

H. B. 2496

(By Delegates Ellington, Howell, Householder, Sobonya, Fleischauer and Frich)

[Introduced January 29, 2015; referred to the

Committee on Health and Human Resources then the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-3F-1, §30-3F-2, §30-3F-3, §30-3F-4, §30-3F-5, §30-3F-6, §30-3F-7, §30-3F-8, §30-3F-9, §30-3F-10, §30-3F-11, §30-3F-12, §30-3F-13, §30-3F-14, §30-3F-15, §30-3F-16, §30-3F-17, §30-3F-18, §30-3F-19, §30-3F-20, §30-3F-21, §30-3F-22, §30-3F-23 and §30-3F-24, all relating to adopting the Interstate Medical Licensure Compact; strengthening access to health care; developing a comprehensive process that complements current statutes regarding medical practices; providing a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients; creating another pathway for licensure; adopting the prevailing standard for licensure and affirming that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter; and requiring the physician to be under the jurisdiction of the state medical board where the patient is located.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 article, designated §30-3F-1, §30-3F-2, §30-3F-3, §30-3F-4, §30-3F-5, §30-3F-6, §30-3F-7, §30-3F-
3 8, §30-3F-9, §30-3F-10, §30-3F-11, §30-3F-12, §30-3F-13, §30-3F-14, §30-3F-15, §30-3F-16, §30-
4 3F-17, §30-3F-18, §30-3F-19, §30-3F-20, §30-3F-21, §30-3F-22, §30-3F-23 and §30-3F-24, all to
5 read as follows:

6 **ARTICLE 3F. INTERSTATE MEDICAL LICENSURE COMPACT.**

7 **§30-3F-1. Purpose.**

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

18 State medical boards that participate in the Compact retain the jurisdiction to impose an
19 adverse action against a license to practice medicine in that state issued to a physician through the
20 procedures in the Compact.

21 **§30-3F-2. Definitions.**

22 In this article adopting the Interstate Medical Licensure Compact:

1 "Bylaws" means those bylaws established by the Interstate Commission pursuant to section
2 eleven of this article for its governance, or for directing and controlling its actions and conduct.

3 "Commissioner" means the voting representative appointed by each member board pursuant
4 to section eleven of this article.

5 "Compact" means the Interstate Medical Licensure Compact.

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

10 "Expedited License" means a full and unrestricted medical license granted by a member state
11 to an eligible physician through the process set forth in the Compact.

12 "Interstate Commission" means the Interstate Medical Licensure Compact Commission
13 created pursuant to section eleven of this article.

14 "License" means authorization by a state for a physician to engage in the practice of
15 medicine, which would be unlawful without the authorization.

16 "Medical Practice Act" means laws and regulations governing the practice of allopathic and
17 osteopathic medicine within a member state.

18 "Member Board" means a state agency in a member state that acts in the sovereign interests
19 of the state by protecting the public through licensure, regulation, and education of physicians as
20 directed by the state government.

21 "Member State" means a state that has enacted the Compact.

22 "Practice of Medicine" means the clinical prevention, diagnosis, or treatment of human

1 disease, injury, or condition requiring a physician to obtain and maintain a license in compliance
2 with the Medical Practice Act of a member state.

3 "Physician" means any person who:

4 (A) Is a graduate of a medical school accredited by the Liaison Committee on Medical
5 Education, the Commission on Osteopathic College Accreditation, or a medical school listed in the
6 International Medical Education Directory or its equivalent;

7 (B) Passed each component of the United States Medical Licensing Examination (USMLE)
8 or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) within three
9 attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent
10 examination for licensure purposes;

11 (C) Successfully completed graduate medical education approved by the Accreditation
12 Council for Graduate Medical Education or the American Osteopathic Association;

13 (D) Holds specialty certification or a time-unlimited specialty certificate recognized by the
14 American Board of Medical Specialties or the American Osteopathic Association's Bureau of
15 Osteopathic Specialists;

16 (E) Possesses a full and unrestricted license to engage in the practice of medicine issued by
17 a member board;

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

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

1 (H) Has never had a controlled substance license or permit suspended or revoked by a state
2 or the United States Drug Enforcement Administration; and

3 (I) Is not under active investigation by a licensing agency or law-enforcement authority in any
4 state, federal, or foreign jurisdiction.

5 "Offense" means a felony, gross misdemeanor, or crime of moral turpitude.

