

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1716

By: Cox

4  
5  
6 AS INTRODUCED

7 An Act relating to professions and occupations;  
8 enacting certain compact and authorizing Governor to  
9 enter into compact with certain jurisdictions;  
10 setting forth form of certain compact; providing for  
11 codification; and providing an effective date.

12  
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 493.6 of Title 59, unless there  
16 is created a duplication in numbering, reads as follows:

17 The Interstate Medical Licensure Compact is hereby enacted into  
18 law and the Governor shall enter into a compact on behalf of the  
19 State of Oklahoma with any jurisdiction legally joined therein, in  
20 the form substantially as set forth in Section 2 of this act.

21 SECTION 2. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 493.7 of Title 59, unless there  
23 is created a duplication in numbering, reads as follows:

24 INTERSTATE MEDICAL LICENSURE COMPACT

1 Section 1. PURPOSE

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

20 Section 2. DEFINITIONS

21 In this Compact:

22 (a) "Bylaws" means those bylaws established by the Interstate  
23 Commission pursuant to Section 11 of the Compact for its governance,  
24 or for directing and controlling its actions and conduct;

1 (b) "Commissioner" means the voting representative appointed by  
2 each member board pursuant to Section 11 of the Compact;

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

9 (d) "Expedited license" means a full and unrestricted medical  
10 license granted by a member state to an eligible physician through  
11 the process set forth in the Compact;

12 (e) "Interstate Commission" means the interstate commission  
13 created pursuant to Section 11 of the Compact;

14 (f) "License" means authorization by a state for a physician to  
15 engage in the practice of medicine, which would be unlawful without  
16 the authorization;

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

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

24 (i) "Member state" means a state that has enacted the Compact;

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

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

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

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

17 (3) successfully completed graduate medical education  
18 approved by the Accreditation Council for Graduate  
19 Medical Education or the American Osteopathic  
20 Association,

21 (4) holds specialty certification or a time-unlimited  
22 specialty certificate recognized by the American Board  
23 of Medical Specialties or the American Osteopathic  
24 Association's Bureau of Osteopathic Specialists,

1 (5) possesses a full and unrestricted license to engage in  
2 the practice of medicine issued by a member board,

3 (6) has never been convicted, received adjudication,  
4 deferred adjudication, community supervision, or  
5 deferred disposition for any offense by a court of  
6 appropriate jurisdiction,

7 (7) has never held a license authorizing the practice of  
8 medicine subjected to discipline by a licensing agency  
9 in any state, federal, or foreign jurisdiction,  
10 excluding any action related to nonpayment of fees  
11 related to a license,

12 (8) has never had a controlled substance license or permit  
13 suspended or revoked by a state or the United States  
14 Drug Enforcement Administration, and

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

18 (l) "Offense" means a felony, gross misdemeanor, or crime of  
19 moral turpitude;

20 (m) "Rule" means a written statement by the Interstate  
21 Commission promulgated pursuant to Section 12 of the Compact that is  
22 of general applicability; implements, interprets, or prescribes a  
23 policy or provision of the Compact, or an organizational,  
24 procedural, or practice requirement of the Interstate Commission;

1 has the force and effect of statutory law in a member state; and  
2 includes the amendment, repeal, or suspension of an existing rule;

3 (n) "State" means any state, commonwealth, district, or  
4 territory of the United States; and

5 (o) "State of principal license" means a member state where a  
6 physician holds a license to practice medicine and which has been  
7 designated as such by the physician for purposes of registration and  
8 participation in the Compact.

9 Section 3. ELIGIBILITY

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

13 (b) A physician who does not meet the requirements of  
14 subsection (k) of Section 2 of the Compact may obtain a license to  
15 practice medicine in a member state if the individual complies with  
16 all laws and requirements, other than the Compact, relating to the  
17 issuance of a license to practice medicine in that state.

18 Section 4. DESIGNATION OF STATE OF PRINCIPAL LICENSE

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

24 (1) the state of primary residence for the physician, or

- 1 (2) the state where at least 25% of the practice of  
2 medicine occurs, or  
3 (3) the location of the physician's employer, or  
4 (4) if no state qualifies under paragraph (1), (2) or (3),  
5 the state designated as state of residence for purpose  
6 of federal income tax.

7 (b) A physician may redesignate a member state as state of  
8 principal license at any time, as long as the state meets the  
9 requirements in subsection (a).

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

13 Section 5. APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

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

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

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

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

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

21 (c) Upon verification in subsection (b), physicians eligible  
22 for an expedited license shall complete the registration process  
23 established by the Interstate Commission to receive a license in a  
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1 member state selected pursuant to subsection (a), including the  
2 payment of any applicable fees.

3 (d) After receiving verification of eligibility under  
4 subsection (b) and any fees under subsection (c), a member board  
5 shall issue an expedited license to the physician. This license  
6 shall authorize the physician to practice medicine in the issuing  
7 state consistent with the Medical Practice Act and all applicable  
8 laws and regulations of the issuing member board and member state.

