

FIRST REGULAR SESSION

SENATE BILL NO. 393

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BERNSKOETTER.

1115S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 334.043, RSMo, and to enact in lieu thereof two new sections relating to physician licensure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 334.043, RSMo, is repealed and two new
2 sections enacted in lieu thereof, to be known as sections
3 334.043 and 334.1600, to read as follows:

334.043. [Upon the applicant paying a fee equivalent
2 to the required examination fee and furnishing the board
3 with all locations of previous practice and licensure in
4 chronological order, the board shall, under regulations
5 prescribed by it, admit without examination qualified
6 persons who meet the requirements of this state including,
7 but not limited to, sections 334.031, 334.035 and 334.040,
8 and who hold certificates of licensure in any state or
9 territory of the United States or the District of Columbia
10 authorizing them to practice in the same manner and to the
11 same extent as physicians and surgeons are authorized to
12 practice by this chapter. Within the limits of this
13 section, the board is authorized and empowered to negotiate
14 reciprocal compacts with licensing boards of other states
15 for admission of licensed practitioners from Missouri in
16 other states] 1. **For purposes of this section, the**
17 **following terms mean:**

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 (1) "Board", the state board of registration for the
19 healing arts in the state of Missouri;

20 (2) "License", a license, certificate, registration,
21 permit, accreditation, or military occupational specialty
22 that enables a person to legally practice an occupation or
23 profession in a particular jurisdiction;

24 (3) "Military", the Armed Forces of the United States,
25 including the Air Force, Army, Coast Guard, Marine Corps,
26 Navy, Space Force, National Guard, and any other military
27 branch that is designated by Congress as part of the Armed
28 Forces of the United States, and all reserve components and
29 auxiliaries. The term "military" also includes the military
30 reserves and militia of any United States territory or state;

31 (4) "Nonresident military spouse", a nonresident
32 spouse of an active duty member of the Armed Forces of the
33 United States who has been transferred or is scheduled to be
34 transferred to the state of Missouri, or who has been
35 transferred or is scheduled to be transferred to an adjacent
36 state and is or will be domiciled in the state of Missouri,
37 or has moved to the state of Missouri on a permanent change-
38 of-station basis;

39 (5) "Oversight body", any board, department, agency,
40 or office of a jurisdiction that issues licenses;

41 (6) "Resident military spouse", a spouse of an active
42 duty member of the Armed Forces of the United States who has
43 been transferred or is scheduled to be transferred to the
44 state of Missouri or an adjacent state and who is a
45 permanent resident of the state of Missouri, who is
46 domiciled in the state of Missouri, or who has Missouri as
47 his or her home of record.

48 2. Any person who holds a valid current physician and
49 surgeon license issued by another state, a branch or unit of

50 the military, a territory of the United States, or the
51 District of Columbia, and who has been licensed for at least
52 one year in such other jurisdiction, may submit to the board
53 an application for a physician and surgeon license in
54 Missouri along with proof of current licensure and proof of
55 licensure for at least one year in the other jurisdiction.

56 3. The board shall:

57 (1) Within six months of receiving an application
58 described in subsection 2 of this section, waive any
59 examination, educational, or experience requirements for
60 licensure in this state for the applicant if it determines
61 that there were minimum education requirements and, if
62 applicable, work experience and clinical supervision
63 requirements in effect and the other jurisdiction verifies
64 that the person met those requirements in order to be
65 licensed or certified in that jurisdiction. The board may
66 require an applicant to take and pass an examination
67 specific to the laws of this state; or

68 (2) Within thirty days of receiving an application
69 described in subsection 2 of this section from a nonresident
70 military spouse or a resident military spouse, waive any
71 examination, educational, or experience requirements for
72 licensure in this state for the applicant and issue such
73 applicant a license under this section if such applicant
74 otherwise meets the requirements of this section.