6 "Rule" means a written statement by the Interstate Commission promulgated pursuant to
7 section twelve of this article that is of general applicability, implements, interprets, or prescribes a
8 policy or provision of the Compact, or an organizational, procedural, or practice requirement of the
9 Interstate Commission, and has the force and effect of statutory law in a member state, and includes
10 the amendment, repeal, or suspension of an existing rule.

11 "State" means any state, commonwealth, district, or territory of the United States.

12 "State of Principal License" means a member state where a physician holds a license to
13 practice medicine and which has been designated as such by the physician for purposes of
14 registration and participation in the Compact.

15 **§30-3F-3. Eligibility.**

16 (a) A physician must meet the eligibility requirements as defined in section two of this article
17 to receive an expedited license under the terms and provisions of the Compact.

18 (b) A physician who does not meet the requirements of section two of this article may obtain
19 a license to practice medicine in a member state if the individual complies with all laws and
20 requirements, other than the Compact, relating to the issuance of a license to practice medicine in
21 that state.

22 **§30-3F-4. Designation of state of principal license.**

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

4 (1) The state of primary residence for the physician,

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

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

7 (4) If no state qualifies under subdivision (1), (2), or (3) of this subsection, the state designated
8 as state of residence for purpose of federal income tax.

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

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

13 **§30-3F-5. Application and issuance of expedited licensure.**

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

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

21 (1) Static qualifications, which include verification of medical education, graduate medical
22 education, results of any medical or licensing examination, and other qualifications as determined by

1 the Interstate Commission through rule, shall not be subject to additional primary source verification
2 where already primary source verified by the state of principal license.

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

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

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

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

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

22 (f) An expedited license obtained though the Compact shall be terminated if a physician fails

1 to maintain a license in the state of principal licensure for a nondisciplinary reason, without
2 redesignation of a new state of principal licensure.

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

5 **§30-3F-6. Fees for expedited licensure.**

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

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

10 **§30-3F-7. Renewal and continued participation.**

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

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

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

16 (3) Has not had a license authorizing the practice of medicine subject to discipline by a
17 licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to
18 nonpayment of fees related to a license; and

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

21 (b) Physicians shall comply with all continuing professional development or continuing
22 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) of this section, a member
4 board shall renew 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 **§30-3F-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 five of this section.

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 received
14 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 nonpublic complaint, disciplinary, or investigatory
18 information not required by subsection (c) of this section 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.

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

3 **§30-3F-9. Joint investigations.**

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

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

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

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

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

14 **§30-3F-10. Disciplinary actions.**

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

18 (b) If a license granted to a physician by the member board in the state of principal license is
19 revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the
20 physician by member boards shall automatically be placed, without further action necessary by any
21 member board, on the same status. If the member board in the state of principal license subsequently
22 reinstates the physician's license, a license issued to the physician by any other member board shall

1 remain encumbered until that respective member board takes action to reinstate the license in a
2 manner consistent with the Medical Practice Act of that state.

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

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

8 (ii) Pursue separate disciplinary action against the physician under its respective Medical
9 Practice Act, regardless of the action taken in other member states.

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

18 **§30-3F-11. Interstate Medical Licensure Compact Commission.**

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

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

22 (c) The Interstate Commission shall be a body corporate and joint agency of the member states

1 and shall have all the responsibilities, powers, and duties set forth in the Compact, and such additional
2 powers as may be conferred upon it by a subsequent concurrent action of the respective Legislatures
3 of the member states in accordance with the terms of the Compact.

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

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

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

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

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

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

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

1 the requirements of subsection (d) of this section.

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

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

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

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

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

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

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

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

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

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

21 (k) The Interstate Commission shall establish an executive committee, which shall include
22 officers, members, and others as determined by the bylaws. The executive committee shall have the

1 power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods
2 when the Interstate Commission is not in session. When acting on behalf of the Interstate
3 Commission, the executive committee shall oversee the administration of the Compact including
4 enforcement and compliance with the provisions of the Compact, its bylaws and rules, and other such
5 duties as necessary.

6 (1) The Interstate Commission may establish other committees for governance and
7 administration of the Compact.

