

1 **Senate Bill No. 610**

2 (By Senators Jenkins, D. Facemire, Tucker and Sypolt)

3 _____
4 [Originating in the Commission on Interstate Cooperation;
5 reported February 25, 2011.]
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7
8 A BILL to amend the Code of West Virginia, 1931, as amended, by
9 adding thereto a new article, designated §60A-12-1, §60A-12-2,
10 §60A-12-3, §60A-12-4, §60A-12-5, §60A-12-6, §60A-12-7, §60A-
11 12-8, §60A-12-9, §60A-12-10, §60A-12-11, §60A-12-12, §60A-12-
12 13 and §60A-12-14, all relating to enactment of the
13 Prescription Monitoring Program Compact; authorizing West
14 Virginia to become a member; providing the compact becomes
15 effective when at least six states become members; and
16 establishing the powers and duties under the compact.

17 *Be it enacted by the Legislature of West Virginia:*

18 That the Code of West Virginia, 1931, as amended, be amended
19 by adding thereto a new article, designated §60A-12-1, §60A-12-2,
20 §60A-12-3, §60A-12-4, §60A-12-5, §60A-12-6, §60A-12-7, §60A-12-8,
21 §60A-12-9, §60A-12-10, §60A-12-11, §60A-12-12, §60A-12-13 and §60A-
22 12-14, all to read as follows:

23 **ARTICLE 12. THE PRESCRIPTION MONITORING PROGRAM COMPACT**

1 **§60A-12-1. Purpose.**

2 The purpose of this interstate compact is to provide a
3 mechanism for state prescription
4 monitoring programs to securely share prescription data to improve
5 public health and safety. This interstate compact is intended to:

6 (a) Enhance the ability of state prescription monitoring
7 programs, in accordance with state laws, to provide an efficient
8 and comprehensive tool for:

9 (1) practitioners to monitor patients and support treatment
10 decisions;

11 (2) law enforcement to conduct diversion investigations where
12 authorized by state law;

13 (3) regulatory agencies to conduct investigations or other
14 appropriate reviews where authorized by state law; and

15 (4) other uses of prescription drug data authorized by state
16 law for purposes of curtailing drug abuse and diversion.

17 (b) Provide a technology infrastructure to facilitate secure
18 data transmission.

19 **§60A-12-2. Definitions.**

20 As used in this compact, unless the context clearly requires
21 a different construction:

22 (a) "Authentication" means: the process of verifying the
23 identity and credentials of a person before authorizing access to
24 prescription data.

1 (b) "Authorize" means: the process by which a person is
2 granted access privileges to prescription data.

3 (c) "Bylaws" means: those bylaws established by the interstate
4 commission pursuant to Article VIII for its governance, or for
5 directing or controlling its actions and conduct.

6 (d) "Commissioner" means: the voting representative appointed
7 by each member state pursuant to Article VI of this compact.

8 (e) "Interstate Commission" or "Commission" means: the
9 interstate commission created pursuant to Article VI of this
10 compact.

11 (f) "Member State" means: any state that has adopted a
12 prescription monitoring program and has enacted the enabling
13 compact legislation.

14 (g) "Practitioner" means: a person licensed, registered or
15 otherwise permitted to prescribe or dispense a prescription drug.

16 (h) "Prescription Data" means: data transmitted by a
17 prescription monitoring program that contains patient, prescriber,
18 dispenser, and prescription drug information.

19 (i) "Prescription Drug" means: any drug required to be
20 reported to a state prescription monitoring program and which
21 includes but is not limited to substances listed in the Federal
22 Controlled Substances Act.

23 (j) "Prescription Monitoring Program" means: a program that
24 collects, manages, analyzes, and provides prescription data under

1 the auspices of a state.

2 (k) "Requestor" means: a person authorized by a member state
3 who has initiated a request for prescription data.

4

5 (l) "Rule" means: a written statement by the interstate
6 commission promulgated pursuant to Article VII of this compact that
7 is of general applicability, implements, interprets or prescribes
8 a policy or provision of the compact, or an organizational,
9 procedural, or practice requirement of the commission, and has the
10 force and effect of statutory law in a member state, and includes
11 the amendment, repeal, or suspension of an existing rule.

12 (m) "State" means: any state, commonwealth, district, or
13 territory of the United States.

14 (n) "Technology Infrastructure" means: the design, deployment,
15 and use of both individual technology based components and the
16 systems of such components to facilitate the transmission of
17 information and prescription data among member states.

