

**SENATE BILL NO. 2173
with House Amendments
SENATE BILL NO. 2173**

Sixty-sixth
Legislative Assembly
of North Dakota

Introduced by

Senators J. Lee, Anderson, Mathern

Representatives Lefor, Schneider, Westlind

1 A BILL for an Act to create and enact a new section to chapter 43-17 and a new chapter to
2 title 43 of the North Dakota Century Code, relating to the interstate medical licensure compact
3 and the payment of fees under the compact.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 43-17 of the North Dakota Century Code is created
6 and enacted as follows:

7 Fees levied under subsection 1 of article XIII of the interstate medical licensure compact by
8 the interstate medical licensure compact commission to the state of North Dakota must be paid
9 by the board through the board's funding mechanism, and the board may not request funds
10 deposited in the general fund for the fee.

11 **SECTION 2.** A new chapter to title 43 of the North Dakota Century Code is created and
12 enacted as follows:

13 **ARTICLE I - PURPOSE**

14 In order to strengthen access to health care, and in recognition of the advances in the
15 delivery of health care, the member states of the interstate medical licensure compact have
16 allied in common purpose to develop a comprehensive process that complements the existing
17 licensing and regulatory authority of state medical boards and provides a streamlined process
18 that allows physicians to become licensed in multiple states, thereby enhancing the portability of
19 a medical license and ensuring the safety of patients. The compact creates another pathway for
20 licensure and does not otherwise change a state's existing medical practice act. The compact
21 also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs
22 where the patient is located at the time of the physician-patient encounter, and therefore,
23 requires the physician to be under the jurisdiction of the state medical board where the patient
24 is located. State medical boards that participate in the compact retain the jurisdiction to impose

1 an adverse action against a license to practice medicine in that state issued to a physician
2 through the procedures in the compact.

3 **ARTICLE II - DEFINITIONS**

4 In this compact:

- 5 1. "Bylaws" means those bylaws established by the interstate commission pursuant to
6 article XI for its governance, or for directing and controlling its actions and conduct.
- 7 2. "Commissioner" means the voting representative appointed by each member board
8 pursuant to article XI.
- 9 3. "Conviction" means a finding by a court, that an individual is guilty of a criminal offense
10 through adjudication, or entry of a plea of guilt or no contest to the charge by the
11 offender. Evidence of an entry of a conviction of a criminal offense by the court must
12 be considered final for purposes of disciplinary action by a member board.
- 13 4. "Expedited license" means a full and unrestricted medical license granted by a
14 member state to an eligible physician through the process set forth in the compact.
- 15 5. "Interstate commission" means the interstate commission created pursuant to
16 article XI.
- 17 6. "License" means authorization by a state for a physician to engage in the practice of
18 medicine, which would be unlawful without the authorization.
- 19 7. "Medical practice act" means laws and regulations governing the practice of allopathic
20 and osteopathic medicine within a member state.
- 21 8. "Member board" means a state agency in a member state which acts in the sovereign
22 interests of the state by protecting the public through licensure, regulation, and
23 education of physicians as directed by the state government.
- 24 9. "Member state" means a state that has enacted the compact.
- 25 10. "Offense" means a felony, gross misdemeanor, or crime of moral turpitude.
- 26 11. "Physician" means any individual who:
 - 27 a. Is a graduate of a medical school accredited by the liaison committee on medical
28 education, the commission on osteopathic college accreditation, or a medical
29 school listed in the international medical education directory or its equivalent;
 - 30 b. Passed each component of the United States medical licensing examination
31 (USMLE) or the comprehensive osteopathic medical licensing examination

