

STATE OF NEW YORK

7732

IN SENATE

February 11, 2020

Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to enacting the interstate medical licensure compact

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The education law is amended by adding a new article 169 to
2 read as follows:

ARTICLE 169

INTERSTATE MEDICAL LICENSURE COMPACT

Section 8860. Short title.

6 8861. Purpose.

7 8862. Definitions.

8 8863. Eligibility.

9 8864. Designation of state of principal license.

10 8865. Application and issuance of expedited licensure.

11 8866. Fees for expedited licensure.

12 8867. Renewal and continued participation.

13 8868. Coordinated information system.

14 8869. Joint investigations.

15 8870. Disciplinary actions.

16 8871. Interstate medical licensure compact commission.

17 8872. Powers and duties of the interstate commission.

18 8873. Finance powers.

19 8874. Organization and operation of the interstate commission.

20 8875. Rulemaking functions of the interstate commission.

21 8876. Oversight of interstate compact.

22 8877. Enforcement of interstate compact.

23 8878. Default procedures.

24 8879. Dispute resolution.

25 8880. Member states, effective date and amendment.

26 8881. Withdrawal.

27 8882. Dissolution.

28 8883. Severability and construction.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 8884. Binding effect of compact and other laws.

2 § 8860. Short title. This article shall be known and may be cited as
3 the "interstate medical licensure compact".

4 § 8861. Purpose. In order to strengthen access to health care, and in
5 recognition of the advances in the delivery of health care, the member
6 states of the interstate medical licensure compact have allied in common
7 purpose to develop a comprehensive process that complements the existing
8 licensing and regulatory authority of state medical boards, provides a
9 streamlined process that allows physicians to become licensed in multi-
10 ple states, thereby enhancing the portability of a medical license and
11 ensuring the safety of patients. The compact creates another pathway
12 for licensure and does not otherwise change a state's existing medical
13 practice act. The compact also adopts the prevailing standard for licen-
14 sure and affirms that the practice of medicine occurs where the patient
15 is located at the time of the physician-patient encounter, and there-
16 fore, requires the physician to be under the jurisdiction of the state
17 medical board where the patient is located. State medical boards that
18 participate in the compact retain the jurisdiction to impose an adverse
19 action against a license to practice medicine in that state issued to a
20 physician through the procedures in the compact.

21 § 8862. Definitions. In this compact:

22 1. "Bylaws" means those bylaws established by the interstate commis-
23 sion pursuant to section eighty-eight hundred seventy-one of this arti-
24 cle for its governance, or for directing and controlling its actions and
25 conduct.

26 2. "Commissioner" means the voting representative appointed by each
27 member board pursuant to section eighty-eight hundred seventy-one of
28 this article.

29 3. "Conviction" means a finding by a court that an individual is guilty
30 of a criminal offense through adjudication, or entry of a plea of
31 guilt or no contest to the charge by the offender. Evidence of an entry
32 of a conviction of a criminal offense by the court shall be considered
33 final for purposes of disciplinary action by a member board.

34 4. "Expedited license" means a full and unrestricted medical license
35 granted by a member state to an eligible physician through the process
36 set forth in the compact.

37 5. "Interstate commission" means the interstate commission created
38 pursuant to section eighty-eight hundred seventy-one of this article.

39 6. "License" means authorization by a state for a physician to engage
40 in the practice of medicine, which would be unlawful without the author-
41 ization.

42 7. "Medical practice act" means laws and regulations governing the
43 practice of allopathic and osteopathic medicine within a member state.

44 8. "Member board" means a state agency in a member state that acts in
45 the sovereign interests of the state by protecting the public through
46 licensure, regulation, and education of physicians as directed by the
47 state government.

48 9. "Member state" means a state that has enacted the compact.

49 10. "Practice of medicine" means the clinical prevention, diagnosis,
50 or treatment of human disease, injury, or condition requiring a physi-
51 cian to obtain and maintain a license in compliance with the medical
52 practice act of a member state.