18 (o) "Transmission" means: the release, transfer, provision, or
19 disclosure of information or prescription data among member states.

20 **§60A-12-3. Authorized uses and restrictions on the prescription**
21 **data.**

22 (a) Under the Prescription Monitoring Program Compact a member
23 state:

24 (1) Retains its authority and autonomy over its prescription

1 monitoring program and prescription data in accordance with its
2 laws, regulations and policies.

3 (2) May provide, restrict or deny prescription data to a
4 requestor of another state in accordance with its laws, regulations
5 and policies.

6 (3) May provide, restrict or deny prescription data received
7 from another state to a requestor within that state.

8 (4) Has the authority to determine which requestors shall be
9 authorized.

10 (b) Prescription data obtained by a member state pursuant to
11 this compact shall have the following restrictions:

12 (1) Be used solely for purposes of providing the prescription
13 data to a requestor.

14 (2) Not be stored in the state's prescription monitoring
15 program database, except for stored images, nor in any other
16 database.

17 (c) A state may limit the categories of requestors of another
18 member state that will receive prescription data.

19 (d) The commission shall promulgate rules establishing
20 standards for requestor authentication.

21 (1) Every member state shall authenticate requestors according
22 to the rules established by the commission.

23 (2) A member state may authorize its requestors to request
24 prescription data from another member state only after such

1 requestor has been authenticated.

2 (3) A member state that becomes aware of a requestor who
3 violated the laws or regulations governing the appropriate use of
4 prescription data shall notify the state that transmitted the
5 prescription data.

6 **§60A-12-4. Technology and security.**

7 (a) The commission shall establish security requirements
8 through rules for the transmission of prescription data.

9 (b) The commission shall foster the adoption of open, vendor-
10 and technology-neutral, standards for the technology
11 infrastructure.

12 (c) The commission shall be responsible for acquisition and
13 operation of the technology infrastructure.

14

15 **§60A-12-5. Funding.**

16 (a) The commission, through its member states, shall be
17 responsible to provide for the payment of the reasonable expenses
18 for establishing, organizing and administering the operations and
19 activities of the interstate compact.

20 (b) The interstate commission may levy on and collect annual
21 dues from each member state to cover the cost of operations and
22 activities of the interstate commission and its staff which must be
23 in a total amount sufficient to cover the interstate commission's
24 annual budget as approved each year. The aggregate annual dues

1 amount shall be allocated in an equitable manner and may consist of
2 a fixed fee component as well as a variable fee component based
3 upon a formula to be determined by the interstate commission, which
4 shall promulgate a rule binding upon all member states. Such a
5 formula shall take into account factors including, but not limited
6 to the total number of practitioners or licensees within a member
7 state. Fees established by the commission may be recalculated and
8 assessed on an annual basis.

9 (c) Notwithstanding the above or any other provision of law,
10 the interstate commission may accept non-state funding, including
11 grants, awards and contributions to offset, in whole or in part,
12 the costs of the annual dues required under Article V, Section B.

13 (d) The interstate commission shall not incur obligations of
14 any kind prior to securing the funds adequate to meet the same; nor
15 shall the interstate commission pledge the credit of any of the
16 member states, except by and with the authority of the member
17 states.

18 (e) The interstate commission shall keep accurate accounts of
19 all receipts and disbursements subject to the audit and accounting
20 procedures established under its bylaws. All receipts and
21 disbursements of funds handled by the interstate commission shall
22 be audited annually by a certified or licensed public accountant
23 and the report of the audit shall be included in and become part of
24 the annual report of the interstate commission.

1 **§60A-12-6. Interstate commission.**

2 (a) The member states hereby create the Interstate Prescription
3 Monitoring Program Commission. The Prescription Monitoring Program
4 Compact shall be governed by an interstate commission comprised of
5 the member states and not by a third-party group or federal agency.
6 The activities of the commission are the formation of public policy
7 and are a discretionary state function.

8 (b) The commission shall be a body corporate and joint agency
9 of the member states and shall have all the responsibilities,
10 powers and duties set forth herein, and such additional powers as
11 may be conferred upon it by a subsequent concurrent action of the
12 respective legislatures of the member states in accordance with the
13 terms of this compact.

14 (c) The commission shall consist of one voting representative
15 from each member state who shall be that state's appointed compact
16 commissioner and who is empowered to determine statewide policy
17 related to matters governed by this compact. The compact
18 commissioner shall be a policymaker within the agency that houses
19 the state's prescription monitoring program.