75 4. (1) The board shall not waive any examination,
76 educational, or experience requirements for any applicant
77 who has had his or her license revoked by an oversight body
78 outside the state; who is currently under investigation, who
79 has a complaint pending, or who is currently under
80 disciplinary action, except as provided in subdivision (2)
81 of this subsection, with an oversight body outside the

82 state; who does not hold a license in good standing with an
83 oversight body outside the state; who has a criminal record
84 that would disqualify him or her for licensure in Missouri;
85 or who does not hold a valid current license in the other
86 jurisdiction on the date the board receives his or her
87 application under this section.

88 (2) If another jurisdiction has taken disciplinary
89 action against an applicant, the board shall determine if
90 the cause for the action was corrected and the matter
91 resolved. If the matter has not been resolved by that
92 jurisdiction, the board may deny a license until the matter
93 is resolved.

94 5. Nothing in this section shall prohibit the board
95 from denying a license to an applicant under this section
96 for any reason described in section 334.100.

97 6. Any person who is licensed under the provisions of
98 this section shall be subject to the board's jurisdiction
99 and all rules and regulations pertaining to the practice as
100 a physician and surgeon in this state.

101 7. This section shall not be construed to waive any
102 requirement for an applicant to pay any fees.

334.1600. SECTION 1. PURPOSE

2 In order to strengthen access to health care, and in
3 recognition of the advances in the delivery of health care,
4 the member states of the Interstate Medical Licensure
5 Compact have allied in common purpose to develop a
6 comprehensive process that complements the existing
7 licensing and regulatory authority of state medical boards,
8 provides a streamlined process that allows physicians to
9 become licensed in multiple states, thereby enhancing the
10 portability of a medical license and ensuring the safety of
11 patients. The Compact creates another pathway for licensure

12 and does not otherwise change a state's existing Medical
13 Practice Act. The Compact also adopts the prevailing
14 standard for licensure and affirms that the practice of
15 medicine occurs where the patient is located at the time of
16 the physician-patient encounter, and therefore, requires the
17 physician to be under the jurisdiction of the state medical
18 board where the patient is located. State medical boards
19 that participate in the Compact retain the jurisdiction to
20 impose an adverse action against a license to practice
21 medicine in that state issued to a physician through the
22 procedures in the Compact.

23 SECTION 2. DEFINITIONS

24 In this compact:

25 (a) "Bylaws" means those bylaws established by the
26 Interstate Commission pursuant to Section 11.

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

29 (c) "Conviction" means a finding by a court that an
30 individual is guilty of a criminal offense through
31 adjudication, or entry of a plea of guilt or no contest to
32 the charge by the offender. Evidence of an entry of a
33 conviction of a criminal offense by the court shall be
34 considered final for purposes of disciplinary action by a
35 member board.

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

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

41 (f) "License" means authorization by a member state
42 for a physician to engage in the practice of medicine, which
43 would be unlawful without authorization.

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

47 (h) "Member Board" means a state agency in a member
48 state that acts in the sovereign interests of the state by
49 protecting the public through licensure, regulation, and
50 education of physicians as directed by the state government.

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

53 (j) "Practice of Medicine" means that clinical
54 prevention, diagnosis, or treatment of human disease,
55 injury, or condition requiring a physician to obtain and
56 maintain a license in compliance with the Medical Practice
57 Act of a member state.

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

59 1) Is a graduate of a medical school accredited by the
60 Liaison Committee on Medical Education, the Commission on
61 Osteopathic College Accreditation, or a medical school
62 listed in the International Medical Education Directory or
63 its equivalent;

64 2) Passed each component of the United State Medical
65 Licensing Examination (USMLE) or the Comprehensive
66 Osteopathic Medical Licensing Examination (COMLEX-USA)
67 within three attempts, or any of its predecessor
68 examinations accepted by a state medical board as an
69 equivalent examination for licensure purposes;

70 3) Successfully completed graduate medical education
71 approved by the Accreditation Council for Graduate Medical
72 Education or the American Osteopathic Association;