53 11. "Physician" means any person who:

54 (a) Is a graduate of a medical school accredited by the Liaison
55 Committee on Medical Education, the Commission on Osteopathic College

1 Accreditation, or a medical school listed in the International Medical
2 Education Directory or its equivalent;

3 (b) Passed each component of the United States Medical Licensing Exam-
4 ination (USMLE) or the Comprehensive Osteopathic Medical Licensing Exam-
5 ination (COMLEX-USA) within three attempts, or any of its predecessor
6 examinations accepted by a state medical board as an equivalent examina-
7 tion for licensure purposes;

8 (c) Successfully completed graduate medical education approved by the
9 Accreditation Council for Graduate Medical Education or the American
10 Osteopathic Association;

11 (d) Holds specialty certification or a time-unlimited specialty
12 certificate recognized by the American Board of Medical Specialties or
13 the American Osteopathic Association's Bureau of Osteopathic Special-
14 ists;

15 (e) Possesses a full and unrestricted license to engage in the prac-
16 tice of medicine issued by a member board;

17 (f) Has never been convicted, received adjudication, deferred adjudi-
18 cation, community supervision, or deferred disposition for any offense
19 by a court of appropriate jurisdiction;

20 (g) Has never held a license authorizing the practice of medicine
21 subjected to discipline by a licensing agency in any state, federal, or
22 foreign jurisdiction, excluding any action related to non-payment of
23 fees related to a license;

24 (h) Has never had a controlled substance license or permit suspended
25 or revoked by a state or the United States drug enforcement adminis-
26 tration; and

27 (i) Is not under active investigation by a licensing agency or law
28 enforcement authority in any state, federal, or foreign jurisdiction.

29 12. "Offense" means a felony, gross misdemeanor, or crime of moral
30 turpitude.

31 13. "Rule" means a written statement by the interstate commission
32 promulgated pursuant to section eighty-eight hundred seventy-two of this
33 article that is of general applicability, implements, interprets, or
34 prescribes a policy or provision of the compact, or an organizational,
35 procedural, or practice requirement of the interstate commission, and
36 has the force and effect of statutory law in a member state, and
37 includes the amendment, repeal, or suspension of an existing rule.

38 14. "State" means any state, commonwealth, district, or territory of
39 the United States.

40 15. "State of principal license" means a member state where a physi-
41 cian holds a license to practice medicine and which has been designated
42 as such by the physician for purposes of registration and participation
43 in the compact.

44 § 8863. Eligibility. 1. A physician must meet the eligibility require-
45 ments as defined in subdivision eleven of section eighty-eight hundred
46 sixty-two of this article to receive an expedited license under the
47 terms and provisions of the compact.

48 2. A physician who does not meet the requirements of subdivision elev-
49 en of section eighty-eight hundred sixty-two of this article may obtain
50 a license to practice medicine in a member state if the individual
51 complies with all laws and requirements, other than the compact, relat-
52 ing to the issuance of a license to practice medicine in that state.

53 § 8864. Designation of state of principal license. 1. A physician
54 shall designate a member state as the state of principal license for
55 purposes of registration for expedited licensure through the compact if

1 the physician possesses a full and unrestricted license to practice
2 medicine in that state, and the state is:

3 (a) the state of primary residence for the physician, or

4 (b) the state where at least twenty-five percent of the practice of
5 medicine occurs, or

6 (c) the location of the physician's employer, or

7 (d) if no state qualifies under paragraph (a), (b), or (c) of this
8 subdivision, the state designated as state of residence for purpose of
9 federal income tax.

10 2. A physician may redesignate a member state as state of principal
11 license at any time, as long as the state meets the requirements of
12 subdivision one of this section.

13 3. The interstate commission is authorized to develop rules to facili-
14 tate redesignation of another member state as the state of principal
15 license.

16 § 8865. Application and issuance of expedited licensure. 1. A physi-
17 cian seeking licensure through the compact shall file an application for
18 an expedited license with the member board of the state selected by the
19 physician as the state of principal license.

