

I Mina Trentai Kuattro Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
124-34 (COR)	Dennis G. Rodriguez, Jr. Joe S. San Agustin Fernando B. Esteves Tommy A. Morrison FRANK B. AGUON, JR. William M. Castro Telena C. Nelson	AN ACT TO ADD NEW ARTICLE 2A TO CHAPTER 12, PART 1 OF TITLE 10, GUAM CODE ANNOTATED, FOR PURPOSES OF ADOPTING THE INTERSTATE MEDICAL LICENSURE COMPACT PURSUANT TO LAW.	6/23/17 4:52 p.m.						

MINA' TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN
2017 (FIRST) Regular Session

Bill No. 124-34 (COR)

Introduced by:

Dennis G. Rodriguez, Jr. *DGR*
Joe S. San Agustin *JS*
Fernando B. Esteves *F.B.E.*
Thomas A. Morrison *T.A.M.*
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William M. Castro *W.M.C.*
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**AN ACT TO ADD NEW ARTICLE 2A TO
CHAPTER 12, PART 1 OF TITLE 10, GUAM CODE
ANNOTATED, FOR PURPOSES OF ADOPTING
THE INTERSTATE MEDICAL LICENSURE
COMPACT PURSUANT TO LAW.**

2017 JUN 23 PM 4: 52

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Finding and Intent.** *I Liheslaturan Guáhan* finds
3 that the Guam Board of Medical Examiners has adopted by resolution the
4 “Interstate Medical Licensure Compact”, an interstate compact providing for
5 reciprocal licensure between member states for qualified physicians from member
6 states meeting physician licensing criteria, which, at a minimum means any person
7 who:

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

12 (2) Passed each component of the United States Medical Licensing
13 Examination (USMLE) or the Comprehensive Osteopathic Medical
14 Licensing Examination (COMLEX-USA) within three attempts, or any of its

1 predecessor examinations accepted by a state medical board as an equivalent
2 examination for licensure purposes;

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

6 (4) Holds specialty certification or a time-unlimited specialty certificate
7 recognized by the American Board of Medical Specialties or the American
8 Osteopathic Association's Bureau of Osteopathic Specialists;

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

11 It is the desire of the Guam Board of Medical Examiners that Guam become
12 a member state in the Compact by adopting the "Interstate Medical Licensure
13 Compact" pursuant to law.

14 The Compact initially became effective and binding upon legislative
15 enactment of the Compact into law by no less than seven (7) states. Thereafter, it
16 becomes effective and binding on a state upon enactment of the Compact into law
17 by that state, or territory.

18 It is the intent of *I Liheslaturan Guåhan* that Guam become a member state
19 by adopting the "Interstate Medical Licensure Compact."

20 **Section 2.** A new Article 2A is *added* to Chapter 12, Part 1, of Title 10,
21 Guam Code Annotated, hereby adopting by law the "Interstate Medical Licensure
22 Compact", to read:

23 **"Article 2A**

24 **Adoption of Interstate Medical Licensure Compact**

25 **Section 1. Purpose**

26 In order to strengthen access to health care, and in recognition of the

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

15 **Section 2. Definitions**

16 In this compact:

17 (a) "Bylaws" means those bylaws established by the Interstate Commission
18 pursuant to Section 11 for its governance, or for directing and controlling its
19 actions and conduct.

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

22 (c) "Conviction" means a finding by a court that an individual is guilty of a
23 criminal offense through adjudication, or entry of a plea of guilt or no contest to
24 the charge by the offender. Evidence of an entry of a conviction of a criminal
25 offense by the court shall be considered final for purposes of disciplinary action
26 by a member board.

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

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

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

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

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

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

14 (j) "Practice of Medicine" means the clinical prevention, diagnosis, or
15 treatment of human disease, injury, or condition requiring a physician to obtain and
16 maintain a license in compliance with the Medical Practice Act of a member state.

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

18 (1) Is a graduate of a medical school accredited by the Liaison
19 Committee on Medical Education, the Commission on Osteopathic
20 College Accreditation, or a medical school listed in the International
21 Medical Education Directory or its equivalent;

22 (2) Passed each component of the United States Medical Licensing
23 Examination (USMLE) or the Comprehensive Osteopathic Medical
24 Licensing Examination (COMLEX-USA) within three attempts, or
25 any of its predecessor examinations accepted by a state medical board
26 as an equivalent examination for licensure purposes;

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

4 (4) Holds specialty certification or a time-unlimited specialty
5 certificate recognized by the American Board of Medical Specialties
6 or the American Osteopathic Association's Bureau of Osteopathic
7 Specialists;

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

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

13 (7) Has never held a license authorizing the practice of medicine
14 subjected to discipline by a licensing agency in any state, federal, or
15 foreign jurisdiction, excluding any action related to non-payment of
16 fees related to a license;

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

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

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

24 (m) "Rule" means a written statement by the Interstate Commission
25 promulgated pursuant to Section 12 of the Compact that is of general applicability,
26 implements, interprets, or prescribes a policy or provision of the Compact, or an

1 organizational, procedural, or practice requirement of the Interstate Commission,
2 and has the force and effect of statutory law in a member state, and includes the
3 amendment, repeal, or suspension of an existing rule.