20 (d) In addition to the state commissioner, the state shall
21 appoint a non-voting advisor who shall be a representative of the
22 state prescription monitoring program.

23 (e) In addition to the voting representatives and non-voting
24 advisor of each member state, the commission may include persons

1 who are not voting representatives, but who are members of
2 interested organizations as determined by the commission.

3 (f) Each member state represented at a meeting of the
4 commission is entitled to one vote. A majority of the member
5 states shall constitute a quorum for the transaction of business,
6 unless a larger quorum is required by the bylaws of the commission.
7 A representative shall not delegate a vote to another member state.
8 In the event the compact commissioner is unable to attend a meeting
9 of the commission, the appropriate appointing authority may
10 delegate voting authority to another person from their state for a
11 specified meeting. The by-laws may provide for meetings of the
12 commission to be conducted by electronic communication.

13 (g) The commission shall meet at least once each calendar
14 year. The chairperson may call additional meetings and, upon the
15 request of a simple majority of the compacting states, shall call
16 additional meetings.

17 (h) The commission shall establish an executive committee,
18 which shall include officers, members, and others as determined by
19 the bylaws. The executive committee shall have the power to act on
20 behalf of the commission, with the exception of rulemaking. During
21 periods when the commission is not in session the executive
22 committee shall oversee the administration of the compact,
23 including enforcement and compliance with the provisions of the
24 compact, its bylaws and rules, and other such duties as deemed

1 necessary.

2 (i) The commission shall maintain a robust committee structure
3 for governance (i.e., policy, compliance, education, technology,
4 etc.) and shall include specific opportunities for stakeholder
5 input.

6 (j) The commission's bylaws and rules shall establish
7 conditions and procedures under which the commission shall make its
8 information and official records available to the public for
9 inspection or copying. The commission may exempt from disclosure
10 information or official records that would adversely affect
11 personal privacy rights or proprietary interests.

12 (k) The commission shall provide public notice of all meetings
13 and all meetings shall be open to the public, except as set forth
14 in the rules or as otherwise provided in the compact. The
15 commission may close a meeting, or portion thereof, where it
16 determines by a two-thirds vote of the members present that an open
17 meeting would be likely to:

18 (1) Relate solely to the commission's internal personnel
19 practices and procedures;

20 (2) Discuss matters specifically exempted from disclosure by
21 federal and state statute;

22 (3) Discuss trade secrets or commercial or financial
23 information which is privileged or confidential;

24 (4) Involve accusing a person of a crime, or formally

1 censuring a person;

2 (5) Discuss information of a personal nature where disclosure
3 would constitute a clearly unwarranted invasion of personal
4 privacy;

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

7 (7) Specifically relate to the commission's participation in
8 a civil action or other legal proceeding.

9 (1) For a meeting, or portion of a meeting, closed pursuant to
10 this provision, the commission's legal counsel or designee shall
11 certify that the meeting may be closed and shall reference each
12 relevant exemption provision. The commission shall keep minutes
13 which shall fully and clearly describe all matters discussed in a
14 meeting and shall provide a full and accurate summary of actions
15 taken, and the reasons therefore, including a description of the
16 views expressed and the record of a roll call vote. All documents
17 considered in connection with an action shall be identified in such
18 minutes. All minutes and documents of a closed meeting shall
19 remain under seal, subject to release by a majority vote of the
20 commission.

21 **§60A-12-7. Duties of the interstate commission.**

22 The commission shall have the following powers and duties:

23 (1) To oversee and maintain the administration of the
24 technology infrastructure.

1 (2) To promulgate rules and take all necessary actions to
2 effect the goals, purposes and obligations as enumerated in this
3 compact, provided that no member state shall be required to create
4 an advisory committee. The rules shall have the force and effect of
5 statutory law and shall be binding in the member states to the
6 extent and in the manner provided in this compact.

7 (3) To establish a process for member states to notify the
8 commission of changes to a state's prescription monitoring program
9 statutes, regulations, or policies. This applies only to changes
10 that would affect the administration of the compact.

11 (4) To issue, upon request of a member state, advisory
12 opinions concerning the meaning or interpretation of the interstate
13 compact, its bylaws, rules and actions.

14 (5) To enforce compliance with the compact provisions, the
15 rules promulgated by the interstate commission, and the bylaws,
16 using all necessary and proper means, including but not limited to
17 the use of judicial process.

