

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 150

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO MEDICAL LICENSURE; AMENDING CHAPTER 18, TITLE 54, IDAHO CODE,
2 BY THE ADDITION OF NEW SECTIONS 54-1842 THROUGH 54-1866, IDAHO CODE,
3 TO ENACT THE INTERSTATE MEDICAL LICENSURE COMPACT, TO STATE THE PUR-
4 POSE OF THE COMPACT, TO DEFINE TERMS, TO PROVIDE LICENSURE ELIGIBILITY
5 STANDARDS FOR PHYSICIANS, TO ESTABLISH HOW THE STATE OF PRINCIPAL LI-
6 CENSE SHALL BE DESIGNATED, TO ESTABLISH LICENSURE PROCEDURES UNDER THE
7 COMPACT, TO ESTABLISH LICENSING FEES, TO ESTABLISH LICENSE RENEWAL PRO-
8 CEDURES, TO ESTABLISH A COORDINATED INFORMATION SYSTEM, TO ESTABLISH
9 INVESTIGATION PROCEDURES, TO ESTABLISH DISCIPLINARY PROCEDURES, TO ES-
10 TABLISH A COMMISSION, TO ESTABLISH POWERS AND DUTIES OF THE COMMISSION,
11 TO ESTABLISH THE FINANCE POWERS OF THE COMMISSION, TO ESTABLISH THE OR-
12 GANIZATION AND OPERATION OF THE COMMISSION, TO ESTABLISH THE RULEMAKING
13 FUNCTIONS OF THE COMMISSION, TO PROVIDE FOR OVERSIGHT OF THE COMPACT,
14 TO PROVIDE FOR ENFORCEMENT OF THE COMPACT, TO ESTABLISH DEFAULT PROCE-
15 DURES, TO PROVIDE FOR DISPUTE RESOLUTION, TO PROVIDE THAT ANY STATE IS
16 ELIGIBLE TO BECOME A MEMBER STATE AND TO PROVIDE AN EFFECTIVE DATE AND
17 AMENDMENT PROCEDURES, TO ESTABLISH HOW TO WITHDRAW FROM THE COMPACT, TO
18 ESTABLISH HOW THE COMPACT COULD BE DISSOLVED, TO PROVIDE SEVERABILITY
19 AND TO ESTABLISH HOW THE COMPACT SHOULD BE CONSTRUED, AND TO ESTABLISH
20 THE COMPACT'S RELATIONSHIP WITH OTHER LAWS.
21

22 Be It Enacted by the Legislature of the State of Idaho:

23 SECTION 1. That Chapter 18, Title 54, Idaho Code, be, and the same is
24 hereby amended by the addition thereto of NEW SECTIONS, to be known and des-
25 ignated as Sections 54-1842 through 54-1866, Idaho Code, and to read as fol-
26 lows:

27 54-1842. INTERSTATE MEDICAL LICENSURE COMPACT. The interstate medi-
28 cal licensure compact is hereby enacted into law and entered into with all
29 other jurisdictions legally joining therein, in the form substantially as
30 follows in sections 54-1843 through 54-1866, Idaho Code.

31 54-1843. PURPOSE. In order to strengthen access to health care and in
32 recognition of the advances in the delivery of health care, the member states
33 of the interstate medical licensure compact have allied in common purpose
34 to develop a comprehensive process that complements the existing licensing
35 and regulatory authority of state medical boards and provides a stream-
36 lined process that allows physicians to become licensed in multiple states,
37 thereby enhancing the portability of a medical license and ensuring the
38 safety of patients. The compact creates another pathway for licensure and
39 does not otherwise change a state's existing medical practice act. The com-
40 pact also adopts the prevailing standard for licensure and affirms that the
41 practice of medicine occurs where the patient is located at the time of the

1 physician-patient encounter and therefore requires the physician to be un-
2 der the jurisdiction of the state medical board where the patient is located.
3 State medical boards that participate in the compact retain the jurisdiction
4 to impose an adverse action against a license to practice medicine in that
5 state issued to a physician through the procedures in the compact.

6 54-1844. DEFINITIONS. As used in this compact:

7 (1) "Bylaws" means those bylaws established by the interstate commis-
8 sion pursuant to section 54-1853, Idaho Code, for its governance, or for di-
9 recting and controlling its actions and conduct.

10 (2) "Commissioner" means the voting representative appointed by each
11 member board pursuant to section 54-1853, Idaho Code.