- 1 (COMLEX-USA) within three attempts, or any of its predecessor examinations
2 accepted by a state medical board as an equivalent examination for licensure
3 purposes;
4 c. Successfully completed graduate medical education approved by the
5 accreditation council for graduate medical education or the American osteopathic
6 association;
7 d. Holds specialty certification or a time-unlimited specialty certificate recognized by
8 the American board of medical specialties or the American osteopathic
9 association's bureau of osteopathic specialists;
10 e. Possesses a full and unrestricted license to engage in the practice of medicine
11 issued by a member board;
12 f. Has never been convicted or received adjudication, deferred adjudication,
13 community supervision, or deferred disposition for any offense by a court of
14 appropriate jurisdiction;
15 g. Has never held a license authorizing the practice of medicine subjected to
16 discipline by a licensing agency in any state, federal, or foreign jurisdiction,
17 excluding any action related to nonpayment of fees related to a license;
18 h. Has never had a controlled substance license or permit suspended or revoked by
19 a state or the United States drug enforcement administration; and
20 i. Is not under active investigation by a licensing agency or law enforcement
21 authority in any state, federal, or foreign jurisdiction.
22 12. "Practice of medicine" means the clinical prevention, diagnosis, or treatment of human
23 disease, injury, or condition requiring a physician to obtain and maintain a license in
24 compliance with the medical practice act of a member state.
25 13. "Rule" means a written statement by the interstate commission promulgated pursuant
26 to article XII of the compact, that is of general applicability, implements, interprets, or
27 prescribes a policy or provision of the compact, or an organizational, procedural, or
28 practice requirement of the interstate commission, and has the force and effect of
29 statutory law in a member state, and includes the amendment, repeal, or suspension
30 of an existing rule.
31 14. "State" means any state, commonwealth, district, or territory of the United States.

1 15. "State of principal license" means a member state where a physician holds a license
2 to practice medicine and which has been designated as such by the physician for
3 purposes of registration and participation in the compact.

4 **ARTICLE III - ELIGIBILITY**

5 1. A physician must meet the eligibility requirements as defined in subsection 11 of
6 article II to receive an expedited license under the terms and provisions of the
7 compact.

8 2. A physician who does not meet the requirements of subsection 11 of article II may
9 obtain a license to practice medicine in a member state if the individual complies with
10 all laws and requirements, other than the compact, relating to the issuance of a license
11 to practice medicine in that state.

12 **ARTICLE IV - DESIGNATION OF STATE OF PRINCIPAL LICENSE**

13 1. A physician shall designate a member state as the state of principal license for
14 purposes of registration for expedited licensure through the compact if the physician
15 possesses a full and unrestricted license to practice medicine in that state, and the
16 state is:

17 a. The state of primary residence for the physician;

18 b. The state where at least twenty-five percent of the practice of medicine occurs;

19 c. The location of the physician's employer; or

20 d. If no state qualifies under subdivisions a, b, or c, the state designated as state of
21 residence for purpose of federal income tax.

22 2. A physician may redesignate a member state as state of principal license at any time,
23 as long as the state meets the requirements in subsection 1.

24 3. The interstate commission may develop rules to facilitate redesignation of another
25 member state as the state of principal license.

26 **ARTICLE V - APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE**

27 1. A physician seeking licensure through the compact shall file an application for an
28 expedited license with the member board of the state selected by the physician as the
29 state of principal license.

30 2. Upon receipt of an application for an expedited license, the member board within the
31 state selected as the state of principal license shall evaluate whether the physician is

1 eligible for expedited licensure and issue a letter of qualification, verifying or denying
2 the physician's eligibility, to the interstate commission.

3 a. Static qualifications, which include verification of medical education, graduate
4 medical education, results of any medical or licensing examination, and other
5 qualifications as determined by the interstate commission through rule, may not
6 be subject to additional primary source verification if already primary source
7 verified by the state of principal license.

8 b. The member board within the state selected as the state of principal license shall,
9 in the course of verifying eligibility, perform a criminal background check of an
10 applicant, including the use of the results of fingerprint or other biometric data
11 checks compliant with the requirements of the federal bureau of investigation,
12 with the exception of federal employees who have suitability determination in
13 accordance with title 5, Code of Federal Regulations, section 731.202.

14 c. Appeal on the determination of eligibility must be made to the member state
15 where the application was filed and must be subject to the law of that state.

16 3. Upon verification in subsection 2, physicians eligible for an expedited license shall
17 complete the registration process established by the interstate commission to receive
18 a license in a member state selected pursuant to subsection 1, including the payment
19 of any applicable fees.

20 4. After receiving verification of eligibility under subsection 2 and any fees under
21 subsection 3, a member board shall issue an expedited license to the physician. This
22 license must authorize the physician to practice medicine in the issuing state
23 consistent with the medical practice act and all applicable laws and regulations of the
24 issuing member board and member state.

25 5. An expedited license must be valid for a period consistent with the licensure period in
26 the member state and in the same manner as required for other physicians holding a
27 full and unrestricted license within the member state.