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

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

9 **Section 3. Eligibility**

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

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

17 **Section 4. Designation of State of Principal License**

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

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

23 (2) the state where at least 25% of the practice of medicine occurs, or

24 (3) the location of the physician's employer, or

25 (4) if no state qualifies under subsection (1), subsection (2), or

1 subsection (3), the state designated as state of residence for purpose of
2 federal income tax.

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

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

7 **Section 5. Application and Issuance of Expedited Licensure**

8 (a) A physician seeking licensure through the Compact shall file an
9 application for an expedited license with the member board of the state selected by
10 the physician as the state of principal license.

11 (b) Upon receipt of an application for an expedited license, the member
12 board within the state selected as the state of principal license shall evaluate
13 whether the physician is eligible for expedited licensure and issue a letter of
14 qualification, verifying or denying the physician's eligibility, to the Interstate
15 Commission.

16 (i) Static qualifications, which include verification of medical
17 education, graduate medical education, results of any medical or
18 licensing examination, and other qualifications as determined by the
19 Interstate Commission through rule, shall not be subject to additional
20 primary source verification where already primary source verified by
21 the state of principal license.

22 (ii) The member board within the state selected as the state of
23 principal license shall, in the course of verifying eligibility, perform a
24 criminal background check of an applicant, including the use of the
25 results of fingerprint or other biometric data checks compliant with the
26 requirements of the Federal Bureau of Investigation, with the

1 exception of federal employees who have suitability determination in
2 accordance with U.S. C.F.R. §731.202.

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

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

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

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

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

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

24 **Section 6. Fees for Expedited Licensure**

25 (a) A member state issuing an expedited license authorizing the practice of
26 medicine in that state may impose a fee for a license issued or renewed through the

1 Compact.

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

4 **Section 7. Renewal and Continued Participation**

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

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

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

12 (3) Has not had a license authorizing the practice of medicine subject to
13 discipline by a licensing agency in any state, federal, or foreign jurisdiction,
14 excluding any action related to non-payment of fees related to a license; and

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

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

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

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

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

26 (f) The Interstate Commission is authorized to develop rules to address

1 renewal of licenses obtained through the Compact.

2 **Section 8. Coordinated Information System**

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

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

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

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

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

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

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

21 **Section 9. Joint Investigations**

22 (a) Licensure and disciplinary records of physicians are deemed
23 investigative.

24 (b) In addition to the authority granted to a member board by its respective
25 Medical Practice Act or other applicable state law, a member board may participate

1 with other member boards in joint investigations of physicians licensed by the
2 member boards.

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

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

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

11 **Section 10. Disciplinary Actions**

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

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

25 (c) If disciplinary action is taken against a physician by a member board not
26 in the state of principal license, any other member board may deem the action

1 conclusive as to matter of law and fact decided, and:

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

4 (ii) or pursue separate disciplinary action against the physician under its
5 respective Medical Practice Act, regardless of the action taken in other
6 member states.

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

17 **Section 11. Interstate Medical Licensure Compact Commission**

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

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

22 (c) The Interstate Commission shall be a body corporate and joint agency of
23 the member states and shall have all the responsibilities, powers, and duties set
24 forth in the Compact, and such additional powers as may be conferred upon it by a
25 subsequent concurrent action of the respective legislatures of the member states in
26 accordance with the terms of the Compact.

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

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

8 (2) Executive director, executive secretary, or similar executive of a member
9 board; or

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

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

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

18 (g) Each Commissioner participating at a meeting of the Interstate
19 Commission is entitled to one vote. A majority of Commissioners shall constitute a
20 quorum for the transaction of business, unless a larger quorum is required by the
21 bylaws of the Interstate Commission. A Commissioner shall not delegate a vote to
22 another Commissioner. In the absence of its Commissioner, a member state may
23 delegate voting authority for a specified meeting to another person from that state
24 who shall meet the requirements of subsection (d).

25 (h) The Interstate Commission shall provide public notice of all meetings
26 and all meetings shall be open to the public. The Interstate Commission may close

1 a meeting, in full or in portion, where it determines by a two-thirds vote of the
2 Commissioners present that an open meeting would be likely to:

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

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

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

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

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

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

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

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

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

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

1 Compact, its bylaws and rules, and other such duties as necessary.

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

4 **Section 12. Powers And Duties Of The Interstate Commission**

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

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

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

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

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

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

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

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

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

22 (i) Purchase and maintain insurance and bonds;

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

1 (k) Establish personnel policies and programs relating to conflicts of interest,
2 rates of compensation, and qualifications of personnel;

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

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

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

10 (o) Establish a budget and make expenditures;

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

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

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

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

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

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

23 **Section 13. Finance Powers**

24 (a) The Interstate Commission may levy on and collect an annual assessment
25 from each member state to cover the cost of the operations and activities of the
26 Interstate Commission and its staff. The total assessment must be sufficient to

1 cover the annual budget approved each year for which revenue is not provided by
2 other sources. The aggregate annual assessment amount shall be allocated upon a
3 formula to be determined by the Interstate Commission, which shall promulgate a
4 rule binding upon all member states.