12 (3) "Conviction" means a finding by a court that an individual is guilty
13 of a criminal offense through adjudication, or entry of a guilty or equiva-
14 lent plea to the charge by the offender. Evidence of an entry of a conviction
15 of a criminal offense by the court shall be considered final for purposes of
16 disciplinary action by a member board.

17 (4) "Expedited license" means a full and unrestricted medical license
18 granted by a member state to an eligible physician through the process set
19 forth in the compact.

20 (5) "Interstate commission" means the interstate commission created
21 pursuant to section 54-1853, Idaho Code.

22 (6) "License" means authorization by a state for a physician to engage
23 in the practice of medicine, which would be unlawful without the authoriza-
24 tion.

25 (7) "Medical practice act" means laws and rules governing the practice
26 of allopathic and osteopathic medicine within a member state.

27 (8) "Member board" means a state agency in a member state that acts in
28 the sovereign interests of the state by protecting the public through licen-
29 sure, regulation and education of physicians as directed by the state gov-
30 ernment.

31 (9) "Member state" means a state that has enacted the compact.

32 (10) "Offense" means a felony, gross misdemeanor or crime of moral
33 turpitude.

34 (11) "Physician" means any person who:

35 (a) Is a graduate of a medical school accredited by the liaison commit-
36 tee on medical education, the commission on osteopathic college accred-
37 itation or a medical school listed in the international medical educa-
38 tion directory or its equivalent;

39 (b) Passed each component of the United States medical licensing exam-
40 ination (USMLE) or the comprehensive osteopathic medical licensing ex-
41 amination (COMLEX-USA) within three (3) attempts, or any of its prede-
42 cessor examinations accepted by a state medical board as an equivalent
43 examination for licensure purposes;

44 (c) Successfully completed graduate medical education approved by the
45 accreditation council for graduate medical education or the American
46 osteopathic association;

47 (d) Holds specialty certification or a time-unlimited specialty cer-
48 tificate recognized by the American board of medical specialties or the
49 American osteopathic association's bureau of osteopathic specialists;

1 (e) Possesses a full and unrestricted license to engage in the practice
2 of medicine issued by a member board;

3 (f) Has never been convicted or received adjudication, deferred ad-
4 judication, community supervision or deferred disposition for any
5 offense by a court of appropriate jurisdiction;

6 (g) Has never held a license authorizing the practice of medicine sub-
7 jected to discipline by a licensing agency in any state, federal or for-
8 eign jurisdiction, excluding any action related to nonpayment of fees
9 related to a license;

10 (h) Has never had a controlled substance license or permit suspended
11 or revoked by a state or the United States drug enforcement administra-
12 tion; and

13 (i) Is not under active investigation by a licensing agency or law en-
14 forcement authority in any state, federal or foreign jurisdiction.

15 (12) "Practice of medicine" means the clinical prevention, diagnosis or
16 treatment of human disease, injury or condition requiring a physician to ob-
17 tain and maintain a license in compliance with the medical practice act of a
18 member state.

19 (13) "Rule" means a written statement by the interstate commission pro-
20 mulgated pursuant to section 54-1853, Idaho Code, that is of general appli-
21 cability, implements, interprets, or prescribes a policy or provision of the
22 compact or an organizational, procedural or practice requirement of the in-
23 terstate commission, and has the force and effect of statutory law in a mem-
24 ber state, and includes the amendment, repeal, or suspension of an existing
25 rule.

26 (14) "State" means any state, commonwealth, district or territory of
27 the United States.

28 (15) "State of principal license" means a member state where a physi-
29 cian holds a license to practice medicine and which has been designated as
30 such by the physician for purposes of registration and participation in the
31 compact.

32 54-1845. ELIGIBILITY. (1) A physician must meet the eligibility re-
33 quirements as defined in section 54-1844(11), Idaho Code, to receive an ex-
34 pedited license under the terms and provisions of the compact.

35 (2) A physician who does not meet the requirements of section
36 54-1844(11), Idaho Code, may obtain a license to practice medicine in a mem-
37 ber state if the individual complies with all laws and requirements, other
38 than the compact, relating to the issuance of a license to practice medicine
39 in that state.

40 54-1846. DESIGNATION OF STATE OF PRINCIPAL LICENSE. (1) A physician
41 shall designate a member state as the state of principal license for purposes
42 of registration for expedited licensure through the compact if the physi-
43 cian possesses a full and unrestricted license to practice medicine in that
44 state, and the state is:

45 (a) The state of primary residence for the physician;

46 (b) The state where at least twenty-five percent (25%) of the physi-
47 cian's practice of medicine occurs;

48 (c) The location of the physician's employer; or

1 (d) The state designated as the physician's state of residence for pur-
2 pose of federal income tax, if no other state qualifies under paragraph
3 (a), (b) or (c) of this subsection.