28 6. An expedited license obtained though the compact must be terminated if a physician
29 fails to maintain a license in the state of principal licensure for a nondisciplinary
30 reason, without redesignation of a new state of principal licensure.

- 1 7. The interstate commission may develop rules regarding the application process,
2 including payment of any applicable fees, and the issuance of an expedited license.

3 **ARTICLE VI - FEES FOR EXPEDITED LICENSURE**

- 4 1. A member state issuing an expedited license authorizing the practice of medicine in
5 that state may impose a fee for a license issued or renewed through the compact.
6 2. The interstate commission may develop rules regarding fees for expedited licenses.

7 **ARTICLE VII - RENEWAL AND CONTINUED PARTICIPATION**

- 8 1. A physician seeking to renew an expedited license granted in a member state shall
9 complete a renewal process with the interstate commission if the physician:
10 a. Maintains a full and unrestricted license in a state of principal license;
11 b. Has not been convicted or received adjudication, deferred adjudication,
12 community supervision, or deferred disposition for any offense by a court of
13 appropriate jurisdiction;
14 c. Has not had a license authorizing the practice of medicine subject to discipline by
15 a licensing agency in any state, federal, or foreign jurisdiction, excluding any
16 action related to nonpayment of fees related to a license; and
17 d. Has not had a controlled substance license or permit suspended or revoked by a
18 state or the United States drug enforcement administration.
19 2. Physicians shall comply with all continuing professional development or continuing
20 medical education requirements for renewal of a license issued by a member state.
21 3. The interstate commission shall collect any renewal fees charged for the renewal of a
22 license and distribute the fees to the applicable member board.
23 4. Upon receipt of any renewal fees collected in subsection 3, a member board shall
24 renew the physician's license.
25 5. Physician information collected by the interstate commission during the renewal
26 process must be distributed to all member boards.
27 6. The interstate commission may develop rules to address renewal of licenses obtained
28 through the compact.

29 **ARTICLE VIII - COORDINATED INFORMATION SYSTEM**

- 30 1. The interstate commission shall establish a database of all physicians licensed, or who
31 have applied for licensure, under article V.

- 1 2. Notwithstanding any other provision of law, member boards shall report to the
2 interstate commission any public action or complaints against a licensed physician
3 who has applied or received an expedited license through the compact.
- 4 3. Member boards shall report disciplinary or investigatory information determined as
5 necessary and proper by rule of the interstate commission.
- 6 4. Member boards may report any nonpublic complaint, disciplinary, or investigatory
7 information not required by subsection 3 to the interstate commission.
- 8 5. Member boards shall share complaint or disciplinary information about a physician
9 upon request of another member board.
- 10 6. All information provided to the interstate commission or distributed by member boards
11 must be confidential, filed under seal, and used only for investigatory or disciplinary
12 matters.
- 13 7. The interstate commission may develop rules for mandated or discretionary sharing of
14 information by member boards.

ARTICLE IX - JOINT INVESTIGATIONS

- 16 1. Licensure and disciplinary records of physicians are deemed investigative.
- 17 2. In addition to the authority granted to a member board by its respective medical
18 practice act or other applicable state law, a member board may participate with other
19 member boards in joint investigations of physicians licensed by the member boards.
- 20 3. A subpoena issued by a member state must be enforceable in other member states.
- 21 4. Member boards may share any investigative, litigation, or compliance materials in
22 furtherance of any joint or individual investigation initiated under the compact.
- 23 5. Any member state may investigate actual or alleged violations of the statutes
24 authorizing the practice of medicine in any other member state in which a physician
25 holds a license to practice medicine.

ARTICLE X - DISCIPLINARY ACTIONS

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

- 1 2. If a license granted to a physician by the member board in the state of principal license
2 is revoked, surrendered, or relinquished in lieu of discipline or suspended, all licenses
3 issued to the physician by member boards must automatically be placed, without
4 further action necessary by any member board, on the same status. If the member
5 board in the state of principal license subsequently reinstates the physician's license,
6 a license issued to the physician by any other member board must remain
7 encumbered until that respective member board takes action to reinstate the license in
8 a manner consistent with the medical practice act of that state.
- 9 3. If disciplinary action is taken against a physician by a member board not in the state of
10 principal license, any other member board may deem the action conclusive as to
11 matter of law and fact decided, and:
 - 12 a. Impose the same or lesser sanction against the physician so long as such
13 sanctions are consistent with the medical practice act of that state; or
 - 14 b. Pursue separate disciplinary action against the physician under its respective
15 medical practice act, regardless of the action taken in other member states.
- 16 4. If a license granted to a physician by a member board is revoked, surrendered, or
17 relinquished in lieu of discipline, or suspended, any license issued to the physician by
18 any other member board must be suspended, automatically and immediately without
19 further action necessary by the other member board, for ninety days upon entry of the
20 order by the disciplining board, to permit the member board to investigate the basis for
21 the action under the medical practice act of that state. A member board may terminate
22 the automatic suspension of the license it issued before the completion of the
23 ninety-day suspension period in a manner consistent with the medical practice act of
24 that state.