73 4) Holds specialty certification or a time-unlimited
74 specialty certificate recognized by the American Board of

75 Medical Specialties or the American Osteopathic
76 Association's Bureau of Osteopathic Specialists;

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

79 6) Has never been convicted, received adjudication,
80 deferred adjudication, community supervision, or deferred
81 disposition for any offense by a court of appropriate
82 jurisdiction;

83 7) Has never held a license authorizing the practice
84 of medicine subjected to discipline by a licensing agency in
85 any state, federal, or foreign jurisdiction, excluding any
86 action related to non-payment of fees related to a license;

87 8) Has never had a controlled substance license or
88 permit suspended or revoked by a state or the United States
89 Drug Enforcement Administration; and

90 9) Is not under active investigation by a licensing
91 agency or law enforcement authority in any state, federal,
92 or foreign jurisdiction.

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

95 (m) "Rule" means a written statement by the Interstate
96 Commission promulgated pursuant to Section 12 of the Compact
97 that is of general applicability, implements, interprets, or
98 prescribes a policy or provision of the Compact, or an
99 organizational, procedural, or practice requirement of the
100 Interstate Commission, and has the force and effect of
101 statutory law in a member state, and includes the amendment,
102 repeal, or suspension of an existing rule.

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

105 (o) "State of Principal License" means a member state
106 where a physician holds a license to practice medicine and

107 which has been designated as such by the physician for
108 purposes of registration and participation in the Compact.

109 SECTION 3. ELIGIBILITY

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

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

118 SECTION 4. DESIGNATION OF STATE OF PRINCIPAL LICENSE

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

124 1) The state of principal residence for the physician,
125 or

126 2) The state where at least 25% of the practice of
127 medicine occurs, or

128 3) The location of the physician's employer, or

129 4) If no state qualifies under subsection (1),
130 subsection (2), or subsection (3), the state designated as
131 state of residence for purpose of federal income tax.

132 (b) A physician may redesignate a member state as
133 state of principal license at any time, as long as the state
134 meets the requirements of subsection (a).

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

138 SECTION 5. APPLICATION AND ISSUANCE OF EXPEDITED
139 LICENSURE

140 (a) A physician seeking licensure through the Compact
141 shall file an application for an expedited license with the
142 member board of the state selected by the physician as the
143 state of principal license.

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

150 1) Static qualifications, which include verification
151 of medical education, graduate medical education, results of
152 any medical or licensing examination, and other
153 qualifications as determined by the Interstate Commission
154 through rule, shall not be subject to additional primary
155 source verification where already primary source verified by
156 the state of principal license.

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

165 3) Appeal on the determination of eligibility shall be
166 made to the member state where the application was filed and
167 shall be subject to the law of that state.

168 (c) Upon verification in subsection (b), physicians
169 eligible for an expedited license shall complete the

170 registration process established by the Interstate
171 Commission to receive a license in a member state selected
172 pursuant to subsection (a), including the payment of any
173 applicable fees.

174 (d) After receiving verification of eligibility under
175 subsection (b) and any fees under subsection (c), a member
176 board shall issue an expedited license to the physician.
177 This license shall authorize the physician to practice
178 medicine in the issuing state consistent with the Medical
179 Practice Act and all applicable laws and regulations of the
180 issuing member board and member state.

181 (e) An expedited license shall be valid for a period
182 consistent with the licensure period in the member state and
183 in the same manner as required for other physicians holding
184 a full and unrestricted license within the member state.

185 (f) An expedited license obtained through the Compact
186 shall be terminated if a physician fails to maintain a
187 license in the state of principal licensure for a non-
188 disciplinary reason, without redesignation of a new state of
189 principal licensure.

