

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

400W0149

SENATE ENGROSSED NO. **SB 63** - 01/29/2015

Introduced by: The Committee on Health and Human Services at the request of the Board of
Medical and Osteopathic Examiners

1 FOR AN ACT ENTITLED, An Act to adopt the Interstate Medical Licensure Compact.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. The Interstate Medical Licensure Compact is enacted into law and entered into
4 with all other jurisdictions that legally join the compact, which is substantially as follows:

5 INTERSTATE MEDICAL LICENSURE COMPACT

6 SECTION 1: PURPOSE

7 In order to strengthen access to health care, and in recognition of the advances in the
8 delivery of health care, the member states of the Interstate Medical Licensure Compact have
9 allied in common purpose to develop a comprehensive process that complements the existing
10 licensing and regulatory authority of state medical boards, provides a streamlined process that
11 allows physicians to become licensed in multiple states, thereby enhancing the portability of a
12 medical license and ensuring the safety of patients. The compact creates another pathway for
13 licensure and does not otherwise change a state's existing Medical Practice Act. The compact
14 also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs
15 where the patient is located at the time of the physician-patient encounter, and therefore,



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

5 SECTION 2: DEFINITIONS

6 In this compact:

- 7 (a) "Bylaws" means those bylaws established by the Interstate Commission pursuant to
8 section 11 for its governance, or for directing and controlling its actions and conduct.
- 9 (b) "Commissioner" means the voting representative appointed by each member board
10 pursuant to section 11.
- 11 (c) "Conviction" means a finding by a court that an individual is guilty of a criminal
12 offense through adjudication, or entry of a plea of guilt or no contest to the charge by
13 the offender. Evidence of an entry of a conviction of a criminal offense by the court
14 shall be considered final for purposes of disciplinary action by a member board.
- 15 (d) "Expedited License" means a full and unrestricted medical license granted by a
16 member state to an eligible physician through the process set forth in the compact.
- 17 (e) "Interstate Commission" means the interstate commission created pursuant to section
18 11.
- 19 (f) "License" means authorization by a state for a physician to engage in the practice of
20 medicine, which would be unlawful without the authorization.
- 21 (g) "Medical Practice Act" means laws and regulations governing the practice of
22 allopathic and osteopathic medicine within a member state.
- 23 (h) "Member Board" means a state agency in a member state that acts in the sovereign
24 interests of the state by protecting the public through licensure, regulation, and

1 education of physicians as directed by the state government.

2 (i) "Member State" means a state that has enacted the compact.

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

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

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

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

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

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

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

24 (6) Has never been convicted, received adjudication, deferred adjudication,

1 community supervision, or deferred disposition for any offense by a court of
2 appropriate jurisdiction;

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

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

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

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

11 (m) "Rule" means a written statement by the Interstate Commission promulgated pursuant
12 to section 12 of the compact that is of general applicability, implements, interprets,
13 or prescribes a policy or provision of the Compact, or an organizational, procedural,
14 or practice requirement of the Interstate Commission, and has the force and effect of
15 statutory law in a member state, and includes the amendment, repeal, or suspension
16 of an existing rule.

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

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

21 SECTION 3: ELIGIBILITY

22 (a) A physician must meet the eligibility requirements as defined in section 2(k) to receive
23 an expedited license under the terms and provisions of the compact.

24 (b) A physician who does not meet the requirements of section 2(k) may obtain a license to

1 practice medicine in a member state if the individual complies with all laws and requirements,
2 other than the compact, relating to the issuance of a license to practice medicine in that state.

3 SECTION 4: DESIGNATION OF STATE OF PRINCIPAL LICENSE

4 (a) A physician shall designate a member state as the state of principal license for purposes
5 of registration for expedited licensure through the compact if the physician possesses a full and
6 unrestricted license to practice medicine in that state, and the state is:

- 7 (1) The state of primary residence for the physician; or
- 8 (2) The state where at least twenty-five percent of the practice of medicine occurs; or
- 9 (3) The location of the physician's employer; or
- 10 (4) If no state qualifies under subsection (1), subsection (2), or subsection (3), the state
11 designated as state of residence for purpose of federal income tax.