ARTICLE XI - INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

- 26 1. The member states hereby create the interstate medical licensure compact
27 commission.
- 28 2. The purpose of the interstate commission is the administration of the interstate
29 medical licensure compact, which is a discretionary state function.
- 30 3. The interstate commission must be a body corporate and joint agency of the member
31 states and must have all the responsibilities, powers, and duties set forth in the

1 compact, and such additional powers as may be conferred upon it by a subsequent
2 concurrent action of the respective legislatures of the member states in accordance
3 with the terms of the compact.

4 4. The interstate commission must consist of two voting representatives appointed by
5 each member state who shall serve as commissioners. In states where allopathic and
6 osteopathic physicians are regulated by separate member boards, or if the licensing
7 and disciplinary authority is split between multiple member boards within a member
8 state, the member state shall appoint one representative from each member board. A
9 commissioner must be:

10 a. An allopathic or osteopathic physician appointed to a member board;

11 b. An executive director, executive secretary, or similar executive of a member
12 board; or

13 c. A member of the public appointed to a member board.

14 5. The interstate commission shall meet at least once each calendar year. A portion of
15 this meeting must be a business meeting to address such matters as may properly
16 come before the commission, including the election of officers. The chairperson may
17 call additional meetings and shall call for a meeting upon the request of a majority of
18 the member states.

19 6. The bylaws may provide for meetings of the interstate commission to be conducted by
20 telecommunication or electronic communication.

21 7. Each commissioner participating at a meeting of the interstate commission is entitled
22 to one vote. A majority of commissioners constitutes a quorum for the transaction of
23 business, unless a larger quorum is required by the bylaws of the interstate
24 commission. A commissioner may not delegate a vote to another commissioner. In the
25 absence of its commissioner, a member state may delegate voting authority for a
26 specified meeting to another individual from that state who must meet the
27 requirements of subsection 4.

28 8. The interstate commission shall provide public notice of all meetings and all meetings
29 must be open to the public. The interstate commission may close a meeting, in full or
30 in portion, if it determines by a two-thirds vote of the commissioners present that an
31 open meeting would be likely to:

- 1 a. Relate solely to the internal personnel practices and procedures of the interstate
- 2 commission;
- 3 b. Discuss matters specifically exempted from disclosure by federal statute;
- 4 c. Discuss trade secrets, commercial, or financial information that is privileged or
- 5 confidential;
- 6 d. Involve accusing a person of a crime, or formally censuring a person;
- 7 e. Discuss information of a personal nature if disclosure would constitute a clearly
- 8 unwarranted invasion of personal privacy;
- 9 f. Discuss investigative records compiled for law enforcement purposes; or
- 10 g. Specifically relate to the participation in a civil action or other legal proceeding.
- 11 9. The interstate commission shall keep minutes that fully describe all matters discussed
- 12 in a meeting and shall provide a full and accurate summary of actions taken, including
- 13 record of any roll call votes.
- 14 10. The interstate commission shall make its information and official records, to the extent
- 15 not otherwise designated in the compact or by its rules, available to the public for
- 16 inspection.
- 17 11. The interstate commission shall establish an executive committee, which must include
- 18 officers, members, and others as determined by the bylaws. The executive committee
- 19 must have the power to act on behalf of the interstate commission, with the exception
- 20 of rulemaking, during periods when the interstate commission is not in session. If
- 21 acting on behalf of the interstate commission, the executive committee shall oversee
- 22 the administration of the compact, including enforcement and compliance with the
- 23 provisions of the compact, its bylaws and rules, and other such duties as necessary.
- 24 12. The interstate commission may establish other committees for governance and
- 25 administration of the compact.