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

194 SECTION 6. FEES FOR EXPEDITED LICENSURE

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

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

201 SECTION 7. RENEWAL AND CONTINUED PARTICIPATION

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

205 1) Maintains a full and unrestricted license in a
206 state of principal license;

207 2) Has not been convicted, received adjudication,
208 deferred adjudication, community supervision, or deferred
209 disposition for any offense by a court of appropriate
210 jurisdiction;

211 3) Has not had a license authorizing the practice of
212 medicine subject to discipline by a licensing agency in any
213 state, federal, or foreign jurisdiction, excluding any
214 action related to non-payment of fees related to a license;
215 and

216 4) Has not had a controlled substance license or
217 permit suspended or revoked by a state or the United States
218 Drug Enforcement Administration.

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

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

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

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

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

235 SECTION 8. COORDINATED INFORMATION SYSTEM

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

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

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

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

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

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

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

259 SECTION 9. JOINT INVESTIGATIONS

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

262 (b) In addition to the authority granted to a member
263 board by its respective Medical Practice Act or other

264 applicable state law, a member board may participate with
265 other member boards in joint investigations of physicians
266 licensed by the member boards.

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

269 (d) Member boards may share any investigative,
270 litigation, or compliance materials in furtherance of any
271 joint or individual investigation initiate under the Compact.

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

276 SECTION 10. DISCIPLINARY ACTIONS

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

283 (b) If a license granted to a physician by the member
284 board in the state of principal license is revoked,
285 surrendered or relinquished in lieu of discipline, or
286 suspended, then all licenses issued to the physician by
287 member boards shall automatically be placed, without further
288 action necessary by any member board, on the same status.
289 If the member board in the state of principal license
290 subsequently reinstates the physician's license, a license
291 issued to the physician by any other member board shall
292 remain encumbered until that respective member board takes
293 action to reinstate the license in a manner consistent with
294 the Medical Practice Act of that state.

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

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

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

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

SECTION 11. INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

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

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

(c) The Interstate Commission shall be a body corporate and joint agency of the member states and shall

327 have all the responsibilities, powers, and duties set forth
328 in the Compact, and such additional powers as may be
329 conferred upon it by a subsequent concurrent action of the
330 respective legislatures of the member states in accordance
331 with the terms of the Compact.

332 (d) The Interstate Commission shall consist of two
333 voting representatives appointed by each member state who
334 shall serve as Commissioners. In states where allopathic
335 and osteopathic physicians are regulated by separate member
336 boards, or if the licensing and disciplinary authority is
337 split between separate member boards, or if the licensing
338 and disciplinary authority is split between multiple member
339 boards within a member state, the member state shall appoint
340 one representative from each member board. A Commissioner
341 shall be a(n):

342 1) Allopathic or osteopathic physician appointed to a
343 member board;

344 2) Executive director, executive secretary, or similar
345 executive of a member board; or

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

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

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

357 (g) Each Commissioner participating at a meeting of
358 the Interstate Commission is entitled to one vote. A

majority of Commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission. A Commissioner shall not delegate a vote to another Commissioner. In the absence of its Commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (d).

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

1) Relate solely to the internal personnel practice and procedures of the Interstate Commission;

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

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

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

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

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

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

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

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

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

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

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

SECTION 12. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

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

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

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

(d) Enforce compliance with Compact provisions, the rules promulgated by the Interstate Commission, and the

421 bylaws, using all necessary and proper means, including but
422 not limited to the use of judicial process;

423 (e) Establish and appoint committees including, but
424 not limited to, an executive committee as required by
425 Section 11, which shall have the power to act on behalf of
426 the Interstate Commission in carrying out its powers and
427 duties;

428 (f) Pay, or provide for the payment of the expenses
429 related to the establishment, organization, and ongoing
430 activities of the Interstate Commission;

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

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

434 (i) Purchase and maintain insurance and bonds;

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

439 (k) Establish personnel policies and programs relating
440 to conflicts of interest, rates of compensation, and
441 qualifications of personnel;