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

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

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

20 Section 6. FEES FOR EXPEDITED LICENSURE

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

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

3 Section 7. RENEWAL AND CONTINUED PARTICIPATION

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

7 (1) maintains a full and unrestricted license in a state  
8 of principal license,

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

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

18 (4) has not had a controlled substance license or permit  
19 suspended or revoked by a state or the United States  
20 Drug Enforcement Administration.

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

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

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

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

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

11 Section 8. COORDINATED INFORMATION SYSTEM

12 (a) The Interstate Commission shall establish a database of all  
13 physicians licensed, or who have applied for licensure, under  
14 Section 5 of the Compact.

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

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

22 (d) Member boards may report any nonpublic complaint,  
23 disciplinary, or investigatory information not required by  
24 subsection (c) to the Interstate Commission.

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

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

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

9 Section 9. JOINT INVESTIGATIONS

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

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

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

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

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

1 Section 10. DISCIPLINARY ACTIONS

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

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

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

- 22 (1) impose the same or lesser sanction(s) against the  
23 physician so long as such sanction(s) are consistent  
24 with the Medical Practice Act of that state, or

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

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

15 Section 11. INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

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

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

21 (c) The Interstate Commission shall be a body corporate and  
22 joint agency of the member states and shall have all the  
23 responsibilities, powers, and duties set forth in the Compact, and  
24 such additional powers as may be conferred upon it by a subsequent

1 concurrent action of the respective legislatures of the member  
2 states in accordance with the terms of the Compact.

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

11 (1) allopathic or osteopathic physician appointed to a  
12 member board,

13 (2) executive director, executive secretary, or similar  
14 executive of a member board, or

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

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

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

1 (g) Each Commissioner participating at a meeting of the  
2 Interstate Commission is entitled to one vote. A majority of  
3 Commissioners shall constitute a quorum for the transaction of  
4 business, unless a larger quorum is required by the bylaws of the  
5 Interstate Commission. A Commissioner shall not delegate a vote to  
6 another Commissioner. In the absence of its Commissioner, a member  
7 state may delegate voting authority for a specified meeting to  
8 another person from that state who shall meet the requirements of  
9 subsection (d).

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

- 15 (1) relate solely to the internal personnel practices and  
16 procedures of the Interstate Commission,
- 17 (2) discuss matters specifically exempted from disclosure  
18 by federal statute,
- 19 (3) discuss trade secrets, or commercial or financial  
20 information that is privileged or confidential,
- 21 (4) involve accusing a person of a crime, or formally  
22 censuring a person,

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- 1 (5) discuss information of a personal nature where  
2 disclosure would constitute a clearly unwarranted  
3 invasion of personal privacy,  
4 (6) discuss investigative records compiled for law  
5 enforcement purposes, or  
6 (7) specifically relate to the participation in a civil  
7 action or other legal proceeding.

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

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

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

1 (1) The Interstate Commission may establish other committees  
2 for governance and administration of the Compact.

3 Section 12. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

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

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

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

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

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

15 (e) Establish and appoint committees including, but not limited  
16 to, an executive committee as required by Section 11 of the Compact,  
17 which shall have the power to act on behalf of the Interstate  
18 Commission in carrying out its powers and duties;

19 (f) Pay, or provide for the payment of the expenses related to  
20 the establishment, organization, and ongoing activities of the  
21 Interstate Commission;

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

23 (h) Borrow, accept, hire, or contract for services of  
24 personnel;

- 1 (i) Purchase and maintain insurance and bonds;
- 2 (j) Employ an executive director who shall have such powers to  
3 employ, select or appoint employees, agents, or consultants, and to  
4 determine their qualifications, define their duties, and fix their  
5 compensation;
- 6 (k) Establish personnel policies and programs relating to  
7 conflicts of interest, rates of compensation, and qualifications of  
8 personnel;
- 9 (l) Accept donations and grants of money, equipment, supplies,  
10 materials and services, and to receive, utilize, and dispose of it  
11 in a manner consistent with the conflict-of-interest policies  
12 established by the Interstate Commission;
- 13 (m) Lease, purchase, accept contributions or donations of, or  
14 otherwise to own, hold, improve or use, any property, real,  
15 personal, or mixed;
- 16 (n) Sell, convey, mortgage, pledge, lease, exchange, abandon,  
17 or otherwise dispose of any property, real, personal, or mixed;
- 18 (o) Establish a budget and make expenditures;
- 19 (p) Adopt a seal and bylaws governing the management and  
20 operation of the Interstate Commission;
- 21 (q) Report annually to the legislatures and governors of the  
22 member states concerning the activities of the Interstate Commission  
23 during the preceding year. Such reports shall also include reports  
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1 of financial audits and any recommendations that may have been  
2 adopted by the Interstate Commission;

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

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

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

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

9 Section 13. FINANCE POWERS

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

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

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

23 (d) The Interstate Commission shall be subject to a yearly  
24 financial audit conducted by a certified or licensed public

1 accountant and the report of the audit shall be included in the  
2 annual report of the Interstate Commission.