ARTICLE XII - POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission has the duty and power to:

- 28 1. Oversee and maintain the administration of the compact;
- 29 2. Promulgate rules that must be binding to the extent and in the manner provided for in
- 30 the compact;

- 1 3. Issue, upon the request of a member state or member board, advisory opinions
- 2 concerning the meaning or interpretation of the compact, its bylaws, rules, and
- 3 actions;
- 4 4. Enforce compliance with compact provisions, the rules promulgated by the interstate
- 5 commission, and the bylaws, using all necessary and proper means, including the use
- 6 of judicial process;
- 7 5. Establish and appoint committees including, an executive committee as required by
- 8 article XI which may act on behalf of the interstate commission in carrying out its
- 9 powers and duties;
- 10 6. Pay, or provide for the payment of the expenses related to the establishment,
- 11 organization, and ongoing activities of the interstate commission;
- 12 7. Establish and maintain one or more offices;
- 13 8. Borrow, accept, hire, or contract for services of personnel;
- 14 9. Purchase and maintain insurance and bonds;
- 15 10. Employ an executive director who must have such powers to employ, select, or
- 16 appoint employees, agents, or consultants, and to determine their qualifications,
- 17 define their duties, and fix their compensation;
- 18 11. Establish personnel policies and programs relating to conflicts of interest, rates of
- 19 compensation, and qualifications of personnel;
- 20 12. Accept donations and grants of money, equipment, supplies, materials, and services,
- 21 and to receive, utilize, and dispose of it in a manner consistent with the conflict of
- 22 interest policies established by the interstate commission;
- 23 13. Lease, purchase, accept contributions or donations of, or otherwise to own, hold,
- 24 improve, or use, any property, real, personal, or mixed;
- 25 14. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
- 26 any property, real, personal, or mixed;
- 27 15. Establish a budget and make expenditures;
- 28 16. Adopt a seal and bylaws governing the management and operation of the interstate
- 29 commission;
- 30 17. Report annually to the legislatures and governors of the member states concerning the
- 31 activities of the interstate commission during the preceding year. Such reports must

1 also include reports of financial audits and any recommendations that may have been
2 adopted by the interstate commission;

3 18. Coordinate education, training, and public awareness regarding the compact, its
4 implementation, and its operation;

5 19. Maintain records in accordance with the bylaws;

6 20. Seek and obtain trademarks, copyrights, and patents; and

7 21. Perform such functions as may be necessary or appropriate to achieve the purposes
8 of the compact.

ARTICLE XIII - FINANCE POWERS

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

17 2. The interstate commission may not incur obligations of any kind before securing the
18 funds adequate to meet the same.

19 3. The interstate commission may not pledge the credit of any of the member states,
20 except by, and with the authority of, the member state.

21 4. The interstate commission must be subject to a yearly financial audit conducted by a
22 certified or licensed public accountant and the report of the audit must be included in
23 the annual report of the interstate commission.

ARTICLE XIV - ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

25 1. The interstate commission shall, by a majority of commissioners present and voting,
26 adopt bylaws to govern its conduct as may be necessary or appropriate to carry out
27 the purposes of the compact within twelve months of the first interstate commission
28 meeting.

29 2. The interstate commission shall elect or appoint annually from among its
30 commissioners a chairperson, a vice chairperson, and a treasurer, each of whom must
31 have such authority and duties as may be specified in the bylaws. The chairperson, or

1 in the chairperson's absence or disability, the vice chairperson, shall preside at all
2 meetings of the interstate commission.

3 3. Officers selected in subsection 2 shall serve without remuneration from the interstate
4 commission.

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

13 a. The liability of the executive director and employees of the interstate commission
14 or representatives of the interstate commission, acting within the scope of such
15 individual's employment or duties for acts, errors, or omissions occurring within
16 such individual's state, may not exceed the limits of liability set forth under the
17 constitution and laws of that state for state officials, employees, and agents. The
18 interstate commission is considered to be an instrumentality of the states for the
19 purposes of any such action. This subsection may not be construed to protect
20 such individual from suit or liability for damage, loss, injury, or liability caused by
21 the intentional or willful and wanton misconduct of such individual.