442 (l) Accept donations and grants of money, equipment,
443 supplies, materials, and services and to receive, utilize,
444 and dispose of it in a manner consistent with the conflict
445 of interest policies established by the Interstate
446 Commission;

447 (m) Lease, purchase, accept contributions or donations
448 of, or otherwise to own, hold, improve or use, any property,
449 real, personal, or mixed;

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

- 453 (o) Establish a budget and make expenditures;
454 (p) Adopt a seal and bylaws governing the management
455 and operation of the Interstate Commission;
456 (q) Report annually to the legislatures and governors
457 of the member states concerning the activities of the
458 Interstate Commission during the preceding year. Such
459 reports shall also include reports of financial audits and
460 any recommendations that may have been adopted by the
461 Interstate Commission;
462 (r) Coordinate education, training, and public
463 awareness regarding the Compact, its implementation, and its
464 operation;
465 (s) Maintain records in accordance with the bylaws;
466 (t) Seek and obtain trademarks, copyrights, and
467 patents; and
468 (u) Perform such functions as may be necessary or
469 appropriate to achieve the purpose of the Compact.
- 470 SECTION 13. FINANCE POWERS
- 471 (a) The Interstate Commission may levy on and collect
472 an annual assessment from each member state to cover the
473 cost of the operations and activities of the Interstate
474 Commission and its staff. The total assessment must be
475 sufficient to cover the annual budget approved each year for
476 which revenue is not provided by other sources. The
477 aggregate annual assessment amount shall be allocated upon a
478 formula to be determined by the Interstate Commission, which
479 shall promulgate a rule binding upon all member states.
- 480 (b) The Interstate Commission shall not incur
481 obligations of any kind prior to securing the funds adequate
482 to meet the same.

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

486 (d) The Interstate Commission shall be subject to a
487 yearly financial audit conducted by a certified or licensed
488 accountant and the report of the audit shall be included in
489 the annual report of the Interstate Commission.

490 SECTION 14. ORGANIZATION AND OPERATION OF THE
491 INTERSTATE COMMISSION

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

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

504 (c) Officers selected in subsection (b) shall serve
505 without remuneration for the Interstate Commission.

506 (d) The officers and employees of the Interstate
507 Commission shall be immune from suit and liability, either
508 personally or in their official capacity, for a claim for
509 damage to or loss of property or personal injury or other
510 civil liability caused or arising out of, or relating to, an
511 actual or alleged act, error, or omission that occurred, or
512 that such person had a reasonable basis for believing
513 occurred, within the scope of Interstate Commission
514 employment, duties, or responsibilities; provided that such

515 person shall not be protected from suit or liability for
516 damage, loss, injury, or liability caused by the intentional
517 or willful and wanton misconduct of such person.

518 (e) The liability of the executive director and
519 employees of the Interstate Commission or representatives of
520 the Interstate Commission, acting within the scope of such
521 person's employment or duties for acts, errors, or omissions
522 occurring within such person's state, may not exceed the
523 limits of liability set forth under the constitution and
524 laws of that state for state officials, employees, and
525 agents. The Interstate Commission is considered to be an
526 instrumentality of the states for the purpose of any such
527 action. Nothing in this subsection shall be construed to
528 protect such person from suit or liability for damage, loss,
529 injury, or liability caused by the intentional or willful
530 and wanton misconduct of such person.

531 (f) The Interstate Commission shall defend the
532 executive director, its employees, and subject to the
533 approval of the attorney general or other appropriate legal
534 counsel of the member state represented by an Interstate
535 Commission representative, shall defend such Interstate
536 Commission representative in any civil action seeking to
537 impose liability arising out of an actual or alleged act,
538 error or omission that occurred within the scope of
539 Interstate Commission employment, duties or
540 responsibilities, or that the defendant had a reasonable
541 basis for believing occurred within the scope of Interstate
542 Commission employment, duties, or responsibilities, provided
543 that the actual or alleged act, error, or omission did not
544 result from intentional or willful and wanton misconduct on
545 the part of such person.