4 (2) A physician may redesignate a member state as the state of principal
5 license at any time, as long as the state meets the requirements in subsec-
6 tion (1) of this section.

7 (3) The interstate commission is authorized to develop rules to facil-
8 itate redesignation of another member state as the state of principal li-
9 cense.

10 54-1847. APPLICATION AND ISSUANCE OF EXPEDITED LICENSE. (1) A physi-
11 cian seeking licensure through the compact shall file an application for an
12 expedited license with the member board of the state selected by the physi-
13 cian as the state of principal license.

14 (2) Upon receipt of an application for an expedited license, the mem-
15 ber board within the state selected as the state of principal license shall
16 evaluate whether the physician is eligible for expedited licensure and issue
17 a letter of qualification, verifying or denying the physician's eligibility
18 to the interstate commission.

19 (a) Static qualifications, which include verification of medical edu-
20 cation, graduate medical education, results of any medical or licensing
21 examination and other qualifications as determined by the interstate
22 commission through rule, shall not be subject to additional primary
23 source verification where the primary source is already verified by the
24 state of principal license.

25 (b) The member board within the state selected as the state of prin-
26 cipal license shall, in the course of verifying eligibility, perform a
27 criminal background check of an applicant, including the use of the re-
28 sults of fingerprint or other biometric data checks compliant with the
29 requirements of the federal bureau of investigation, with the exception
30 of federal employees who have suitability determination in accordance
31 with 5 CFR 731.202.

32 (c) Appeal on the determination of eligibility shall be made to the mem-
33 ber state where the application was filed and shall be subject to the law
34 of that state.

35 (3) Upon verification of eligibility pursuant to subsection (2) of this
36 section, physicians eligible for an expedited license shall complete the
37 registration process established by the interstate commission to receive a
38 license in a member state selected pursuant to subsection (1) of this sec-
39 tion, including the payment of any applicable fees.

40 (4) Upon verification of eligibility pursuant to subsection (2) of this
41 section and any payment of fees pursuant to subsection (3) of this section, a
42 member board shall issue an expedited license to the physician. This license
43 shall authorize the physician to practice medicine in the issuing state con-
44 sistent with the medical practice act and all applicable laws and regula-
45 tions of the issuing member board and member state.

46 (5) An expedited license shall be valid for a period consistent with the
47 licensure period in the member state and in the same manner as required for
48 other physicians holding a full and unrestricted license within the member
49 state.

1 (6) An expedited license obtained through the compact shall be termi-
2 nated if a physician fails to maintain a license in the state of principal li-
3 censure for a nondisciplinary reason without redesignation of a new state of
4 principal licensure.

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

8 54-1848. FEES FOR AN EXPEDITED LICENSE. (1) A member state issuing an
9 expedited license authorizing the practice of medicine in that state may im-
10 pose a fee for a license issued or renewed through the compact.

11 (2) The interstate commission is authorized to develop rules regarding
12 fees for expedited licenses.

13 54-1849. RENEWAL AND CONTINUED PARTICIPATION. (1) A physician seeking
14 to renew an expedited license granted in a member state shall complete a re-
15 newal process with the interstate commission if the physician:

16 (a) Maintains a full and unrestricted license in a state of principal
17 license;

18 (b) Has not been convicted or received adjudication, deferred adjudi-
19 cation, community supervision or deferred disposition for any offense
20 by a court of appropriate jurisdiction;

21 (c) Has not had a license authorizing the practice of medicine subject
22 to discipline by a licensing agency in any state, federal or foreign ju-
23 risdiction, excluding any action related to nonpayment of fees related
24 to a license; and

25 (d) Has not had a controlled substance license or permit suspended or
26 revoked by a state or the United States drug enforcement administra-
27 tion.

28 (2) Physicians shall comply with all continuing professional develop-
29 ment or continuing medical education requirements for renewal of a license
30 issued by a member state.

31 (3) The interstate commission shall collect any renewal fees charged
32 for the renewal of a license and distribute the fees to the applicable member
33 board.

34 (4) Upon receipt of any renewal fees collected pursuant to subsection
35 (3) of this section, a member board shall renew the physician's license.

36 (5) Physician information collected by the interstate commission dur-
37 ing the renewal process will be distributed to all member boards.

38 (6) The interstate commission is authorized to develop rules to address
39 renewal of licenses obtained through the compact.