18 (6) To establish and maintain one or more offices.

19 (7) To purchase and maintain insurance and bonds.

20 (8) To borrow, accept, hire or contract for personnel or
21 services.

22 (9) To establish and appoint committees including, but not
23 limited to, an executive committee as required by section six,
24 subsection (h), which shall have the power to act on behalf of the

1 interstate commission in carrying out its powers and duties
2 hereunder.

3 (10) To elect or appoint such officers, attorneys, employees,
4 agents, or consultants, and to fix their compensation, define their
5 duties and determine their qualifications; and to establish the
6 interstate commission's personnel policies and programs relating to
7 conflicts of interest, rates of compensation, and qualifications of
8 personnel.

9 (11) To seek and accept donations and grants of money,
10 equipment, supplies, materials, and services, and to utilize or
11 dispose of them.

12 (12) To lease, purchase, accept contributions or donations of,
13 or otherwise to own, hold, improve or use any property, real,
14 personal, or mixed.

15 (13) To sell, convey, mortgage, pledge, lease, exchange,
16 abandon, or otherwise dispose of any property, real, personal or
17 mixed.

18 (14) To establish a budget and make expenditures.

19 (15) To adopt a seal and bylaws governing the management and
20 operation of the interstate commission.

21 (16) To report annually to the legislatures, governors and
22 Attorneys General of the member states concerning the activities of
23 the interstate commission during the preceding year. Such reports
24 shall also include any recommendations that may have been adopted

1 by the interstate commission and shall be made publically
2 available.

3 (17) To coordinate education, training and public awareness
4 regarding the compact, its implementation and operation.

5
6 (18) To maintain books and records in accordance with the
7 bylaws.

8 (19) To perform such functions as may be necessary or
9 appropriate to achieve the purposes of this compact.

10 (20) To provide for dispute resolution among member states.

11 **§60A-12-8. Organization and operation of the interstate**

12 **commissions.** (a) The interstate commission shall, by a majority
13 of the members present and voting, within months after the first
14 interstate commission meeting, adopt bylaws to govern its conduct
15 as may be necessary or appropriate to carry out the purposes of the
16 compact, including, but not limited to:

17 (1) Establishing the fiscal year of the interstate commission;

18 (2) Establishing an executive committee, and such other
19 committees as may be necessary for governing any general or
20 specific delegation of authority or function of the interstate
21 commission;

22 (3) Providing procedures for calling and conducting meetings
23 of the interstate commission, and ensuring reasonable notice of
24 each such meeting;

1 (4) Establishing the titles and responsibilities of the
2 officers and staff of the interstate commission;

3 (5) Providing a mechanism for concluding the operations of the
4 interstate commission and the return of surplus funds that may
5 exist upon the termination of the compact after the payment and
6 reserving of all of its debts and obligations.

7 (b) The interstate commission shall, by a majority of the
8 members present, elect annually from among its members a
9 chairperson, a vice-chairperson, and a treasurer, each of whom
10 shall have such authority and duties as may be specified in the
11 bylaws. The chairperson or, in the chairperson's absence or
12 disability, the vice-chairperson, shall preside at all meetings of
13 the interstate commission. The officers so elected shall serve
14 without compensation or remuneration from the interstate
15 commission; provided that, subject to the availability of budgeted
16 funds, the officers shall be reimbursed for ordinary and necessary
17 costs and expenses incurred by them in the performance of their
18 responsibilities as officers of the interstate commission.

19 (c) The executive committee shall have such authority and
20 duties as may be set forth in the bylaws, including but not limited
21 to:

22 (1) Managing the affairs of the interstate commission in a
23 manner consistent with the bylaws and purposes of the interstate
24 commission;

1 (2) Overseeing an organizational structure within, and
2 appropriate procedures for the interstate commission to provide for
3 the administration of the compact; and

4 (3) Planning, implementing, and coordinating communications
5 and activities with other state, federal and local government
6 organizations in order to advance the purpose of the interstate
7 commission.

8 (d) The executive committee may, subject to the approval of
9 the interstate commission, appoint or retain an executive director
10 for such period, upon such terms and conditions and for such
11 compensation, as the interstate commission may deem appropriate.
12 The executive director shall serve as secretary to the interstate
13 commission, but shall not be a member of the interstate commission.
14 The executive director shall hire and supervise such other persons
15 as may be authorized by the interstate commission.