22 b. The interstate commission shall defend the executive director, its employees, and
23 subject to the approval of the attorney general or other appropriate legal counsel
24 of the member state represented by an interstate commission representative,
25 shall defend such interstate commission representative in any civil action seeking
26 to impose liability arising out of an actual or alleged act, error, or omission that
27 occurred within the scope of interstate commission employment, duties, or
28 responsibilities, or that the defendant had a reasonable basis for believing
29 occurred within the scope of interstate commission employment, duties, or
30 responsibilities, provided that the actual or alleged act, error, or omission did not

1 result from intentional or willful and wanton misconduct on the part of such
2 individual.

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

13 **ARTICLE XV - RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

14 1. The interstate commission shall promulgate reasonable rules in order to effectively
15 and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, if
16 the interstate commission exercises its rulemaking authority in a manner that is
17 beyond the scope of the purposes of the compact, or the powers granted under the
18 compact, such an action by the interstate commission must be invalid and have no
19 force or effect.

20 2. Rules deemed appropriate for the operations of the interstate commission must be
21 made pursuant to a rulemaking process that substantially conforms to the model state
22 administrative procedure act of 2010, and subsequent amendments thereto.

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

1 **ARTICLE XVI - OVERSIGHT OF INTERSTATE COMPACT**

- 2 1. The executive, legislative, and judicial branches of state government in each member
3 state shall enforce the compact and shall take all actions necessary and appropriate to
4 effectuate the compact's purposes and intent. The provisions of the compact and the
5 rules promulgated under the compact must have standing as statutory law but may not
6 override existing state authority to regulate the practice of medicine.
- 7 2. All courts shall take judicial notice of the compact and the rules in any judicial or
8 administrative proceeding in a member state pertaining to the subject matter of the
9 compact which may affect the powers, responsibilities, or actions of the interstate
10 commission.
- 11 3. The interstate commission must be entitled to receive all service of process in any
12 such proceeding, and must have standing to intervene in the proceeding for all
13 purposes. Failure to provide service of process to the interstate commission renders a
14 judgment or order void as to the interstate commission, the compact, or promulgated
15 rules.

16 **ARTICLE XVII - ENFORCEMENT OF INTERSTATE COMPACT**

- 17 1. The interstate commission, in the reasonable exercise of its discretion, shall enforce
18 the provisions and rules of the compact.
- 19 2. The interstate commission may, by majority vote of the commissioners, initiate legal
20 action in the United States district court for the District of Columbia, or, at the
21 discretion of the interstate commission, in the federal district where the interstate
22 commission has its principal offices, to enforce compliance with the provisions of the
23 compact, and its promulgated rules and bylaws, against a member state in default.
24 The relief sought may include both injunctive relief and damages. If judicial
25 enforcement is necessary, the prevailing party must be awarded all costs of such
26 litigation including reasonable attorney's fees.
- 27 3. The remedies in this chapter may not be the exclusive remedies of the interstate
28 commission. The interstate commission may avail itself of any other remedies
29 available under state law or the regulation of a profession.

30 **ARTICLE XVIII - DEFAULT PROCEDURES**

- 1 1. The grounds for default, include failure of a member state to perform such obligations
2 or responsibilities imposed upon it by the compact or the rules and bylaws of the
3 interstate commission promulgated under the compact.
- 4 2. If the interstate commission determines a member state has defaulted in the
5 performance of its obligations or responsibilities under the compact, or the bylaws or
6 promulgated rules, the interstate commission shall:
 - 7 a. Provide written notice to the defaulting state and other member states, of the
8 nature of the default, the means of curing the default, and any action taken by the
9 interstate commission. The interstate commission shall specify the conditions by
10 which the defaulting state must cure its default; and
 - 11 b. Provide remedial training and specific technical assistance regarding the default.
- 12 3. If the defaulting state fails to cure the default, the defaulting state must be terminated
13 from the compact upon an affirmative vote of a majority of the commissioners and all
14 rights, privileges, and benefits conferred by the compact must terminate on the
15 effective date of termination. A cure of the default does not relieve the offending state
16 of obligations or liabilities incurred during the period of the default.
- 17 4. Termination of membership in the compact must be imposed only after all other means
18 of securing compliance have been exhausted. Notice of intent to terminate must be
19 given by the interstate commission to the governor, the majority and minority leaders
20 of the defaulting state's legislature, and each of the member states.
- 21 5. The interstate commission shall establish rules and procedures to address licenses
22 and physicians that are materially impacted by the termination of a member state or
23 the withdrawal of a member state.
- 24 6. The member state that has been terminated is responsible for all dues, obligations,
25 and liabilities incurred through the effective date of termination, including obligations
26 the performance of which extends beyond the effective date of termination.
- 27 7. The interstate commission may not bear any costs relating to any state that has been
28 found to be in default or which has been terminated from the compact, unless
29 otherwise mutually agreed upon in writing between the interstate commission and the
30 defaulting state.