40 54-1850. COORDINATED INFORMATION SYSTEM. (1) The interstate commis-
41 sion shall establish a database of all physicians licensed or who have ap-
42 plied for licensure under the compact.

43 (2) Notwithstanding any other provision of law, member boards shall re-
44 port to the interstate commission any public action or complaints against a
45 licensed physician who has applied or received an expedited license through
46 the compact.

1 (3) Member boards shall report disciplinary or investigatory informa-
2 tion determined as necessary and proper by rule of the interstate commis-
3 sion.

4 (4) Member boards may report any nonpublic complaint, disciplinary or
5 investigatory information not required by subsection (3) of this section to
6 the interstate commission.

7 (5) Member boards shall share complaint or disciplinary information
8 about a physician upon request of another member board.

9 (6) All information provided to the interstate commission or dis-
10 tributed by member boards shall be confidential, filed under seal and used
11 only for investigatory or disciplinary matters.

12 (7) The interstate commission is authorized to develop rules for man-
13 dated or discretionary sharing of information by member boards.

14 54-1851. JOINT INVESTIGATIONS. (1) Licensure and disciplinary
15 records of physicians are deemed investigative.

16 (2) In addition to the authority granted to a member board by its re-
17 spective medical practice act or other applicable state law, a member board
18 may participate with other member boards in joint investigations of physi-
19 cians licensed by the member boards.

20 (3) A subpoena issued by a member state shall be enforceable in other
21 member states.

22 (4) Member boards may share any investigative, litigation or compli-
23 ance materials in furtherance of any joint or individual investigation ini-
24 tiated under the compact.

25 (5) Any member state may investigate actual or alleged violations of
26 the statutes authorizing the practice of medicine in any other member state
27 in which a physician holds a license to practice medicine.

28 54-1852. DISCIPLINARY ACTIONS. (1) Any disciplinary action taken by
29 any member board against a physician licensed through the compact shall be
30 deemed unprofessional conduct which may be subject to discipline by other
31 member boards, in addition to any violation of the medical practice act or
32 regulations in that state.

33 (2) If a license granted to a physician by the member board in the state
34 of principal license is revoked, surrendered or relinquished in lieu of
35 discipline, or suspended, then all licenses issued to the physician by mem-
36 ber boards shall automatically be placed, without further action necessary
37 by any member board, on the same status. If the member board in the state
38 of principal license subsequently reinstates the physician's license, a
39 license issued to the physician by any other member board shall remain en-
40 cumbered until that respective member board takes action to reinstate the
41 license in a manner consistent with the medical practice act of that state.

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

45 (a) Impose the same or lesser sanction against the physician so long as
46 such sanction is consistent with the medical practice act of that state;
47 or

1 (b) Pursue separate disciplinary action against the physician under
2 its respective medical practice act, regardless of the action taken in
3 other member states.

4 (4) If a license granted to a physician by a member board is revoked,
5 surrendered or relinquished in lieu of discipline, or suspended, then any
6 license issued to the physician by any other member board shall be suspended,
7 automatically and immediately, for ninety (90) days upon entry of the or-
8 der by the disciplining board, to permit the other member board to investi-
9 gate the basis for the action under the medical practice act of that state. A
10 member board may terminate the automatic suspension of the license it issued
11 prior to the completion of the ninety (90) day suspension period in a manner
12 consistent with the medical practice act of that state.

13 54-1853. INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION. (1) The
14 member states hereby create the interstate medical licensure compact com-
15 mission.

16 (2) The purpose of the commission is the administration of the inter-
17 state medical licensure compact, which is a discretionary state function.

18 (3) The interstate commission shall be a body corporate and joint
19 agency of the member states and shall have all the responsibilities, powers
20 and duties set forth in the compact and such additional powers as may be
21 conferred upon it by a subsequent concurrent action of the respective legis-
22 latures of the member states in accordance with the terms of the compact.

23 (4) The interstate commission shall consist of two (2) voting represen-
24 tatives appointed by each member state who shall serve as commissioners. In
25 states where allopathic and osteopathic physicians are regulated by separ-
26 ate member boards, or if the licensing and disciplinary authority is split
27 between multiple member boards within a member state, the member state shall
28 appoint one (1) representative from each member board. A commissioner shall
29 be:

- 30 (a) An allopathic or osteopathic physician appointed to a member board;
31 (b) An executive director, executive secretary or similar executive of
32 a member board; or
33 (c) A member of the public appointed to a member board.

34 (5) The interstate commission shall meet at least once each calendar
35 year. A portion of this meeting shall be a business meeting to address such
36 matters as may properly come before the commission, including the election
37 of officers. The chairperson may call additional meetings and shall call for
38 a meeting upon the request of a majority of the member states.