3 Section 14. ORGANIZATION AND OPERATION OF THE INTERSTATE  
4 COMMISSION

5 (a) The Interstate Commission shall, by a majority of  
6 Commissioners present and voting, adopt bylaws to govern its conduct  
7 as may be necessary or appropriate to carry out the purposes of the  
8 Compact within twelve (12) months of the first Interstate Commission  
9 meeting.

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

16 (c) Officers selected in subsection (b) shall serve without  
17 remuneration from the Interstate Commission.

18 (d) The officers and employees of the Interstate Commission  
19 shall be immune from suit and liability, either personally or in  
20 their official capacity, for a claim for damage to or loss of  
21 property or personal injury or other civil liability caused or  
22 arising out of, or relating to, an actual or alleged act, error, or  
23 omission that occurred, or that such person had a reasonable basis  
24 for believing occurred, within the scope of Interstate Commission

1 employment, duties, or responsibilities; provided, that such person  
2 shall not be protected from suit or liability for damage, loss,  
3 injury, or liability caused by the intentional or willful and wanton  
4 misconduct of such person.

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

19 (2) The Interstate Commission shall defend the executive  
20 director, its employees, and subject to the approval  
21 of the attorney general or other appropriate legal  
22 counsel of the member state represented by an  
23 Interstate Commission representative shall defend such  
24 Interstate Commission representative in any civil

1 action seeking to impose liability arising out of an  
2 actual or alleged act, error or omission that occurred  
3 within the scope of Interstate Commission employment,  
4 duties or responsibilities, or that the defendant had  
5 a reasonable basis for believing occurred within the  
6 scope of Interstate Commission employment, duties, or  
7 responsibilities, provided that the actual or alleged  
8 act, error, or omission did not result from  
9 intentional or willful and wanton misconduct on the  
10 part of such person.

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

1 intentional or willful and wanton misconduct on the  
2 part of such persons.

3 Section 15. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

15 (c) Not later than thirty (30) days after a rule is  
16 promulgated, any person may file a petition for judicial review of  
17 the rule in the United States District Court for the District of  
18 Columbia or the federal district where the Interstate Commission has  
19 its principal offices; provided, that the filing of such a petition  
20 shall not stay or otherwise prevent the rule from becoming effective  
21 unless the court finds that the petitioner has a substantial  
22 likelihood of success. The court shall give deference to the  
23 actions of the Interstate Commission consistent with applicable law  
24 and shall not find the rule to be unlawful if the rule represents a



1 reasonable exercise of the authority granted to the Interstate  
2 Commission.

3 Section 16. OVERSIGHT OF INTERSTATE COMPACT

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

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

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

22 Section 17. ENFORCEMENT OF INTERSTATE COMPACT

23

24

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 the  
9 provisions of the Compact, and its promulgated rules and bylaws,  
10 against a member state in default. The relief sought may include  
11 both injunctive relief and damages. In the event judicial  
12 enforcement is necessary, the prevailing party shall be awarded all  
13 costs of such litigation including reasonable attorney fees.

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

18 Section 18. DEFAULT PROCEDURES

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

23 (b) If the Interstate Commission determines that a member state  
24 has defaulted in the performance of its obligations or

1 responsibilities under the Compact, or the bylaws or promulgated  
2 rules, the Interstate Commission shall:

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

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

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

18 (d) Termination of membership in the Compact shall be imposed  
19 only after all other means of securing compliance have been  
20 exhausted. Notice of intent to terminate shall be given by the  
21 Interstate Commission to the governor, the majority and minority  
22 leaders of the defaulting state's legislature, and each of the  
23 member states.

24

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

5 (f) The member state which has been terminated is responsible  
6 for all dues, obligations, and liabilities incurred through the  
7 effective date of termination including obligations, the performance  
8 of which extends beyond the effective date of termination.

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

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

20 Section 19. DISPUTE RESOLUTION

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

24

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

3 Section 20. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

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

19 Section 21. WITHDRAWAL

20 (a) Once effective, the Compact shall continue in force and  
21 remain binding upon each and every member state; provided, that a  
22 member state may withdraw from the Compact by specifically repealing  
23 the statute which enacted the Compact into law.  
24

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

6 (c) The withdrawing state shall immediately notify the  
7 chairperson of the Interstate Commission in writing upon the  
8 introduction of legislation repealing the Compact in the withdrawing  
9 state.

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

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

17 (f) Reinstatement following withdrawal of a member state shall  
18 occur upon the withdrawing state reenacting the Compact or upon such  
19 later date as determined by the Interstate Commission.

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

24 Section 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 (1) member state.

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

9 Section 23. SEVERABILITY AND CONSTRUCTION

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

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

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

18 Section 24. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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

6 (e) In the event any provision of the Compact exceeds the  
7 constitutional limits imposed on the legislature of any member  
8 state, such provision shall be ineffective to the extent of the  
9 conflict with the constitutional provision in question in that  
10 member state.

11 SECTION 3. This act shall become effective November 1, 2015.

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13 55-1-5041 AM 12/11/14

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