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

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

16 SECTION 5: APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

17 (a) A physician seeking licensure through the compact shall file an application for an
18 expedited license with the member board of the state selected by the physician as the state of
19 principal license.

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

24 (i) Static qualifications, which include verification of medical education, graduate

1 medical education, results of any medical or licensing examination, and other
2 qualifications as determined by the Interstate Commission through rule, shall not be
3 subject to additional primary source verification where already primary source
4 verified by the state of principal license.

5 (ii) The member board within the state selected as the state of principal license shall, in
6 the course of verifying eligibility, perform a criminal background check of an
7 applicant, including the use of the results of fingerprint or other biometric data
8 checks compliant with the requirements of the Federal Bureau of Investigation, with
9 the exception of federal employees who have suitability determination in accordance
10 with U.S. C.F.R. §731.202.

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

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

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

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

1 (f) An expedited license obtained through the compact shall be terminated if a physician fails
2 to maintain a license in the state of principal licensure for a nondisciplinary reason, without
3 redesignation of a new state of principal licensure.

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

6 SECTION 6: FEES FOR EXPEDITED LICENSURE

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

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

11 SECTION 7: RENEWAL AND CONTINUED PARTICIPATION

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

- 14 (1) Maintains a full and unrestricted license in a state of principal license;
- 15 (2) Has not been convicted, received adjudication, deferred adjudication, community
16 supervision, or deferred disposition for any offense by a court of appropriate
17 jurisdiction;
- 18 (3) Has not had a license authorizing the practice of medicine subject to discipline by a
19 licensing agency in any state, federal, or foreign jurisdiction, excluding any action
20 related to nonpayment of fees related to a license; and
- 21 (4) Has not had a controlled substance license or permit suspended or revoked by a state
22 or the United States Drug Enforcement Administration.

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

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

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

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

7 (f) The Interstate Commission is authorized to develop rules to address renewal of licenses
8 obtained through the compact.

9 SECTION 8: COORDINATED INFORMATION SYSTEM

10 (a) The Interstate Commission shall establish a database of all physicians licensed, or who
11 have applied for licensure, under section 5.

12 (b) Notwithstanding any other provision of law, member boards shall report to the Interstate
13 Commission any public action or complaints against a licensed physician who has applied or
14 received an expedited license through the compact.

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

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

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

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

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

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SECTION 9: JOINT INVESTIGATIONS

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

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

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

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

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

SECTION 10: DISCIPLINARY ACTIONS

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

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

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

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

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

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

16 SECTION 11: INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

17 (a) The member states hereby create the Interstate Medical Licensure Compact Commission.

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

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

24 (d) The Interstate Commission shall consist of two voting representatives appointed by each

1 member state who shall serve as commissioners. In states where allopathic and osteopathic
2 physicians are regulated by separate member boards, or if the licensing and disciplinary
3 authority is split between multiple member boards within a member state, the member state shall
4 appoint one representative from each member board. A commissioner shall be a(n):

- 5 (1) Allopathic or osteopathic physician appointed to a member board;
- 6 (2) Executive director, executive secretary, or similar executive of a member board; or
- 7 (3) Member of the public appointed to a member board.

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

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

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

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

- 24 (1) Relate solely to the internal personnel practices and procedures of the Interstate

1 Commission;

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

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

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

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

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

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

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

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

15 (k) The Interstate Commission shall establish an executive committee, which shall include
16 officers, members, and others as determined by the bylaws. The executive committee shall have
17 the power to act on behalf of the Interstate Commission, with the exception of rulemaking,
18 during periods when the Interstate Commission is not in session. When acting on behalf of the
19 Interstate Commission, the executive committee shall oversee the administration of the compact
20 including enforcement and compliance with the provisions of the compact, its bylaws and rules,
21 and other such duties as necessary.

22 (l) The Interstate Commission may establish other committees for governance and
23 administration of the compact.