20 2. Upon receipt of an application for an expedited license, the member
21 board within the state selected as the state of principal license shall
22 evaluate whether the physician is eligible for expedited licensure and
23 issue a letter of qualification, verifying or denying the physician's
24 eligibility, to the interstate commission.

25 (a) Static qualifications, which include verification of medical
26 education, graduate medical education, results of any medical or licens-
27 ing examination, and other qualifications as determined by the inter-
28 state commission through rule, shall not be subject to additional prima-
29 ry source verification where already primary source verified by the
30 state of principal license.

31 (b) The member board within the state selected as the state of princi-
32 pal license shall, in the course of verifying eligibility, perform a
33 criminal background check of an applicant, including the use of the
34 results of fingerprint or other biometric data checks compliant with the
35 requirements of the Federal Bureau of Investigation, with the exception
36 of federal employees who have suitability determination in accordance
37 with U.S. C.F.R. § 731.202.

38 (c) Appeal on the determination of eligibility shall be made to the
39 member state where the application was filed and shall be subject to the
40 law of that state.

41 3. Upon verification under subdivision two of this section, physicians
42 eligible for an expedited license shall complete the registration proc-
43 ess established by the interstate commission to receive a license in a
44 member state selected pursuant to subdivision one of this section,
45 including the payment of any applicable fees.

46 4. After receiving verification of eligibility under subdivision two
47 of this section and any fees under subdivision three of this section, a
48 member board shall issue an expedited license to the physician. This
49 license shall authorize the physician to practice medicine in the issu-
50 ing state consistent with the medical practice act and all applicable
51 laws and regulations of the issuing member board and member state.

52 5. An expedited license shall be valid for a period consistent with
53 the licensure period in the member state and in the same manner as
54 required for other physicians holding a full and unrestricted license
55 within the member 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 princi-
3 pal licensure for a non-disciplinary reason, without redesignation of a
4 new state of principal licensure.

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

8 § 8866. Fees for expedited licensure. 1. A member state issuing an
9 expedited license authorizing the practice of medicine in that state may
10 impose 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 § 8867. Renewal and continued participation. 1. A physician seeking to
14 renew an expedited license granted in a member state shall complete a
15 renewal 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, 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
23 jurisdiction, excluding any action related to non-payment of fees
24 related 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 administration.

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

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

33 4. Upon receipt of any renewal fees collected in subdivision three of
34 this section, a member board shall renew the physician's license.

35 5. Physician information collected by the interstate commission during
36 the renewal process will be distributed to all member boards.

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

39 § 8868. Coordinated information system. 1. The interstate commission
40 shall establish a database of all physicians licensed, or who have
41 applied for licensure, under section eighty-eight hundred sixty-five of
42 this article.

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

47 3. Member boards shall report disciplinary or investigatory informa-
48 tion determined as necessary and proper by rule of the interstate
49 commission.

50 4. Member boards may report any non-public complaint, disciplinary, or
51 investigatory information not required by subdivision three of this
52 section to the interstate commission.

53 5. Member boards shall share complaint or disciplinary information
54 about a physician upon request of another member board.

1 6. All information provided to the interstate commission or distrib-
2 uted by member boards shall be confidential, filed under seal, and used
3 only for investigatory or disciplinary matters.

4 7. The interstate commission is authorized to develop rules for
5 mandated or discretionary sharing of information by member boards.

6 § 8869. Joint investigations. 1. Licensure and disciplinary records of
7 physicians are deemed investigative.

8 2. In addition to the authority granted to a member board by its
9 respective medical practice act or other applicable state law, a member
10 board may participate with other member boards in joint investigations
11 of physicians licensed by the member boards.

12 3. A subpoena issued by a member state shall be enforceable in other
13 member states.

14 4. Member boards may share any investigative, litigation, or compli-
15 ance materials in furtherance of any joint or individual investigation
16 initiated under the compact.