39 (6) The bylaws may provide for meetings of the interstate commission to
40 be conducted by telecommunication or electronic communication.

41 (7) Each commissioner participating at a meeting of the interstate com-
42 mission is entitled to one (1) vote. A majority of commissioners shall con-
43 stitute a quorum for the transaction of business, unless a larger quorum is
44 required by the bylaws of the interstate commission. A commissioner shall
45 not delegate a vote to another commissioner. In the absence of its commis-
46 sioner, a member state may delegate voting authority for a specified meeting
47 to another person from that state who shall meet the requirements of subsec-
48 tion (4) of this section.

1 (8) The interstate commission shall provide public notice of all meet-
2 ings and all meetings shall be open to the public. The interstate commis-
3 sion may close a meeting, in full or in portion, where it determines by a two-
4 thirds (2/3) vote of the commissioners present that an open meeting would be
5 likely to:

6 (a) Relate solely to the internal personnel practices and procedures of
7 the interstate commission;

8 (b) Discuss matters specifically exempted from disclosure by federal
9 statute;

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

12 (d) Involve accusing a person of a crime or formally censuring a person;

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

15 (f) Discuss investigative records compiled for law enforcement pur-
16 poses; or

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

19 (9) The interstate commission shall keep minutes that shall fully de-
20 scribe all matters discussed in a meeting and shall provide a full and accu-
21 rate summary of actions taken, including record of any roll call votes.

22 (10) The interstate commission shall make its information and official
23 records, to the extent not otherwise designated in the compact or by its
24 rules, available to the public for inspection.

25 (11) The interstate commission shall establish an executive committee,
26 which shall include officers, members and others as determined by the by-
27 laws. The executive committee shall have the power to act on behalf of the
28 interstate commission, with the exception of rulemaking, during periods
29 when the interstate commission is not in session. When acting on behalf of
30 the interstate commission, the executive committee shall oversee the ad-
31 ministration of the compact, including enforcement and compliance with the
32 provisions of the compact, its bylaws and rules, and other such duties as
33 necessary.

34 (12) The interstate commission may establish other committees for gov-
35 ernance and administration of the compact.

36 54-1854. POWERS AND DUTIES OF THE INTERSTATE COMMISSION. The inter-
37 state commission shall have the duty and the power to:

38 (1) Oversee and maintain the administration of the compact;

39 (2) Promulgate rules that shall be binding to the extent and in the man-
40 ner provided for in the compact;

41 (3) Issue, upon the request of a member state or member board, advisory
42 opinions concerning the meaning or interpretation of the compact, its by-
43 laws, rules and actions;

44 (4) Enforce compliance with compact provisions, the rules promulgated
45 by the interstate commission, and the bylaws, using all necessary and proper
46 means including, but not limited to, the use of judicial process;

47 (5) Establish and appoint committees including, but not limited, to an
48 executive committee, which shall have the power to act on behalf of the in-
49 terstate commission in carrying out its powers and duties;

- 1 (6) Pay or provide for the payment of the expenses related to the estab-
- 2 lishment, organization and ongoing activities of the interstate commission;
- 3 (7) Establish and maintain one (1) or more offices;
- 4 (8) Borrow, accept, hire or contract for services of personnel;
- 5 (9) Purchase and maintain insurance and bonds;
- 6 (10) Employ an executive director who shall have such powers to employ,
- 7 select or appoint employees, agents or consultants, and to determine their
- 8 qualifications, define their duties and fix their compensation;
- 9 (11) Establish personnel policies and programs relating to conflicts of
- 10 interest, rates of compensation and qualifications of personnel;
- 11 (12) Accept donations and grants of money, equipment, supplies, materi-
- 12 als and services, and receive, utilize and dispose of such items in a manner
- 13 consistent with the conflict of interest policies established by the inter-
- 14 state commission;
- 15 (13) Lease, purchase, accept contributions or donations of, or other-
- 16 wise to own, hold, improve or use any property, whether real, personal or
- 17 mixed;
- 18 (14) Sell, convey, mortgage, pledge, lease, exchange, abandon or other-
- 19 wise dispose of any property, whether real, personal or mixed;
- 20 (15) Establish a budget and make expenditures;
- 21 (16) Adopt a seal and bylaws governing the management and operation of
- 22 the interstate commission;
- 23 (17) Report annually to the legislatures and governors of the member
- 24 states concerning the activities of the interstate commission during the
- 25 preceding year. Such reports shall also include reports of financial audits
- 26 and any recommendations that may have been adopted by the interstate commis-
- 27 sion;
- 28 (18) Coordinate education, training and public awareness regarding the
- 29 compact, its implementation and its operation;
- 30 (19) Maintain records in accordance with the bylaws;
- 31 (20) Seek and obtain trademarks, copyrights and patents; and
- 32 (21) Perform such functions as may be necessary or appropriate to
- 33 achieve the purposes of the compact.