16 (e) The interstate commission's executive director and its
17 employees shall be immune from suit and liability, either
18 personally or in their official capacity, for a claim for damage to
19 or loss of property or personal injury or other civil liability
20 caused or arising out of or relating to an actual or alleged act,
21 error, or omission that occurred, or that such person had a
22 reasonable basis for believing occurred, within the scope of
23 interstate commission employment, duties, or responsibilities;
24 provided, that such person shall not be protected from suit or

1 liability for damage, loss, injury, or liability caused by the
2 intentional or willful and wanton misconduct of such person.

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

14 (2) The interstate commission shall defend the executive
15 director, its employees, and subject to the approval of the
16 attorney general or other appropriate legal counsel of the member
17 state represented by an interstate commission representative, shall
18 defend such interstate commission representative in any civil
19 action seeking to impose liability arising out of an actual or
20 alleged act, error or omission that occurred within the scope of
21 interstate commission employment, duties or responsibilities, or
22 that the defendant had a reasonable basis for believing occurred
23 within the scope of interstate commission employment, duties, or
24 responsibilities, provided that the actual or alleged act, error,

1 or omission did not result from intentional or willful and wanton
2 misconduct on the part of such person.

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

15 **§60A-12-9. Rulemaking functions of the interstate commission.**

16 (a) Rulemaking Authority - The interstate commission shall
17 promulgate reasonable rules in order to effectively and efficiently
18 achieve the purposes of this compact. Notwithstanding the
19 foregoing, in the event the interstate commission exercises its
20 rulemaking authority in a manner that is beyond the scope of the
21 purposes of this compact, or the powers granted hereunder, then
22 such an action by the interstate commission shall be invalid and
23 have no force or effect. Any rules promulgated by the commission
24 shall not override the state's authority to govern prescription

1 drugs or each state's prescription monitoring program.

2 (b) Rulemaking Procedure - Rules shall be made pursuant to a
3 rulemaking process that substantially conforms to the "Model State
4 Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated,
5 Vol. 15, p.1 (2000) as amended, as may be appropriate to the
6 operations of the interstate commission.

7 (c) Not later than thirty (30) days after a rule is
8 promulgated, any person may file a petition for judicial review of
9 the rule; provided, that the filing of such a petition shall not
10 stay or otherwise prevent the rule from becoming effective unless
11 the court finds that the petitioner has a substantial likelihood of
12 success. The court shall give deference to the actions of the
13 interstate commission consistent with applicable law and shall not
14 find the rule to be unlawful if the rule represents a reasonable
15 exercise of the interstate commission's authority.

16 **§60A-12-10. Oversight, enforcement, and dispute resolution.**

17 (a) Oversight:

18 (1) The executive, legislative and judicial branches of state
19 government in each member state shall enforce this compact and
20 shall take all actions necessary and appropriate to effectuate the
21 compact's purposes and intent. The provisions of this compact and
22 the rules promulgated hereunder shall have standing as statutory
23 law but, shall not override the state's authority to govern
24 prescription drugs or the state's prescription monitoring program.

1 (2) All courts shall take judicial notice of the compact and
2 the rules in any judicial or administrative proceeding in a member
3 state pertaining to the subject matter of this compact which may
4 affect the powers, responsibilities or actions of the interstate
5 commission.

6 (3) The interstate commission shall be entitled to receive all
7 service of process in any such proceeding, and shall have standing
8 to intervene in the proceeding for all purposes. Failure to provide
9 service of process to the interstate commission shall render a
10 judgment or order void as to the interstate commission, this
11 compact or promulgated rules.

12 (b) Default, Technical Assistance, Suspension and Termination
13 - If the interstate commission determines that a member state has
14 defaulted in the performance of its obligations or responsibilities
15 under this compact, or the bylaws or promulgated rules, the
16 interstate commission shall:

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

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

24 (3) If the defaulting state fails to cure the default, the

1 defaulting state shall be terminated from the compact upon an
2 affirmative vote of a majority of the member states and all rights,
3 privileges and benefits conferred by this compact shall be
4 terminated from the effective date of termination. A cure of the
5 default does not relieve the offending state of obligations or
6 liabilities incurred during the period of the default.

7 (4) Suspension or termination of membership in the compact
8 shall be imposed only after all other means of securing compliance
9 have been exhausted. Notice of intent to suspend or terminate shall
10 be given by the interstate commission to the governor, the majority
11 and minority leaders of the defaulting state's legislature, and
12 each of the member states.