17 5. Any member state may investigate actual or alleged violations of
18 the statutes authorizing the practice of medicine in any other member
19 state in which a physician holds a license to practice medicine.

20 § 8870. Disciplinary actions. 1. Any disciplinary action taken by any
21 member board against a physician licensed through the compact shall be
22 deemed unprofessional conduct which may be subject to discipline by
23 other member boards, in addition to any violation of the medical prac-
24 tice act or regulations in that state.

25 2. If a license granted to a physician by the member board in the
26 state of principal license is revoked, surrendered or relinquished in
27 lieu of discipline, or suspended, then all licenses issued to the physi-
28 cian by member boards shall automatically be placed, without further
29 action necessary by any member board, on the same status. If the member
30 board in the state of principal license subsequently reinstates the
31 physician's license, a license issued to the physician by any other
32 member board shall remain encumbered until that respective member board
33 takes action to reinstate the license in a manner consistent with the
34 medical practice act of that state.

35 3. If disciplinary action is taken against a physician by a member
36 board not in the state of principal license, any other member board may
37 deem the action conclusive as to matter of law and fact decided, and:

38 (a) impose the same or lesser sanction or sanctions against the physi-
39 cian so long as such sanctions are consistent with the medical practice
40 act of that state; or

41 (b) pursue separate disciplinary action against the physician under
42 its respective medical practice act, regardless of the action taken in
43 other member states.

44 4. If a license granted to a physician by a member board is revoked,
45 surrendered, or relinquished in lieu of discipline, or suspended, then
46 any license or licenses issued to the physician by any other member
47 board or boards shall be suspended, automatically and immediately with-
48 out further action necessary by the other member board or boards, for
49 ninety days upon entry of the order by the disciplining board, to permit
50 the member board or boards to investigate the basis for the action under
51 the medical practice act of that state. A member board may terminate the
52 automatic suspension of the license it issued prior to the completion of
53 the ninety day suspension period in a manner consistent with the medical
54 practice act of that state.

1 § 8871. Interstate medical licensure compact commission. 1. The member
2 states hereby create the "interstate medical licensure compact commis-
3 sion".

4 2. The purpose of the interstate commission is the administration of
5 the interstate medical licensure compact, which is a discretionary state
6 function.

7 3. The interstate commission shall be a body corporate and joint agen-
8 cy of the member states and shall have all the responsibilities, powers,
9 and duties set forth in the compact, and such additional powers as may
10 be conferred upon it by a subsequent concurrent action of the respective
11 legislatures of the member states in accordance with the terms of the
12 compact.

13 4. The interstate commission shall consist of two voting represen-
14 tatives appointed by each member state who shall serve as commissioners.
15 In states where allopathic and osteopathic physicians are regulated by
16 separate member boards, or if the licensing and disciplinary authority
17 is split between multiple member boards within a member state, the
18 member state shall appoint one representative from each member board. A
19 commissioner shall be a or an:

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

21 (b) Executive director, executive secretary, or similar executive of a
22 member board; or

23 (c) Member of the public appointed to a member board.

24 5. The interstate commission shall meet at least once each calendar
25 year. A portion of this meeting shall be a business meeting to address
26 such matters as may properly come before the commission, including the
27 election of officers. The chairperson may call additional meetings and
28 shall call for a meeting upon the request of a majority of the member
29 states.

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

32 7. Each commissioner participating at a meeting of the interstate
33 commission is entitled to one vote. A majority of commissioners shall
34 constitute a quorum for the transaction of business, unless a larger
35 quorum is required by the bylaws of the interstate commission. A commis-
36 sioner shall not delegate a vote to another commissioner. In the absence
37 of its commissioner, a member state may delegate voting authority for a
38 specified meeting to another person from that state who shall meet the
39 requirements of subdivision four of this section.