34 54-1855. FINANCE POWERS. (1) The interstate commission may levy on and
35 collect an annual assessment from each member state to cover the cost of the
36 operations and activities of the interstate commission and its staff. The
37 total assessment must be sufficient to cover the annual budget approved each
38 year for which revenue is not provided by other sources. The aggregate an-
39 nual assessment amount shall be allocated upon a formula to be determined by
40 the interstate commission, which shall promulgate a rule binding on all mem-
41 ber states.

42 (2) The interstate commission shall not incur obligations of any kind
43 prior to securing the funds adequate to meet the same.

44 (3) The interstate commission shall not pledge the credit of any of the
45 member states, except by and with the authority of the member state.

46 (4) The interstate commission shall be subject to a yearly financial
47 audit conducted by a certified or licensed public accountant and the report
48 of the audit shall be included in the annual report of the interstate commis-
49 sion.

1 54-1856. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION. (1)
2 The interstate commission shall, by a majority of commissioners present and
3 voting, adopt bylaws to govern its conduct as may be necessary or appropri-
4 ate to carry out the purposes of the compact within twelve (12) months of the
5 first interstate commission meeting.

6 (2) The interstate commission shall elect or appoint annually from
7 among its commissioners a chairperson, a vice-chairperson and a treasurer,
8 each of whom shall have such authority and duties as may be specified in the
9 bylaws. The chairperson, or in the chairperson's absence or disability, the
10 vice-chairperson, shall preside at all meetings of the interstate commis-
11 sion.

12 (3) Officers selected pursuant to subsection (2) of this section shall
13 serve without remuneration from the interstate commission.

14 (4) The officers and employees of the interstate commission shall be
15 immune from suit and liability, either personally or in their official ca-
16 pacity, for a claim for damage to or loss of property or personal injury or
17 other civil liability caused or arising out of, or relating to, an actual or
18 alleged act, error or omission that occurred, or that such person had a rea-
19 sonable basis for believing occurred, within the scope of interstate com-
20 mission employment, duties or responsibilities; provided that such person
21 shall not be protected from suit or liability for damage, loss, injury or li-
22 ability caused by the intentional or willful and wanton misconduct of such
23 person.

24 (a) The liability of the executive director and employees of the in-
25 terstate commission or representatives of the interstate commission,
26 acting within the scope of such person's employment or duties for acts,
27 errors or omissions occurring within such person's state, may not ex-
28 ceed the limits of liability set forth under the constitution and laws
29 of that state for state officials, employees and agents. The interstate
30 commission is considered to be an instrumentality of the states for the
31 purposes of any such action. Nothing in this subsection shall be con-
32 strued to protect such person from suit or liability for damage, loss,
33 injury or liability caused by the intentional or willful and wanton mis-
34 conduct of such person.

35 (b) The interstate commission shall defend the executive director,
36 its employees and, subject to the approval of the attorney general or
37 other appropriate legal counsel of the member state represented by an
38 interstate commission representative, shall defend such interstate
39 commission representative in any civil action seeking to impose lia-
40 bility arising out of an actual or alleged act, error or omission that
41 occurred within the scope of interstate commission employment, duties
42 or responsibilities, or that the defendant had a reasonable basis for
43 believing occurred within the scope of interstate commission employ-
44 ment, duties or responsibilities, provided that the actual or alleged
45 act, error or omission did not result from intentional or willful and
46 wanton misconduct on the part of such person.

47 (c) To the extent not covered by the state involved, member state or the
48 interstate commission, the representatives or employees of the inter-
49 state commission shall be held harmless in the amount of a settlement
50 or judgment, including attorney's fees and costs, obtained against such

1 persons arising out of an actual or alleged act, error or omission that
2 occurred within the scope of interstate commission employment, duties
3 or responsibilities, or that such persons had a reasonable basis for be-
4 lieving occurred within the scope of interstate commission employment,
5 duties or responsibilities, provided that the actual or alleged act,
6 error or omission did not result from intentional or willful and wanton
7 misconduct on the part of such persons.

