

1 **SENATE FLOOR VERSION**

2 April 1, 2019

3 ENGROSSED HOUSE
4 BILL NO. 2351

By: Caldwell (Chad) and **Moore**
of the House

5 and

6 McCortney of the Senate

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

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

1 INTERSTATE MEDICAL LICENSURE COMPACT

2 Section 1. PURPOSE

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

21 Section 2. DEFINITIONS

22 In this Compact:
23
24

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

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

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

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

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

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

20 (g) "Medical Practice Act" means laws and regulations governing
21 the practice of allopathic and osteopathic medicine within a member
22 state;

23 (h) "Member board" means a state agency in a member state that
24 acts in the sovereign interests of the state by protecting the

1 public through licensure, regulation and education of physicians as
2 directed by the state government;

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

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

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

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

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

20 (3) successfully completed graduate medical education
21 approved by the Accreditation Council for Graduate
22 Medical Education or the American Osteopathic
23 Association,

24

- 1 (4) holds specialty certification or a time-unlimited
2 specialty certificate recognized by the American Board
3 of Medical Specialties or the American Osteopathic
4 Association's Bureau of Osteopathic Specialists,
5 (5) possesses a full and unrestricted license to engage in
6 the practice of medicine issued by a member board,
7 (6) has never been convicted, received adjudication,
8 deferred adjudication, community supervision or
9 deferred disposition for any offense by a court of
10 appropriate jurisdiction,
11 (7) has never held a license authorizing the practice of
12 medicine subjected to discipline by a licensing agency
13 in any state, federal or foreign jurisdiction,
14 excluding any action related to nonpayment of fees
15 related to a license,
16 (8) has never had a controlled substance license or permit
17 suspended or revoked by a state or the United States
18 Drug Enforcement Administration, and
19 (9) is not under active investigation by a licensing
20 agency or law enforcement authority in any state,
21 federal or foreign jurisdiction;

22 (1) "Offense" means a felony, gross misdemeanor or crime of
23 moral turpitude;
24

1 (m) "Rule" means a written statement by the Interstate
2 Commission promulgated pursuant to Section 12 of the Compact that is
3 of general applicability; implements, interprets or prescribes a
4 policy or provision of the Compact, or an organizational, procedural
5 or practice requirement of the Interstate Commission; has the force
6 and effect of statutory law in a member state; and includes the
7 amendment, repeal or suspension of an existing rule;

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

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

14 Section 3. ELIGIBILITY

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

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

23 Section 4. DESIGNATION OF STATE OF PRINCIPAL LICENSE

24

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 and
4 unrestricted license to practice medicine in that state, and the
5 state is:

- 6 (1) the state of primary residence for the physician, or
- 7 (2) the state where at least twenty-five percent (25%) of
8 the practice of medicine occurs, or
- 9 (3) the location of the physician's employer, or
- 10 (4) if no state qualifies under paragraph (1), (2) or (3),
11 the state designated as state of residence for purpose
12 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 to
17 facilitate redesignation of another member state as the state of
18 principal license.

19 Section 5. APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

20 (a) A physician seeking licensure through the Compact shall
21 file an application for an expedited license with the member board
22 of the state selected by the physician as the state of principal
23 license.

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

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

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

24

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

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

9 (d) After receiving verification of eligibility under
10 subsection (b) of this section and any fees under subsection (c) of
11 this section, a member board shall issue an expedited license to the
12 physician. This license shall authorize the physician to practice
13 medicine in the issuing state consistent with the Medical Practice
14 Act and all applicable laws and regulations of the issuing member
15 board and member state.

16 (e) An expedited license shall be valid for a period consistent
17 with the licensure period in the member state and in the same manner
18 as required for other physicians holding a full and unrestricted
19 license within the member state.

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

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

4 Section 6. FEES FOR EXPEDITED LICENSURE

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

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

10 Section 7. RENEWAL AND CONTINUED PARTICIPATION

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

14 (1) maintains a full and unrestricted license in a state
15 of principal license,

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

20 (3) has not had a license authorizing the practice of
21 medicine subject to discipline by a licensing agency
22 in any state, federal or foreign jurisdiction,
23 excluding any action related to nonpayment of fees
24 related to a license, and

1 (4) has not had a controlled substance license or permit
2 suspended or revoked by a state or the United States
3 Drug Enforcement Administration.