40 8. The interstate commission shall provide public notice of all meet-
41 ings and all meetings shall be open to the public. The interstate
42 commission may close a meeting, in full or in portion, where it deter-
43 mines by a two-thirds vote of the commissioners present that an open
44 meeting would be likely to:

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

47 (b) Discuss matters specifically exempted from disclosure by federal
48 statute;

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

51 (d) Involve accusing a person of a crime, or formally censuring a
52 person;

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

55 (f) Discuss investigative records compiled for law enforcement
56 purposes; or

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

3 9. The interstate commission shall keep minutes which shall fully
4 describe all matters discussed in a meeting and shall provide a full and
5 accurate summary of actions taken, including record of any roll call
6 votes.

7 10. The interstate commission shall make its information and official
8 records, to the extent not otherwise designated in the compact or by its
9 rules, available to the public for inspection.

10 11. The interstate commission shall establish an executive committee,
11 which shall include officers, members, and others as determined by the
12 bylaws. The executive committee shall have the power to act on behalf of
13 the interstate commission, with the exception of rulemaking, during
14 periods when the interstate commission is not in session. When acting on
15 behalf of the interstate commission, the executive committee shall over-
16 see the administration of the compact including enforcement and compli-
17 ance with the provisions of the compact, its bylaws and rules, and other
18 such duties as necessary.

19 12. The interstate commission may establish other committees for
20 governance and administration of the compact.

21 § 8872. Powers and duties of the interstate commission. The interstate
22 commission shall have the duty and power to:

23 1. Oversee and maintain the administration of the compact;

24 2. Promulgate rules which shall be binding to the extent and in the
25 manner provided for in the compact;

26 3. Issue, upon the request of a member state or member board, advisory
27 opinions concerning the meaning or interpretation of the compact, its
28 bylaws, rules, and actions;

29 4. Enforce compliance with compact provisions, the rules promulgated
30 by the interstate commission, and the bylaws, using all necessary and
31 proper means, including but not limited to the use of judicial process;

32 5. Establish and appoint committees including, but not limited to, an
33 executive committee as required by section eighty-eight hundred seven-
34 ty-one of this article, which shall have the power to act on behalf of
35 the interstate commission in carrying out its powers and duties;

36 6. Pay, or provide for the payment of the expenses related to the
37 establishment, organization, and ongoing activities of the interstate
38 commission;

39 7. Establish and maintain one or more offices;

40 8. Borrow, accept, hire, or contract for services of personnel;

41 9. Purchase and maintain insurance and bonds;

42 10. Employ an executive director who shall have such powers to employ,
43 select or appoint employees, agents, or consultants, and to determine
44 their qualifications, define their duties, and fix their compensation;

45 11. Establish personnel policies and programs relating to conflicts of
46 interest, rates of compensation, and qualifications of personnel;

47 12. Accept donations and grants of money, equipment, supplies, materi-
48 als and services, and to receive, utilize, and dispose of it in a manner
49 consistent with the conflict of interest policies established by the
50 interstate commission;

51 13. Lease, purchase, accept contributions or donations of, or other-
52 wise to own, hold, improve, or use, any property, real, personal, or
53 mixed;

54 14. Sell, convey, mortgage, pledge, lease, exchange, abandon, or
55 otherwise dispose of any property, real, personal, or mixed;

56 15. Establish a budget and make expenditures;

1 16. Adopt a seal and bylaws governing the management and operation of
2 the interstate commission;

3 17. Report annually to the legislatures and governors of the member
4 states concerning the activities of the interstate commission during the
5 preceding year. Such reports shall also include reports of financial
6 audits and any recommendations that may have been adopted by the inter-
7 state commission;

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

10 19. Maintain records in accordance with the bylaws;

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

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

14 § 8873. Finance powers. 1. The interstate commission may levy on and
15 collect an annual assessment from each member state to cover the cost of
16 the operations and activities of the interstate commission and its
17 staff. The total assessment must be sufficient to cover the annual budg-
18 et approved each year for which revenue is not provided by other sourc-
19 es. The aggregate annual assessment amount shall be allocated upon a
20 formula to be determined by the interstate commission, which shall
21 promulgate a rule binding upon all member states.

