial notice of certain matters; providing the commission may intervene in proceedings; requiring service of process upon the commission; establishing that failure to serve process upon the commission voids a judicial decision; providing for legal enforcement of compact rules and provisions; setting forth provisions for default; providing for termination or withdrawal of a member state; setting forth provisions for resolution of disputes; establishing provisions for state eligibility; setting forth the circumstances under which the compact will become effective; providing for amending the compact; setting forth procedures for states to withdraw from the compact; establishing circumstances, effect and procedures related to dissolution of the compact; establishing provisions related to severability; and, establishing provisions related to the binding effect of the compact.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §30-1C-1, §30-1C-2, §30-1C-3, §30-1C-4, §30-1C-5, §30-1C-6, §30-1C-7, §30-1C-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, §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, all to read as follows:

ARTICLE 1C. INTERSTATE MEDICAL LICENSURE COMPACT.

§30-1C-1. Purpose.

1 In order to strengthen access to health care, and in
2 recognition of the advances in the delivery of health care, the
3 member states of the Interstate Medical Licensure Compact have
4 allied in common purpose to develop a comprehensive process
5 that complements the existing licensing and regulatory authority
6 of state medical boards, provides a streamlined process that
7 allows physicians to become licensed in multiple states, thereby
8 enhancing the portability of a medical license and ensuring the
9 safety of patients. The Compact creates another pathway for
10 licensure and does not otherwise change a state's existing
11 medical practice statutes. The Compact also adopts the

12 prevailing standard for licensure and affirms that the practice of
13 medicine occurs where the patient is located at the time of the
14 physician-patient encounter, and therefore, requires the
15 physician to be under the jurisdiction of the state medical board
16 where the patient is located.

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

§30-1C-2. Definitions.

1 In this article adopting the Interstate Medical Licensure
2 Compact:

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

7 (b) “Commissioner” means the voting representative
8 appointed by each member board pursuant to section eleven of
9 this article.

10 (c) “Compact” means the Interstate Medical Licensure
11 Compact.

12 (d) “Conviction” means a finding by a court that an
13 individual is guilty of a criminal offense through adjudication,
14 or entry of a plea of guilt or no contest to the charge by the
15 offender. Evidence of an entry of a conviction of a criminal
16 offense by the court shall be considered final for purposes of
17 disciplinary action by a member board.

18 (e) “Expedited License” means a full and unrestricted
19 medical license granted by a member state to an eligible
20 physician through the process set forth in the Compact.

21 (f) “Interstate Commission” means the Interstate Medical
22 Licensure Compact Commission created pursuant to section
23 eleven of this article.

24 (g) “License” means authorization by a state for a physician
25 to engage in the practice of medicine, which would be unlawful
26 without the authorization.

27 (h) “Medical Practice Act” means laws and regulations
28 governing the practice of allopathic and osteopathic medicine
29 within a member state.

30 (i) “Member Board” means a state agency in a member state
31 that acts in the sovereign interests of the state by protecting the
32 public through licensure, regulation, and education of physicians
33 as directed by the state government.

34 (j) “Member State” means a state that has enacted the
35 Compact.

36 (k) “Practice of Medicine” means the clinical prevention,
37 diagnosis, or treatment of human disease, injury, or condition
38 requiring a physician to obtain and maintain a license in
39 compliance with the Medical Practice Act of a member state.

40 (l) “Physician” means any person who:

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

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

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

54 (4) Holds specialty certification or a time-unlimited specialty
55 certificate recognized by the American Board of Medical
56 Specialties or the American Osteopathic Association's Bureau
57 of Osteopathic Specialists;

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

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

63 (7) Has never held a license authorizing the practice of
64 medicine subjected to discipline by a licensing agency in any
65 state, federal, or foreign jurisdiction, excluding any action
66 related to nonpayment of fees related to a license;

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

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

73 (m) “Offense” means a felony, gross misdemeanor, or crime
74 of moral turpitude.

75 (n) “Rule” means a written statement by the Interstate
76 Commission promulgated pursuant to section twelve of this
77 article that is of general applicability, implements, interprets, or
78 prescribes a policy or provision of the Compact, or an
79 organizational, procedural, or practice requirement of the
80 Interstate Commission, and has the force and effect of statutory
81 law in a member state, and includes the amendment, repeal, or
82 suspension of an existing rule.

83 (o) “State” means any state, commonwealth, district, or
84 territory of the United States.

85 (p) “State of Principal License” means a member state where
86 a physician holds a license to practice medicine and which has
87 been designated as such by the physician for purposes of
88 registration and participation in the Compact.

§30-1C-3. Eligibility.

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

5 (b) A physician who does not meet the requirements of
6 section two of this article may obtain a license to practice
7 medicine in a member state if the individual complies with all
8 laws and requirements, other than the Compact, relating to the
9 issuance of a license to practice medicine in that state.

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

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

- 6 (1) The state of primary residence for the physician;
- 7 (2) The state where at least twenty-five percent of the
8 practice of medicine occurs; or
- 9 (3) The location of the physician's employer, or

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

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

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

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

1 (a) A physician seeking licensure through the Compact shall
2 file an application for an expedited license with the member
3 board of the state selected by the physician as the state of
4 principal license.