8 54-1857. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION. (1) The
9 interstate commission shall promulgate reasonable rules in order to effec-
10 tively and efficiently achieve the purposes of the compact. Notwithstanding
11 the foregoing, in the event the interstate commission exercises its rulemak-
12 ing authority in a manner that is beyond the scope of the purposes of the com-
13 pact, or the powers granted hereunder, then such an action by the interstate
14 commission shall be invalid and have no force or effect.

15 (2) Rules deemed appropriate for the operations of the interstate com-
16 mission shall be made pursuant to a rulemaking process that substantially
17 conforms to the "Model State Administrative Procedure Act" of 2010, and sub-
18 sequent amendments thereto.

19 (3) Not later than thirty (30) days after a rule is promulgated, any
20 person may file a petition for judicial review of the rule in the United
21 States district court for the District of Columbia or the federal district
22 where the interstate commission has its principal offices, provided that the
23 filing of such a petition shall not stay or otherwise prevent the rule from
24 becoming effective unless the court finds that the petitioner has a substan-
25 tial likelihood of success. The court shall give deference to the actions of
26 the interstate commission consistent with applicable law and shall not find
27 the rule to be unlawful if the rule represents a reasonable exercise of the
28 authority granted to the interstate commission.

29 54-1858. OVERSIGHT OF INTERSTATE COMPACT. (1) The executive, legisla-
30 tive and judicial branches of state government in each member state shall en-
31 force the compact and shall take all actions necessary and appropriate to
32 effectuate the compact's purposes and intent. The provisions of the com-
33 pact and the rules promulgated hereunder shall have standing as statutory
34 law but shall not override existing state authority to regulate the practice
35 of medicine.

36 (2) All courts shall take judicial notice of the compact and the rules
37 in any judicial or administrative proceeding in a member state pertaining to
38 the subject matter of the compact that may affect the powers, responsibili-
39 ties or actions of the interstate commission.

40 (3) The interstate commission shall be entitled to receive all service
41 of process in any such proceeding and shall have standing to intervene in the
42 proceeding for all purposes. Failure to provide service of process to the
43 interstate commission shall render a judgment or order void as to the inter-
44 state commission, the compact or promulgated rules.

45 54-1859. ENFORCEMENT OF INTERSTATE COMPACT. (1) The interstate com-
46 mission, in the reasonable exercise of its discretion, shall enforce the
47 provisions and rules of the compact.

1 (2) The interstate commission may, by majority vote of the commission-
2 ers, initiate legal action in the United States district court for the Dis-
3 trict of Columbia, or, at the discretion of the interstate commission, in the
4 federal district where the interstate commission has its principal offices,
5 to enforce compliance with the provisions of the compact and its promulgated
6 rules and bylaws, against a member state in default. The relief sought may
7 include both injunctive relief and damages. In the event judicial enforce-
8 ment is necessary, the prevailing party shall be awarded all costs of such
9 litigation including reasonable attorney's fees.

10 (3) The remedies herein shall not be the exclusive remedies of the
11 interstate commission. The interstate commission may avail itself of any
12 other remedies available under state law or the regulation of a profession.

13 54-1860. DEFAULT PROCEDURES. (1) The grounds for default include, but
14 are not limited to, failure of a member state to perform such obligations or
15 responsibilities imposed upon it by the compact or the rules and bylaws of
16 the interstate commission promulgated under the compact.

17 (2) If the interstate commission determines that a member state has de-
18 faulted in the performance of its obligations or responsibilities under the
19 compact, the bylaws or promulgated rules, the interstate commission shall:

20 (a) Provide written notice to the defaulting state and other member
21 states of the nature of the default, the means of curing the default and
22 any action taken by the interstate commission. The interstate commis-
23 sion shall specify the conditions by which the defaulting state must
24 cure its default; and

25 (b) Provide remedial training and specific technical assistance re-
26 garding the default.

27 (3) If the defaulting state fails to cure the default, the defaulting
28 state shall be terminated from the compact upon an affirmative vote of a
29 majority of the commissioners and all rights, privileges and benefits con-
30 ferred by the compact shall terminate on the effective date of termination.
31 A cure of the default does not relieve the offending state of obligations or
32 liabilities incurred during the period of the default.

33 (4) Termination of membership in the compact shall be imposed only af-
34 ter all other means of securing compliance have been exhausted. Notice of
35 intent to terminate shall be given by the interstate commission to the gover-
36 nor, the majority and minority leaders of the defaulting state's legislature
37 and each of the member states.

38 (5) The interstate commission shall establish rules and procedures to
39 address licenses and physicians that are materially impacted by the termina-
40 tion of a member state or the withdrawal of a member state.