22 2. The interstate commission shall not incur obligations of any kind
23 prior to securing the funds adequate to meet the same.

24 3. The interstate commission shall not pledge the credit of any of the
25 member states, except by, and with the authority of, the member state.

26 4. The interstate commission shall be subject to a yearly financial
27 audit conducted by a certified or licensed public accountant and the
28 report of the audit shall be included in the annual report of the inter-
29 state commission.

30 § 8874. Organization and operation of the interstate commission. 1.
31 The interstate commission shall, by a majority of commissioners present
32 and voting, adopt bylaws to govern its conduct as may be necessary or
33 appropriate to carry out the purposes of the compact within twelve
34 months of the first interstate commission meeting.

35 2. The interstate commission shall elect or appoint annually from
36 among its commissioners a chairperson, a vice-chairperson, and a treas-
37 urer, each of whom shall have such authority and duties as may be speci-
38 fied in the bylaws. The chairperson, or in the chairperson's absence or
39 disability, the vice-chairperson, shall preside at all meetings of the
40 interstate commission.

41 3. Officers selected pursuant to subdivision two of this section shall
42 serve without remuneration from the interstate commission.

43 4. The officers and employees of the interstate commission shall be
44 immune from suit and liability, either personally or in their official
45 capacity, for a claim for damage to or loss of property or personal
46 injury or other civil liability caused or arising out of, or relating
47 to, an actual or alleged act, error, or omission that occurred, or that
48 such person had a reasonable basis for believing occurred, within the
49 scope of interstate commission employment, duties, or responsibilities;
50 provided that such person shall not be protected from suit or liability
51 for damage, loss, injury, or liability caused by the intentional or
52 willful and wanton misconduct of such person.

53 (a) The liability of the executive director and employees of the
54 interstate commission or representatives of the interstate commission,
55 acting within the scope of such person's employment or duties for acts,
56 errors, or omissions occurring within such person's state, may not

1 exceed the limits of liability set forth under the constitution and laws
2 of that state for state officials, employees, and agents. The interstate
3 commission is considered to be an instrumentality of the states for the
4 purposes of any such action. Nothing in this paragraph shall be
5 construed to protect such person from suit or liability for damage,
6 loss, injury, or liability caused by the intentional or willful and
7 wanton misconduct of such person.

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

20 (c) To the extent not covered by the state involved, member state, or
21 the interstate commission, the representatives or employees of the
22 interstate commission shall be held harmless in the amount of a settle-
23 ment or judgment, including attorney's fees and costs, obtained against
24 such persons arising out of an actual or alleged act, error, or omission
25 that occurred within the scope of interstate commission employment,
26 duties, or responsibilities, or that such persons had a reasonable basis
27 for believing occurred within the scope of interstate commission employ-
28 ment, duties, or responsibilities, provided that the actual or alleged
29 act, error, or omission did not result from intentional or willful and
30 wanton misconduct on the part of such persons.

31 § 8875. Rulemaking functions of the interstate commission. 1. The
32 interstate commission shall promulgate reasonable rules in order to
33 effectively and efficiently achieve the purposes of the compact.
34 Notwithstanding the foregoing, in the event the interstate commission
35 exercises its rulemaking authority in a manner that is beyond the scope
36 of the purposes of the compact, or the powers granted hereunder, then
37 such an action by the interstate commission shall be invalid and have no
38 force or effect.

39 2. Rules deemed appropriate for the operations of the interstate
40 commission shall be made pursuant to a rulemaking process that substan-
41 tially conforms to the federal Model State Administrative Procedure Act
42 of 2010, and subsequent amendments thereto.