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

SECTION 15. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

(c) Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States District Court for

the District of Columbia or the federal district where the Interstate Commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the Interstate Commission.

SECTION 16. OVERSIGHT OF INTERSTATE COMPACT

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

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

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

SECTION 17. ENFORCEMENT OF INTERSTATE COMPACT

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

613 (b) The Interstate Commission may, by majority vote of
614 the Commissioners, initiate legal action in the United
615 States District Court for the District of Columbia, or, at
616 the discretion of the Interstate Commission, in the federal
617 district where the Interstate Commission has its principal
618 offices, to enforce compliance with the provisions of the
619 Compact, and its promulgated rules and bylaws, against a
620 member state in default. The relief sought may including
621 both injunctive relief and damages. In the event judicial
622 enforcement is necessary, the prevailing party shall be
623 awarded all costs of such litigation including reasonable
624 attorney's fees.

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

629 SECTION 18. DEFAULT PROCEDURES

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

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

639 1) Provide written notice to the defaulting state and
640 other member states, of the nature of the default, the means
641 of curing the default, and any action taken by the

642 Interstate Commission. The Interstate Commission shall
643 specify the conditions by which the defaulting state must
644 cure its default; and

645 2) Provide remedial training and specific technical
646 assistance regarding the default.

647 (c) If the defaulting state fails to cure the default,
648 the defaulting state shall be terminated from the Compact
649 upon an affirmative vote of a majority of the Commissioners
650 and all rights, privileges, and benefits conferred by the
651 Compact shall terminate on the effective date of
652 termination. A cure of the default does not relieve the
653 offending state of obligations or liabilities incurred
654 during the period of the default.

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

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

665 (f) The member state which has been terminated is
666 responsible for all due, obligations, and liabilities
667 incurred through the effective date of termination including
668 obligations, the performance of which extends beyond the
669 effective date of termination.

670 (g) The Interstate Commission shall not bear any costs
671 relating to any state that has been found to be in default
672 or which has been terminated from the Compact, unless

otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

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

SECTION 19. DISPUTE RESOLUTION

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

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

SECTION 20. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

(b) The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than seven (7) states. Thereafter, it shall become effective and binding on a state upon enactment of the Compact into law by that state.

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

(d) The Interstate Commission may propose amendments to the Compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until

705 it is enacted into law by unanimous consent of the member
706 states.

707 SECTION 21. WITHDRAWAL

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

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

719 (c) The withdrawing state shall immediately notify the
720 chairperson of the Interstate Commission in writing upon the
721 introduction of legislation repealing the Compact in the
722 withdrawing state.

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

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

731 (f) Reinstatement following withdrawal of a member
732 state shall occur upon the withdrawing state reenacting the
733 Compact or upon such later date as determined by the
734 Interstate Commission.

735 (g) The Interstate Commission is authorized to develop
736 rules to address the impact of the withdrawal of a member

737 state on licenses granted in other member states to
738 physicians who designated the withdrawing member state as
739 the state of principal license.

740 SECTION 22. DISSOLUTION

741 (a) The Compact shall dissolve effective upon the date
742 of the withdrawal or default of the member state which
743 reduces the membership of the Compact to one (1) member
744 state.

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

750 SECTION 23. SEVERABILITY AND CONSTRUCTION

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

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

757 (c) Nothing in the Compact shall be construed to
758 prohibit the applicability of other interstate compacts to
759 which the member states are members.

760 SECTION 24. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

764 (b) All laws in a member state in conflict with the
765 Compact are superseded to the extent of the conflict

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

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

772 (e) In the event any provision of the Compact exceeds
773 the constitutional limits imposed on the legislature of any
774 member state, such provision shall be ineffective to the
775 extent of the conflict with the constitutional provision in
776 question in that member state.

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