13 (5) The state which has been suspended or terminated is
14 responsible for all dues, obligations and liabilities incurred
15 through the effective date of suspension or termination including
16 obligations, the performance of which extends beyond the effective
17 date of suspension or termination.

18 (6) The interstate commission shall not bear any costs
19 relating to any state that has been found to be in default or which
20 has been suspended or terminated from the compact, unless otherwise
21 mutually agreed upon in writing between the interstate commission
22 and the defaulting state.

23 (7) The defaulting state may appeal the action of the
24 interstate commission by petitioning the U.S. District Court for

1 the District of Columbia or the federal district where the
2 interstate commission has its principal offices. The prevailing
3 party shall be awarded all costs of such litigation including
4 reasonable attorney's fees.

5 (c) Dispute Resolution:

6 (1) The interstate commission shall attempt, upon the request
7 of a member state, to resolve disputes which are subject to the
8 compact and which may arise among member states.

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

12 (d) Enforcement:

13 (1) The interstate commission, in the reasonable exercise of
14 its discretion, shall enforce the provisions and rules of this
15 compact.

16 (2) The interstate commission, may by majority vote of the
17 members, initiate legal action in the United State District Court
18 for the District of Columbia or, at the discretion of the
19 interstate commission, in the federal district where the interstate
20 commission has its principal offices, to enforce compliance with
21 the provisions of the compact, its promulgated rules and bylaws,
22 against a member state in default. The relief sought may include
23 both injunctive relief and damages. In the event judicial
24 enforcement is necessary the prevailing party shall be awarded all

1 costs of such litigation including reasonable attorney's fees.

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

6 **§60A-1211. Member states, effective date and amendment.**

7 (a) Any state that has enacted prescription monitoring program
8 legislation through statute or regulation is eligible to become a
9 member state of this compact.

10 (b) The compact shall become effective and binding upon
11 legislative enactment of the compact into law by no less than six
12 (6) of the states. Thereafter it shall become effective and binding
13 on a state upon enactment of the compact into law by that state.
14 The governors of non-member states or their designees shall be
15 invited to participate in the activities of the interstate
16 commission on a non-voting basis prior to adoption of the compact
17 by all states.

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

23 **§60A-12-12. Withdrawal and dissolution.**

24 (a) Withdrawal:

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

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

10 (3) The withdrawing state shall immediately notify the
11 chairperson of the interstate commission in writing upon the
12 introduction of legislation repealing this compact in the
13 withdrawing state. The interstate commission shall notify the other
14 member states of the withdrawing state's intent to withdraw within
15 sixty (60) days of its receipt thereof.

16 (4) The withdrawing state is responsible for all dues,
17 obligations and liabilities incurred through the effective date of
18 withdrawal, including obligations, the performance of which extend
19 beyond the effective date of withdrawal.

20 (5) Reinstatement following withdrawal of a member state shall
21 occur upon the withdrawing state reenacting the compact or upon
22 such later date as determined by the interstate commission.

23 (b) Dissolution of the Compact:

24 (1) This compact shall dissolve effective upon the date of the

1 withdrawal or default of the member state which reduces the
2 membership in the compact to one (1) member state.

3 (2) Upon the dissolution of this compact, the compact becomes
4 null and void and shall be of no further force or effect, and the
5 business and affairs of the interstate commission shall be
6 concluded and surplus funds shall be distributed in accordance with
7 the bylaws.

8 **§60A-12-13. Severability and construction.**

9 (a) The provisions of this compact shall be severable, and if
10 any phrase, clause, sentence or provision is deemed unenforceable,
11 the remaining provisions of the compact shall be enforceable.

12 (b) The provisions of this compact shall be liberally
13 construed to effectuate its purposes.

14 (c) Nothing in this compact shall be construed to prohibit the
15 applicability of other interstate compacts to which the states are
16 members.

17 **§60A-12-14. Binding effect of compact and other laws.**

18 (a) Other Laws:

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

21 (2) All member states' laws conflicting with this compact are
22 superseded to the extent of the conflict.

23 (b) Binding Effect of the Compact:

24 (1) All lawful actions of the interstate commission, including

1 all rules and bylaws promulgated by the interstate commission, are
2 binding upon the member states.

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

5 (3) In the event any provision of this compact exceeds the
6 constitutional limits imposed on the legislature of any member
7 state, such provision shall be ineffective to the extent of the
8 conflict with the constitutional provision in question in that
9 member state.

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