43 3. Not later than thirty days after a rule is promulgated, any person
44 may file a petition for judicial review of the rule in the United States
45 District Court for the District of Columbia or the federal district
46 where the interstate commission has its principal offices, provided that
47 the filing of such a petition shall not stay or otherwise prevent the
48 rule from becoming effective unless the court finds that the petitioner
49 has a substantial likelihood of success. The court shall give deference
50 to the actions of the interstate commission consistent with applicable
51 law and shall not find the rule to be unlawful if the rule represents a
52 reasonable exercise of the authority granted to the interstate commis-
53 sion.

54 § 8876. Oversight of interstate compact. 1. The executive, legisla-
55 tive, and judicial branches of state government in each member state
56 shall enforce the compact and shall take all actions necessary and

1 appropriate to effectuate the compact's purposes and intent. The
2 provisions of the compact and the rules promulgated hereunder shall have
3 standing as statutory law but shall not override existing state authori-
4 ty to regulate the practice of medicine.

5 2. All courts shall take judicial notice of the compact and the rules
6 in any judicial or administrative proceeding in a member state pertain-
7 ing to the subject matter of the compact which may affect the powers,
8 responsibilities or actions of the interstate commission.

9 3. The interstate commission shall be entitled to receive all service
10 of process in any such proceeding, and shall have standing to intervene
11 in the proceeding for all purposes. Failure to provide service of proc-
12 ess to the interstate commission shall render a judgment or order void
13 as to the interstate commission, the compact, or promulgated rules.

14 § 8877. Enforcement of interstate compact. 1. The interstate commis-
15 sion, in the reasonable exercise of its discretion, shall enforce the
16 provisions and rules of the compact.

17 2. The interstate commission may, by majority vote of the commission-
18 ers, initiate legal action in the United States District Court for the
19 District of Columbia, or, at the discretion of the interstate commis-
20 sion, in the federal district where the interstate commission has its
21 principal offices, to enforce compliance with the provisions of the
22 compact, and its promulgated rules and bylaws, against a member state in
23 default. The relief sought may include both injunctive relief and
24 damages. In the event judicial enforcement is necessary, the prevailing
25 party shall be awarded all costs of such litigation including reasonable
26 attorney's fees.

27 3. The remedies herein shall not be the exclusive remedies of the
28 interstate commission. The interstate commission may avail itself of
29 any other remedies available under state law or the regulation of a
30 profession.

31 § 8878. Default procedures. 1. The grounds for default include, but
32 are not limited to, failure of a member state to perform such obli-
33 gations or responsibilities imposed upon it by the compact, or the rules
34 and bylaws of the interstate commission promulgated under the compact.

35 2. If the interstate commission determines that a member state has
36 defaulted in the performance of its obligations or responsibilities
37 under the compact, or the bylaws or promulgated rules, the interstate
38 commission shall:

39 (a) Provide written notice to the defaulting state and other member
40 states, of the nature of the default, the means of curing the default,
41 and any action taken by the interstate commission. The interstate
42 commission shall specify the conditions by which the defaulting state
43 must cure its default; and

44 (b) Provide remedial training and specific technical assistance
45 regarding the default.

46 3. If the defaulting state fails to cure the default, the defaulting
47 state shall be terminated from the compact upon an affirmative vote of a
48 majority of the commissioners and all rights, privileges, and benefits
49 conferred by the compact shall terminate on the effective date of termi-
50 nation. A cure of the default does not relieve the offending state of
51 obligations or liabilities incurred during the period of the default.

52 4. Termination of membership in the compact shall be imposed only
53 after all other means of securing compliance have been exhausted. Notice
54 of intent to terminate shall be given by the interstate commission to
55 the governor, the majority and minority leaders of the defaulting
56 state's legislature, and each of the member states.

1 5. The interstate commission shall establish rules and procedures to
2 address licenses and physicians that are materially impacted by the
3 termination of a member state, or the withdrawal of a member state.

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

8 7. The interstate commission shall not bear any costs relating to any
9 state that has been found to be in default or which has been terminated
10 from the compact, unless otherwise mutually agreed upon in writing
11 between the interstate commission and the defaulting state.