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

ARTICLE XIX - DISPUTE RESOLUTION

- 6 1. The interstate commission shall attempt, upon the request of a member state, to
7 resolve disputes that are subject to the compact and which may arise among member
8 states or member boards.
- 9 2. The interstate commission shall promulgate rules providing for both mediation and
10 binding dispute resolution as appropriate.

ARTICLE XX - MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

- 12 1. Any state is eligible to become a member state of the compact.
- 13 2. The compact must become effective and binding upon legislative enactment of the
14 compact into law by no less than seven states. Thereafter, the compact must become
15 effective and binding on a state upon enactment of the compact into law by that state.
- 16 3. The governors of nonmember states, or their designees, must be invited to participate
17 in the activities of the interstate commission on a nonvoting basis before adoption of
18 the compact by all states.
- 19 4. The interstate commission may propose amendments to the compact for enactment
20 by the member states. An amendment may not become effective and binding upon the
21 interstate commission and the member states unless and until it is enacted into law by
22 unanimous consent of the member states.

ARTICLE XXI - WITHDRAWAL

- 24 1. Once effective, the compact must continue in force and remain binding upon each and
25 every member state, provided that a member state may withdraw from the compact by
26 specifically repealing the statute that enacted the compact into law.
- 27 2. Withdrawal from the compact must be by the enactment of a statute repealing the
28 same, but may not take effect until one year after the effective date of such statute and
29 until written notice of the withdrawal has been given by the withdrawing state to the
30 governor of each other member state.

- 1 3. The withdrawing state shall immediately notify the chairperson of the interstate
2 commission in writing upon the introduction of legislation repealing the compact in the
3 withdrawing state.
- 4 4. The interstate commission shall notify the other member states of the withdrawing
5 state's intent to withdraw within sixty days of its receipt of notice provided under
6 subsection 3.
- 7 5. The withdrawing state is responsible for all dues, obligations, and liabilities incurred
8 through the effective date of withdrawal, including obligations, the performance of
9 which extend beyond the effective date of withdrawal.
- 10 6. Reinstatement following withdrawal of a member state must occur upon the
11 withdrawing state reenacting the compact or upon such later date as determined by
12 the interstate commission.
- 13 7. The interstate commission may develop rules to address the impact of the withdrawal
14 of a member state on licenses granted in other member states to physicians who
15 designated the withdrawing member state as the state of principal license.

ARTICLE XXII - DISSOLUTION

- 17 1. The compact shall dissolve effective upon the date of the withdrawal or default of the
18 member state which reduces the membership in the compact to one member state.
- 19 2. Upon the dissolution of the compact, the compact becomes null and void and must be
20 of no further force or effect, and the business and affairs of the interstate commission
21 must be concluded and surplus funds must be distributed in accordance with the
22 bylaws.

ARTICLE XXIII - SEVERABILITY AND CONSTRUCTION

- 24 1. The provisions of the compact must be severable, and if any phrase, clause,
25 sentence, or provision is deemed unenforceable, the remaining provisions of the
26 compact must be enforceable.
- 27 2. The provisions of the compact must be liberally construed to effectuate its purposes.
- 28 3. The compact may not be construed to prohibit the applicability of other interstate
29 compacts to which the states are members.

ARTICLE XXIV - BINDING EFFECT OF COMPACT AND OTHER LAWS

- 1 1. This chapter does not prevent the enforcement of any other law of a member state
2 that is not inconsistent with the compact.
- 3 2. All laws in a member state in conflict with the compact are superseded to the extent of
4 the conflict.
- 5 3. All lawful actions of the interstate commission, including all rules and bylaws
6 promulgated by the commission, are binding upon the member states.
- 7 4. All agreements between the interstate commission and the member states are binding
8 in accordance with their terms.
- 9 5. If any provision of the compact exceeds the constitutional limits imposed on the
10 legislature of any member state, such provision must be ineffective to the extent of the
11 conflict with the constitutional provision in question in that member state.