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

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

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

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

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

18 Section 8. COORDINATED INFORMATION SYSTEM

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

22 (b) Notwithstanding any other provision of law, member boards
23 shall report to the Interstate Commission any public action or
24

1 complaints against a licensed physician who has applied or received
2 an expedited license through the Compact.

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

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

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

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

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

17 Section 9. JOINT INVESTIGATIONS

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

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

24

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

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

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

10 Section 10. DISCIPLINARY ACTIONS

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

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

1 license in a manner consistent with the Medical Practice Act of that
2 state.

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

7 (1) impose the same or lesser sanction(s) against the
8 physician so long as such sanction(s) are consistent
9 with the Medical Practice Act of that state, or

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

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

24 Section 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, which is
5 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 subsequent
10 concurrent action of the respective legislatures of the member
11 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 as
14 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 appoint
18 one representative from each member board. A Commissioner shall be:

19 (1) an allopathic or osteopathic physician appointed to a
20 member board,

21 (2) an executive director, executive secretary or similar
22 executive of a member board, or

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

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

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

10 (g) Each Commissioner participating at a meeting of the
11 Interstate Commission is entitled to one vote. A majority of
12 Commissioners shall constitute a quorum for the transaction of
13 business, unless a larger quorum is required by the bylaws of the
14 Interstate Commission. A Commissioner shall not delegate a vote to
15 another Commissioner. In the absence of its Commissioner, a member
16 state may delegate voting authority for a specified meeting to
17 another person from that state who shall meet the requirements of
18 subsection (d) of this section.

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

24

- 1 (1) relate solely to the internal personnel practices and
- 2 procedures of the Interstate Commission,
- 3 (2) discuss matters specifically exempted from disclosure
- 4 by federal statute,
- 5 (3) discuss trade secrets or commercial or financial
- 6 information that is privileged or confidential,
- 7 (4) involve accusing a person of a crime or formally
- 8 censuring a person,
- 9 (5) discuss information of a personal nature where
- 10 disclosure would constitute a clearly unwarranted
- 11 invasion of personal privacy,
- 12 (6) discuss investigative records compiled for law
- 13 enforcement purposes, or
- 14 (7) specifically relate to the participation in a civil
- 15 action or other legal proceeding.

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

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

23 (k) The Interstate Commission shall establish an executive
24 committee, which shall include an executive director, officers,

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

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

11 Section 12. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

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

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

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

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

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

23 (e) Establish and appoint committees including, but not limited
24 to, an executive committee as required by Section 11 of the Compact,

1 which shall have the power to act on behalf of the Interstate
2 Commission in carrying out its powers and duties;

3 (f) Pay, or provide for the payment of the expenses related to
4 the establishment, organization and ongoing activities of the
5 Interstate Commission;

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

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

8 (i) Purchase and maintain insurance and bonds;

9 (j) Employ an executive director who shall have such powers to
10 employ, select or appoint employees, agents or consultants, and to
11 determine their qualifications, define their duties and fix their
12 compensation;

13 (k) Establish personnel policies and programs relating to
14 conflicts of interest, rates of compensation and qualifications of
15 personnel;

16 (l) Accept donations and grants of money, equipment, supplies,
17 materials and services, and to receive, utilize and dispose of them
18 in a manner consistent with the conflict-of-interest policies
19 established by the Interstate Commission;

20 (m) Lease, purchase, accept contributions or donations of, or
21 otherwise to own, hold, improve or use, any property, real, personal
22 or mixed;

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

1 (o) Establish a budget and make expenditures;

2 (p) Adopt a seal and bylaws governing the management and
3 operation of the Interstate Commission;

4 (q) Report annually to the legislatures and governors of the
5 member states concerning the activities of the Interstate Commission
6 during the preceding year. Such reports shall also include reports
7 of financial audits and any recommendations that may have been
8 adopted by the Interstate Commission;