12 8. The defaulting state may appeal the action of the interstate
13 commission by petitioning the United States District Court for the
14 District of Columbia or the federal district where the interstate
15 commission has its principal offices. The prevailing party shall be
16 awarded all costs of such litigation including reasonable attorney's
17 fees.

18 § 8879. Dispute resolution. 1. The interstate commission shall
19 attempt, upon the request of a member state, to resolve disputes which
20 are subject to the compact and which may arise among member states or
21 member boards.

22 2. The interstate commission shall promulgate rules providing for both
23 mediation and binding dispute resolution as appropriate.

24 § 8880. Member states, effective date and amendment. 1. Any state is
25 eligible to become a member state of the compact.

26 2. The compact shall become effective and binding upon legislative
27 enactment of the compact into law by no less than seven states. There-
28 after, it shall become effective and binding on a state upon enactment
29 of the compact into law by that state.

30 3. The governors of non-member states, or their designees, shall be
31 invited to participate in the activities of the interstate commission on
32 a non-voting basis prior to adoption of the compact by all states.

33 4. The interstate commission may propose amendments to the compact for
34 enactment by the member states. No amendment shall become effective and
35 binding upon the interstate commission and the member states unless and
36 until it is enacted into law by unanimous consent of the member states.

37 § 8881. Withdrawal. 1. Once effective, the compact shall continue in
38 force and remain binding upon each and every member state; provided that
39 a member state may withdraw from the compact by specifically repealing
40 the statute which enacted the compact into law.

41 2. Withdrawal from the compact shall be by the enactment of a statute
42 repealing the same, but shall not take effect until one year after the
43 effective date of such statute and until written notice of the with-
44 drawal has been given by the withdrawing state to the governor of each
45 other member state.

46 3. The withdrawing state shall immediately notify the chairperson of
47 the interstate commission in writing upon the introduction of legis-
48 lation repealing the compact in the withdrawing state.

49 4. The interstate commission shall notify the other member states of
50 the withdrawing state's intent to withdraw within sixty days of its
51 receipt of notice provided under subdivision three of this section.

52 5. The withdrawing state is responsible for all dues, obligations and
53 liabilities incurred through the effective date of withdrawal, including
54 obligations, the performance of which extend beyond the effective date
55 of withdrawal.

1 6. Reinstatement following withdrawal of a member state shall occur
2 upon the withdrawing state reenacting the compact or upon such later
3 date as determined by the interstate commission.

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

8 § 8882. Dissolution. 1. The compact shall dissolve effective upon the
9 date of the withdrawal or default of the member state which reduces the
10 membership in the compact to one member state.

11 2. Upon the dissolution of the compact, the compact becomes null and
12 void and shall be of no further force or effect, and the business and
13 affairs of the interstate commission shall be concluded and surplus
14 funds shall be distributed in accordance with the bylaws.

15 § 8883. Severability and construction. 1. The provisions of the
16 compact shall be severable, and if any phrase, clause, sentence, or
17 provision is deemed unenforceable, the remaining provisions of the
18 compact shall be enforceable.

19 2. The provisions of the compact shall be liberally construed to
20 effectuate its purposes.

21 3. Nothing in the compact shall be construed to prohibit the applica-
22 bility of other interstate compacts to which the states are members.

23 § 8884. Binding effect of compact and other laws. 1. Nothing contained
24 in this article shall prevent the enforcement of any other law of a
25 member state that is not inconsistent with the compact.

26 2. All laws in a member state in conflict with the compact are super-
27 seded to the extent of the conflict.

28 3. All lawful actions of the interstate commission, including all
29 rules and bylaws promulgated by the commission, are binding upon the
30 member states.

31 4. All agreements between the interstate commission and the member
32 states are binding in accordance with their terms.

33 5. In the event any provision of the compact exceeds the constitu-
34 tional limits imposed on the legislature of any member state, such
35 provision shall be ineffective to the extent of the conflict with the
36 constitutional provision in question in that member state.

37 § 2. This act shall take effect immediately.