41 (6) The member state that has been terminated is responsible for all
42 dues, obligations and liabilities incurred through the effective date of
43 termination, including obligations, the performance of which extends beyond
44 the effective date of termination.

45 (7) The interstate commission shall not bear any costs relating to any
46 state that has been found to be in default or that has been terminated from
47 the compact, unless otherwise mutually agreed upon in writing between the
48 interstate commission and the defaulting state.

1 (8) The defaulting state may appeal the action of the interstate com-
2 mission by petitioning the United States district court for the District of
3 Columbia or the federal district where the interstate commission has its
4 principal offices. The prevailing party shall be awarded all costs of such
5 litigation including reasonable attorney's fees.

6 54-1861. DISPUTE RESOLUTION. (1) The interstate commission shall at-
7 tempt upon the request of a member state to resolve disputes which are sub-
8 ject to the compact and which may arise among member states or member boards.

9 (2) The interstate commission shall promulgate rules providing for
10 both mediation and binding dispute resolution, as appropriate.

11 54-1862. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT. (1) Any state is
12 eligible to become a member state of the compact.

13 (2) The compact shall become effective and binding upon legislative en-
14 actment of the compact into law by no less than seven (7) states. Thereafter,
15 it shall become effective and binding on a state upon enactment of the com-
16 pact into law by that state.

17 (3) The governors of nonmember states or their designees shall be in-
18 vited to participate in the activities of the interstate commission on a non-
19 voting basis prior to adoption of the compact by all states.

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

24 54-1863. WITHDRAWAL. (1) Once effective, the compact shall continue
25 in force and remain binding upon each and every member state; provided that
26 a member state may withdraw from the compact by specifically repealing the
27 statute which enacted the compact into law.

28 (2) Withdrawal from the compact shall be by the enactment of a statute
29 repealing the same, but shall not take effect until one (1) year after the
30 effective date of such statute and until written notice of the withdrawal
31 has been given by the withdrawing state to the governor of each other member
32 state.

33 (3) The withdrawing state shall immediately notify the chairperson of
34 the interstate commission in writing upon the introduction of legislation
35 repealing the compact in the withdrawing state.

36 (4) The interstate commission shall notify the other member states of
37 the withdrawing state's intent to withdraw within sixty (60) days of its re-
38 ceipt of notice as provided under subsection (3) of this section.

39 (5) The withdrawing state is responsible for all dues, obligations and
40 liabilities incurred through the effective date of withdrawal, including
41 obligations, the performance of which extend beyond the effective date of
42 withdrawal.

43 (6) Reinstatement following withdrawal of a member state shall occur
44 upon the withdrawing state reenacting the compact or upon such later date as
45 determined by the interstate commission.

46 (7) The interstate commission is authorized to develop rules to address
47 the impact of the withdrawal of a member state on licenses granted in other

1 member states to physicians who designated the withdrawing member state as
2 the state of principal license.

3 54-1864. DISSOLUTION. (1) The compact shall dissolve effective upon
4 the date of the withdrawal or default of the member state which reduces the
5 membership in the compact to one (1) member state.

6 (2) Upon the dissolution of the compact, the compact becomes null and
7 void and shall be of no further force or effect. The business and affairs of
8 the interstate commission shall be concluded and surplus funds shall be dis-
9 tributed in accordance with the bylaws.

10 54-1865. SEVERABILITY AND CONSTRUCTION. (1) The provisions of the
11 compact shall be severable, and if any phrase, clause, sentence or provision
12 is deemed unenforceable, the remaining provisions of the compact shall be
13 enforceable.

14 (2) The provisions of the compact shall be liberally construed to ef-
15 fectuate its purposes.

16 (3) Nothing in the compact shall be construed to prohibit the applica-
17 bility of other interstate compacts to which the states are members.

18 54-1866. BINDING EFFECT OF COMPACT AND OTHER LAWS. (1) Nothing herein
19 prevents the enforcement of any other law of a member state that is not incon-
20 sistent with the compact.

21 (2) All laws in a member state in conflict with the compact are super-
22 seded to the extent of the conflict.

23 (3) All lawful actions of the interstate commission, including all
24 rules and bylaws promulgated by the commission, are binding upon the member
25 states.

26 (4) All agreements between the interstate commission and the member
27 states are binding in accordance with their terms.

28 (5) In the event any provision of the compact exceeds the constitu-
29 tional limits imposed on the legislature of any member state, such provision
30 shall be ineffective to the extent of the conflict with the constitutional
31 provision in question in that member state.