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

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

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

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

15 Section 13. FINANCE POWERS

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

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

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

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

10 Section 14. ORGANIZATION AND OPERATION OF THE INTERSTATE
11 COMMISSION

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

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

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

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

12 (1) The liability of the executive director and employees
13 of the Interstate Commission or representatives of the
14 Interstate Commission, acting within the scope of such
15 person's employment or duties for acts, errors or
16 omissions occurring within such person's state may not
17 exceed the limits of liability set forth under the
18 constitution and laws of that state for state
19 officials, employees and agents. The Interstate
20 Commission is considered to be an instrumentality of
21 the states for the purposes of any such action.
22 Nothing in this subsection shall be construed to
23 protect such person from suit or liability for damage,
24

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

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

19 (3) To the extent not covered by the state involved,
20 member state or the Interstate Commission, the
21 representatives or employees of the Interstate
22 Commission shall be held harmless in the amount of a
23 settlement or judgment, including attorney fees and
24 costs, obtained against such persons arising out of an

1 actual or alleged act, error or omission that occurred
2 within the scope of Interstate Commission employment,
3 duties or responsibilities, or that such persons had a
4 reasonable basis for believing occurred within the
5 scope of Interstate Commission employment, duties or
6 responsibilities, provided that the actual or alleged
7 act, error or omission did not result from intentional
8 or willful and wanton misconduct on the part of such
9 persons.

10 Section 15. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

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

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

10 Section 16. OVERSIGHT OF INTERSTATE COMPACT

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

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

23 (c) The Interstate Commission shall be entitled to receive all
24 service of process in any such proceeding, and shall have standing

1 to intervene in the proceeding for all purposes. Failure to provide
2 service of process to the Interstate Commission shall render a
3 judgment or order void as to the Interstate Commission, the Compact
4 or promulgated rules.

5 Section 17. ENFORCEMENT OF INTERSTATE COMPACT

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

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

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

23 Section 18. DEFAULT PROCEDURES

24

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 Compact.

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

9 (1) provide written notice to the defaulting state and
10 other member states of the nature of the default, the
11 means of curing the default and any action taken by
12 the Interstate Commission. The Interstate Commission
13 shall specify the conditions by which the defaulting
14 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 rights,
20 privileges and benefits conferred by the Compact shall terminate on
21 the effective date of termination. A cure of the default does not
22 relieve the offending state of obligations or liabilities incurred
23 during the period of the default.

24

1 (d) Termination of membership in the Compact shall be imposed
2 only after all other means of securing compliance have been
3 exhausted. Notice of intent to terminate shall be given by the
4 Interstate Commission to the governor, the majority and minority
5 leaders of the defaulting state's legislature and each of the member
6 states.

7 (e) The Interstate Commission shall establish rules and
8 procedures to address licenses and physicians that are materially
9 impacted by the termination of a member state or the withdrawal of a
10 member state.

11 (f) The member state which has been terminated is responsible
12 for all dues, obligations and liabilities incurred through the
13 effective date of termination, including obligations, the
14 performance of which extends beyond the effective date of
15 termination.

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

21 (h) The defaulting state may appeal the action of the
22 Interstate Commission by petitioning the United States District
23 Court for the District of Columbia or the federal district where the
24 Interstate Commission has its principal offices. The prevailing

1 party shall be awarded all costs of such litigation, including
2 reasonable attorney fees.

3 Section 19. DISPUTE RESOLUTION

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

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

9 Section 20. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

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

1 Section 21. WITHDRAWAL

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

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

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

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

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

23
24

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

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

8 Section 22. DISSOLUTION

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

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

17 Section 23. SEVERABILITY AND CONSTRUCTION

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

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

23

24

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

4 Section 24. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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

14 (e) In the event any provision of the Compact exceeds the
15 constitutional limits imposed on the legislature of any member
16 state, such provision shall be ineffective to the extent of the
17 conflict with the constitutional provision in question in that
18 member state.

19 SECTION 3. This act shall become effective November 1, 2019.

20 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
21 April 1, 2019 - DO PASS
22
23
24