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

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

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

12 **Section 14. Organization and Operation of the Interstate Commission**

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

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

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

24 (d) The officers and employees of the Interstate Commission shall be
25 immune from suit and liability, either personally or in their official capacity, for a
26 claim for damage to or loss of property or personal injury or other civil liability

1 caused or arising out of, or relating to, an actual or alleged act, error, or omission
2 that occurred, or that such person had a reasonable basis for believing occurred,
3 within the scope of Interstate Commission employment, duties, or responsibilities;
4 provided that such person shall not be protected from suit or liability for damage,
5 loss, injury, or liability caused by the intentional or willful and wanton misconduct
6 of such person.

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

17 (2) The Interstate Commission shall defend the executive director, its
18 employees, and subject to the approval of the attorney general or other
19 appropriate legal counsel of the member state represented by an Interstate
20 Commission representative, shall defend such Interstate Commission
21 representative in any civil action seeking to impose liability arising out of an
22 actual or alleged act, error or omission that occurred within the scope of
23 Interstate Commission employment, duties or responsibilities, or that the
24 defendant had a reasonable basis for believing occurred within the scope of
25 Interstate Commission employment, duties, or responsibilities, provided that
26 the actual or alleged act, error, or omission did not result from intentional or
27 willful and wanton misconduct on the part of such person.

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

11 **Section 15. Rulemaking Functions of the Interstate Commission**

12 (a) The Interstate Commission shall promulgate reasonable rules in order to
13 effectively and efficiently achieve the purposes of the Compact. Notwithstanding
14 the foregoing, in the event the Interstate Commission exercises its rulemaking
15 authority in a manner that is beyond the scope of the purposes of the Compact, or
16 the powers 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 Interstate
19 Commission shall be made pursuant to a rulemaking process that substantially
20 conforms to the “Model State Administrative Procedure Act” of 2010, and
21 subsequent amendments thereto.

22 (c) Not later than thirty (30) days after a rule is promulgated, any person
23 may file a petition for judicial review of the rule in the United States District Court
24 for the District of Columbia or the federal district where the Interstate Commission
25 has its principal offices, provided that the filing of such a petition shall not stay or
26 otherwise prevent the rule from becoming effective unless the court finds that the

1 petitioner has a substantial likelihood of success. The court shall give deference to
2 the actions of the Interstate Commission consistent with applicable law and shall
3 not find the rule to be unlawful if the rule represents a reasonable exercise of the
4 authority granted to the Interstate Commission.

5 **Section 16. Oversight of Interstate Compact**

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

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

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

21 **Section 17. Enforcement of Interstate Compact**

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

24 (b) The Interstate Commission may, by majority vote of the Commissioners,
25 initiate legal action in the United States District Court for the District of Columbia,
26 or, at the discretion of the Interstate Commission, in the federal district where the

1 Interstate Commission has its principal offices, to enforce compliance with the
2 provisions of the Compact, and its promulgated rules and bylaws, against a
3 member state in default. The relief sought may include both injunctive relief and
4 damages. In the event judicial enforcement is necessary, the prevailing party shall
5 be awarded all costs of such litigation including reasonable attorney's fees.

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

9 **Section 18. Default Procedures**

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

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

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

21 (2) Provide remedial training and specific technical assistance regarding the
22 default.

23 (c) If the defaulting state fails to cure the default, the defaulting state shall be
24 terminated from the Compact upon an affirmative vote of a majority of the
25 Commissioners and all rights, privileges, and benefits conferred by the Compact
26 shall terminate on the effective date of termination. A cure of the default does not

1 relieve the offending state of obligations or liabilities incurred during the period of
2 the default.

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

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

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

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

19 (h) The defaulting state may appeal the action of the Interstate Commission
20 by petitioning the United where the Interstate Commission has its principal offices.
21 The prevailing party shall be awarded all costs of such litigation including
22 reasonable attorney's fees.

23 **Section 19. Dispute Resolution**

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

1 (b) The Interstate Commission shall promulgate rules providing for both
2 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 Compact.

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

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

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

16 **Section 21. Withdrawal**

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

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

25 (c) The withdrawing state shall immediately notify the chairperson of the

1 Interstate Commission in writing upon the introduction of legislation repealing the
2 Compact in the withdrawing state.

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

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

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

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

16 **Section 22. Dissolution**

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

20 (b) Upon the dissolution of the Compact, the Compact becomes null and
21 void and shall be of no further force or effect, and the business and affairs of the
22 Interstate Commission shall be concluded and surplus funds shall be distributed in
23 accordance with the bylaws.

24 **Section 23. Severability and Construction**

25 (a) The provisions of the Compact shall be severable, and if any phrase,

1 clause, sentence, or provision is deemed unenforceable, the remaining provisions
2 of the Compact shall be enforceable.

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

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

7 **Section 24. Binding Effect of Compact And Other Laws**

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

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

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

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

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