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

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

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

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

27 (c) Upon verification in subsection (b) of this section,
28 physicians eligible for an expedited license shall complete the
29 registration process established by the Interstate Commission to
30 receive a license in a member state selected pursuant to

31 subsection (a) of this section, including the payment of any
32 applicable fees.

33 (d) After receiving verification of eligibility under
34 subsection (b) of this section and any fees under subsection (c)
35 of this section, a member board shall issue an expedited license
36 to the physician. This license shall authorize the physician to
37 practice medicine in the issuing state consistent with the Medical
38 Practice Act and all applicable laws and regulations of the
39 issuing member board and member state.

40 (e) An expedited license shall be valid for a period consistent
41 with the licensure period in the member state and in the same
42 manner as required for other physicians holding a full and
43 unrestricted license within the member state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§30-1C-9. Joint investigations.

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

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

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

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

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

§30-1C-10. Disciplinary actions.

1 (a) Any disciplinary action taken by any member board
2 against a physician licensed through the Compact shall be
3 deemed unprofessional conduct which may be subject to

4 discipline by other member boards, in addition to any violation
5 of the Medical Practice Act or regulations in that state.

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

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

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

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

27 (d) If a license granted to a physician by a member board is
28 revoked, surrendered or relinquished in lieu of discipline, or
29 suspended, then any licenses issued to the physician by any other
30 member boards shall be suspended, automatically and
31 immediately without further action necessary by the other
32 member boards, for ninety days upon entry of the order by the
33 disciplining board, to permit the member boards to investigate
34 the basis for the action under the Medical Practice Act of that
35 state. A member board may terminate the automatic suspension
36 of the license it issued prior to the completion of the ninety day
37 suspension period in a manner consistent with the Medical
38 Practice Act of that state.

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

1 (a) The member states hereby create the “Interstate Medical
2 Licensure Compact Commission”.

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 corporate and
7 joint agency of the member states and shall have all the
8 responsibilities, powers, and duties set forth in the Compact, and
9 such additional powers as may be conferred upon it by a
10 subsequent concurrent action of the respective Legislatures of
11 the member states in accordance with the terms of the Compact.

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

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

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

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

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

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

34 (g) Each Commissioner participating at a meeting of the
35 Interstate Commission is entitled to one vote. A majority of
36 Commissioners shall constitute a quorum for the transaction of
37 business, unless a larger quorum is required by the bylaws of the
38 Interstate Commission. A Commissioner shall not delegate a
39 vote to another Commissioner. In the absence of its
40 Commissioner, a member state may delegate voting authority for
41 a specified meeting to another person from that state who shall
42 meet the requirements of subsection (d) of this section.

43 (h) The Interstate Commission shall provide public notice of
44 all meetings and all meetings shall be open to the public. The

45 Interstate Commission may close a meeting, in full or in portion,
46 where it determines by a two-thirds vote of the Commissioners
47 present that an open meeting would be likely to:

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

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

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

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

56 (5) Discuss information of a personal nature where
57 disclosure would constitute a clearly unwarranted invasion of
58 personal privacy;

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

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

63 (i) The Interstate Commission shall keep minutes which
64 shall fully describe all matters discussed in a meeting and shall

65 provide a full and accurate summary of actions taken, including
66 record of any roll call votes.

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

70 (k) The Interstate Commission shall establish an executive
71 committee, which shall include officers, members, and others as
72 determined by the bylaws. The executive committee shall have
73 the power to act on behalf of the Interstate Commission, with the
74 exception of rulemaking, during periods when the Interstate
75 Commission is not in session. When acting on behalf of the
76 Interstate Commission, the executive committee shall oversee
77 the administration of the Compact including enforcement and
78 compliance with the provisions of the Compact, its bylaws and
79 rules, and other such duties as necessary.

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

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

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

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

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

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

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

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

16 (6) Pay, or provide for the payment of the expenses related
17 to the establishment, organization, and ongoing activities of the
18 Interstate Commission;

19 (7) Establish and maintain one or more offices;

20 (8) Borrow, accept, hire, or contract for services of
21 personnel;

22 (9) Purchase and maintain insurance and bonds;

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

27 (11) Establish personnel policies and programs relating to
28 conflicts of interest, rates of compensation, and qualifications of
29 personnel;

30 (12) Accept donations and grants of money, equipment,
31 supplies, materials and services, and to receive, utilize, and
32 dispose of it in a manner consistent with the conflict of interest
33 policies established by the Interstate Commission;

34 (13) Lease, purchase, accept contributions or donations of,
35 or otherwise to own, hold, improve or use, any property, real,
36 personal, or mixed;

37 (14) Sell, convey, mortgage, pledge, lease, exchange,
38 abandon, or otherwise dispose of any property, real, personal, or
39 mixed;

40 (15) Establish a budget and make expenditures;

41 (16) Adopt a seal and bylaws governing the management and
42 operation of the Interstate Commission;

43 (17) Report annually to the Legislatures and Governors of
44 the member states concerning the activities of the Interstate
45 Commission during the preceding year. Such reports shall also
46 include reports of financial audits and any recommendations that
47 may have been adopted by the Interstate Commission;

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

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

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

52 and

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

§30-1C-13. Finance powers.