24 SECTION 12: POWERS AND DUTIES OF THE INTERSTATE COMMISSION

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

2 (a) Oversee and maintain the administration of the compact;

3 (b) Promulgate rules which shall be binding to the extent and in the manner provided for
4 in the compact;

5 (c) Issue, upon the request of a member state or member board, advisory opinions
6 concerning the meaning or interpretation of the compact, its bylaws, rules, and
7 actions;

8 (d) Enforce compliance with compact provisions, the rules promulgated by the Interstate
9 Commission, and the bylaws, using all necessary and proper means, including but not
10 limited to the use of judicial process;

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

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

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

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

18 (i) Purchase and maintain insurance and bonds;

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

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

24 (l) Accept donations and grants of money, equipment, supplies, materials and services,

- 1 and to receive, utilize, and dispose of it in a manner consistent with the conflict of
2 interest policies established by the Interstate Commission;
- 3 (m) Lease, purchase, accept contributions or donations of, or otherwise to own, hold,
4 improve or use, any property, real, personal, or mixed;
- 5 (n) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
6 any property, real, personal, or mixed;
- 7 (o) Establish a budget and make expenditures;
- 8 (p) Adopt a seal and bylaws governing the management and operation of the Interstate
9 Commission;
- 10 (q) Report annually to the Legislatures and Governors of the member states concerning
11 the activities of the Interstate Commission during the preceding year. Such reports
12 shall also include reports of financial audits and any recommendations that may have
13 been adopted by the Interstate Commission;
- 14 (r) Coordinate education, training, and public awareness regarding the compact, its
15 implementation, and its operation;
- 16 (s) Maintain records in accordance with the bylaws;
- 17 (t) Seek and obtain trademarks, copyrights, and patents; and
- 18 (u) Perform such functions as may be necessary or appropriate to achieve the purposes
19 of the compact.

20 SECTION 13: FINANCE POWERS

- 21 (a) The Interstate Commission may levy on and collect an annual assessment from each
22 member state to cover the cost of the operations and activities of the Interstate Commission and
23 its staff. The total assessment must be sufficient to cover the annual budget approved each year
24 for which revenue is not provided by other sources. The aggregate annual assessment amount

1 shall be allocated upon a formula to be determined by the Interstate Commission, which shall
2 promulgate a rule binding upon all member states.

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

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

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

10 SECTION 14: ORGANIZATION AND OPERATION

11 OF THE INTERSTATE COMMISSION

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

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

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

21 (d) The officers and employees of the Interstate Commission shall be immune from suit and
22 liability, either personally or in their official capacity, for a claim for damage to or loss of
23 property or personal injury or other civil liability caused or arising out of, or relating to, an
24 actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis

1 for believing occurred, within the scope of Interstate Commission employment, duties, or
2 responsibilities; provided that such person shall not be protected from suit or liability for
3 damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of
4 such person.

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

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

24 (3) To the extent not covered by the state involved, member state, or the Interstate

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

9 SECTION 15: RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

15 (b) Rules deemed appropriate for the operations of the Interstate Commission shall be made
16 pursuant to a rule-making process that substantially conforms to the Model State Administrative
17 Procedure Act of 2010, and subsequent amendments thereto.

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

1 granted to the Interstate Commission.

2 SECTION 16: OVERSIGHT OF INTERSTATE COMPACT

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

8 (b) All courts shall take judicial notice of the compact and the rules in any judicial or
9 administrative proceeding in a member state pertaining to the subject matter of the compact
10 which may affect the powers, responsibilities or actions of the Interstate Commission.

11 (c) The Interstate Commission shall be entitled to receive all service of process in any such
12 proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to
13 provide service of process to the Interstate Commission shall render a judgment or order void
14 as to the Interstate Commission, the compact, or promulgated rules.

15 SECTION 17: ENFORCEMENT OF INTERSTATE COMPACT

16 (a) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the
17 provisions and rules of the compact.