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

8 Commission, which shall promulgate a rule binding upon all
9 member states.

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

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

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

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

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

6 (b) The Interstate Commission shall elect or appoint
7 annually from among its Commissioners a chairperson, a vice-

8 chairperson, and a treasurer, each of whom shall have such
9 authority and duties as may be specified in the bylaws. The
10 chairperson, or in the chairperson's absence or disability, the
11 vice-chairperson, shall preside at all meetings of the Interstate
12 Commission.

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

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

26 (1) The liability of the executive director and employees of
27 the Interstate Commission or representatives of the Interstate

28 Commission, acting within the scope of such person's
29 employment or duties for acts, errors, or omissions occurring
30 within such person's state, may not exceed the limits of liability
31 set forth under the Constitution and laws of that state for state
32 officials, employees, and agents. The Interstate Commission is
33 considered to be an instrumentality of the states for the purposes
34 of any such action. Nothing in this subsection may be construed
35 to protect such person from suit or liability for damage, loss,
36 injury, or liability caused by the intentional or willful and
37 wanton misconduct of such person.

38 (2) The Interstate Commission shall defend the executive
39 director, its employees, and subject to the approval of the
40 Attorney General or other appropriate legal counsel of the
41 member state represented by an Interstate Commission
42 representative, shall defend such Interstate Commission
43 representative in any civil action seeking to impose liability
44 arising out of an actual or alleged act, error or omission that
45 occurred within the scope of Interstate Commission
46 employment, duties or responsibilities, or that the defendant had
47 a reasonable basis for believing occurred within the scope of

48 Interstate Commission employment, duties, or responsibilities,
49 provided that the actual or alleged act, error, or omission did not
50 result from intentional or willful and wanton misconduct on the
51 part of such person.

52 (3) To the extent not covered by the state involved, member
53 state, or the Interstate Commission, the representatives or
54 employees of the Interstate Commission shall be held harmless
55 in the amount of a settlement or judgment, including attorney's
56 fees and costs, obtained against such persons arising out of an
57 actual or alleged act, error, or omission that occurred within the
58 scope of Interstate Commission employment, duties, or
59 responsibilities, or that such persons had a reasonable basis for
60 believing occurred within the scope of Interstate Commission
61 employment, duties, or responsibilities, provided that the actual
62 or alleged act, error, or omission did not result from intentional
63 or willful and wanton misconduct on the part of such persons.

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

1 (a) The Interstate Commission shall promulgate reasonable
2 rules in order to effectively and efficiently achieve the purposes
3 of the Compact. Notwithstanding the foregoing, in the event the

4 Interstate Commission exercises its rule-making authority in a
5 manner that is beyond the scope of the purposes of the Compact,
6 or the powers granted hereunder, then such an action by the
7 Interstate Commission shall be invalid and have no force or
8 effect.

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

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

23 not find the rule to be unlawful if the rule represents a reasonable
24 exercise of the authority granted to the Interstate Commission.

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

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

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

13 (c) The Interstate Commission shall be entitled to receive all
14 service of process in any such proceeding, and shall have
15 standing to intervene in the proceeding for all purposes. Failure
16 to provide service of process to the Interstate Commission shall

17 render a judgment or order void as to the Interstate Commission,
18 the Compact, or promulgated rules.

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

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

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

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

§30-1C-18. Default procedures.

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

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

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

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

17 (c) If the defaulting state fails to cure the default, the
18 defaulting state shall be terminated from the Compact upon an
19 affirmative vote of a majority of the Commissioners and all

20 rights, privileges, and benefits conferred by the Compact shall
21 terminate on the effective date of termination. A cure of the
22 default does not relieve the offending state of obligations or
23 liabilities incurred during the period of the default.

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

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

34 (f) The member state which has been terminated is
35 responsible for all dues, obligations, and liabilities incurred
36 through the effective date of termination including obligations,
37 the performance of which extends beyond the effective date of
38 termination.

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

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

§30-1C-19. Dispute resolution.

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

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

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

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

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

7 (c) The governors of nonmember states, or their designees,
8 shall be invited to participate in the activities of the Interstate
9 Commission on a nonvoting basis prior to adoption of the
10 Compact by all states.

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

§30-1C-21. Withdrawal.

1 (a) Once effective, the Compact shall continue in force and
2 remain binding upon each and every member state; provided that

3 a member state may withdraw from the Compact by specifically
4 repealing the statute which enacted the Compact into law.

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

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

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

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

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

24 or upon such later date as determined by the Interstate
25 Commission.

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

§30-1C-22. Dissolution.

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

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

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

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

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

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

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

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

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

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

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

10 (e) In the event any provision of the Compact exceeds the
11 Constitutional limits imposed on the Legislature of any member
12 state, such provision shall be ineffective to the extent of the
13 conflict with the Constitutional provision in question in that
14 member state.