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

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

4 SECTION 18: DEFAULT PROCEDURES

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

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

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

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

16 (c) If the defaulting state fails to cure the default, the defaulting state shall be terminated
17 from the compact upon an affirmative vote of a majority of the commissioners and all rights,
18 privileges, and benefits conferred by the compact shall terminate on the effective date of
19 termination. A cure of the default does not relieve the offending state of obligations or liabilities
20 incurred during the period of the default.

21 (d) Termination of membership in the compact shall be imposed only after all other means
22 of securing compliance have been exhausted. Notice of intent to terminate shall be given by the
23 Interstate Commission to the Governor, the majority and minority leaders of the defaulting
24 state's Legislature, and each of the member states.

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

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

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

10 (h) The defaulting state may appeal the action of the Interstate Commission by petitioning
11 the United States District Court for the District of Columbia or the federal district where the
12 Interstate Commission has its principal offices. The prevailing party shall be awarded all costs
13 of such litigation including reasonable attorney's fees.

14 SECTION 19: DISPUTE RESOLUTION

15 (a) The Interstate Commission shall attempt, upon the request of a member state, to resolve
16 disputes which are subject to the compact and which may arise among member states or member
17 boards.

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

20 SECTION 20: MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

21 (a) Any state is eligible to become a member state of the compact.

22 (b) The compact shall become effective and binding upon legislative enactment of the
23 compact into law by no less than seven states. Thereafter, it shall become effective and binding
24 on a state upon enactment of the compact into law by that state.

1 (c) The Governors of nonmember states, or their designees, shall be invited to participate
2 in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the
3 compact by all states.

4 (d) The Interstate Commission may propose amendments to the compact for enactment by
5 the member states. No amendment shall become effective and binding upon the Interstate
6 Commission and the member states unless and until it is enacted into law by unanimous consent
7 of the member states.

8 SECTION 21: WITHDRAWAL

9 (a) Once effective, the compact shall continue in force and remain binding upon each and
10 every member state; provided that a member state may withdraw from the compact by
11 specifically repealing the statute which enacted the compact into law.

12 (b) Withdrawal from the compact shall be by the enactment of a statute repealing the same,
13 but shall not take effect until one year after the effective date of such statute and until written
14 notice of the withdrawal has been given by the withdrawing state to the Governor of each other
15 member state.

16 (c) The withdrawing state shall immediately notify the chairperson of the Interstate
17 Commission in writing upon the introduction of legislation repealing the compact in the
18 withdrawing state.

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

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

24 (f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing

1 state reenacting the compact or upon such later date as determined by the Interstate
2 Commission.

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

6 SECTION 22: DISSOLUTION

7 (a) The compact shall dissolve effective upon the date of the withdrawal or default of the
8 member state which reduces the membership in the compact to one member state.

9 (b) Upon the dissolution of the compact, the compact becomes null and void and shall be
10 of no further force or effect, and the business and affairs of the Interstate Commission shall be
11 concluded and surplus funds shall be distributed in accordance with the bylaws.

12 SECTION 23: SEVERABILITY AND CONSTRUCTION

13 (a) The provisions of the compact shall be severable, and if any phrase, clause, sentence, or
14 provision is deemed unenforceable, the remaining provisions of the compact shall be
15 enforceable.

16 (b) The provisions of the compact shall be liberally construed to effectuate its purposes.

17 (c) Nothing in the compact shall be construed to prohibit the applicability of other interstate
18 compacts to which the states are members.

19 SECTION 24: BINDING EFFECT OF COMPACT AND OTHER LAWS

20 (a) Nothing herein prevents the enforcement of any other law of a member state that is not
21 inconsistent with the compact.

22 (b) All laws in a member state in conflict with the compact are superseded to the extent of
23 the conflict.

24 (c) All lawful actions of the Interstate Commission, including all rules and bylaws

1 promulgated by the commission, are binding upon the member states.

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

4 (e) In the event any provision of the compact exceeds the constitutional limits imposed on
5 the Legislature of any member state, such provision shall be ineffective to the extent of the
6 conflict with the constitutional provision in question in that member state.

7 Section 2. No state general funds shall be used to support the Interstate Medical Licensure
8 Compact enacted by this bill.