8 **§30-3F-12. Powers and duties of the Interstate Commission.**

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

10 (1) Oversee and maintain the administration of the Compact;

11 (2) Promulgate rules which shall be binding to the extent and in the manner provided for in
12 the Compact;

13 (3) Issue, upon the request of a member state or member board, advisory opinions concerning
14 the meaning or interpretation of the Compact, its bylaws, rules, and actions;

15 (4) Enforce compliance with Compact provisions, the rules promulgated by the Interstate
16 Commission, and the bylaws, using all necessary and proper means, including, but not limited to, the
17 use of judicial process;

18 (5) Establish and appoint committees including, but not limited to, an executive committee
19 as required by section eleven of this article, which shall have the power to act on behalf of the
20 Interstate Commission in carrying out its powers and duties;

21 (6) Pay, or provide for the payment of the expenses related to the establishment, organization,
22 and ongoing activities of the Interstate Commission;

- 1 (7) Establish and maintain one or more offices;
- 2 (8) Borrow, accept, hire, or contract for services of personnel;
- 3 (9) Purchase and maintain insurance and bonds;
- 4 (10) Employ an executive director who shall have such powers to employ, select or appoint
5 employees, agents, or consultants, and to determine their qualifications, define their duties, and fix
6 their compensation;
- 7 (11) Establish personnel policies and programs relating to conflicts of interest, rates of
8 compensation, and qualifications of personnel;
- 9 (12) Accept donations and grants of money, equipment, supplies, materials and services, and
10 to receive, utilize, and dispose of it in a manner consistent with the conflict of interest policies
11 established by the Interstate Commission;
- 12 (13) Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve
13 or use, any property, real, personal, or mixed;
- 14 (14) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
15 property, real, personal, or mixed;
- 16 (15) Establish a budget and make expenditures;
- 17 (16) Adopt a seal and bylaws governing the management and operation of the Interstate
18 Commission;
- 19 (17) Report annually to the Legislatures and Governors of the member states concerning the
20 activities of the Interstate Commission during the preceding year. Such reports shall also include
21 reports of financial audits and any recommendations that may have been adopted by the Interstate
22 Commission;

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

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

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

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

7 **§30-3F-13. Finance powers.**

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

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

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

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

21 **§30-3F-14. Organization and operation of the Interstate Commission.**

22 (a) The Interstate Commission shall, by a majority of Commissioners present and voting,

1 adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of
2 the Compact within twelve months of the first Interstate Commission meeting.

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

7 (c) Officers selected in subsection (b) of this section shall serve without remuneration from
8 the Interstate Commission.

9 (d) The officers and employees of the Interstate Commission shall be immune from suit and
10 liability, either personally or in their official capacity, for a claim for damage to or loss of property
11 or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged
12 act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred,
13 within the scope of Interstate Commission employment, duties, or responsibilities; provided that such
14 person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the
15 intentional or willful and wanton misconduct of such person.

16 (1) The liability of the executive director and employees of the Interstate Commission or
17 representatives of the Interstate Commission, acting within the scope of such person's employment
18 or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits
19 of liability set forth under the Constitution and laws of that state for state officials, employees, and
20 agents. The Interstate Commission is considered to be an instrumentality of the states for the
21 purposes of any such action. Nothing in this subsection may be construed to protect such person from
22 suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton

1 misconduct of such person.

2 (2) The Interstate Commission shall defend the executive director, its employees, and subject
3 to the approval of the Attorney General or other appropriate legal counsel of the member state
4 represented by an Interstate Commission representative, shall defend such Interstate Commission
5 representative in any civil action seeking to impose liability arising out of an actual or alleged act,
6 error or omission that occurred within the scope of Interstate Commission employment, duties or
7 responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope
8 of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged
9 act, error, or omission did not result from intentional or willful and wanton misconduct on the part
10 of such person.

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

19 **§30-3F-15. Rule making functions of the Interstate Commission.**

20 (a) The Interstate Commission shall promulgate reasonable rules in order to effectively and
21 efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the
22 Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the

1 purposes of the Compact, or the powers granted hereunder, then such an action by the Interstate
2 Commission shall be invalid and have no force or effect.

3 (b) Rules deemed appropriate for the operations of the Interstate Commission shall be made
4 pursuant to a rulemaking process that substantially conforms to the "Model State Administrative
5 Procedure Act" of 2010, and subsequent amendments thereto.

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

14 **§30-3F-16. Oversight of Interstate Compact.**

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

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

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

5 **§30-3F-17. Enforcement of Interstate Compact.**

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

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

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

18 **§30-3F-18. Default procedures.**

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

22 (b) If the Interstate Commission determines that a member state has defaulted in the

1 performance of its obligations or responsibilities under the Compact, or the bylaws or promulgated
2 rules, the Interstate Commission shall:

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

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

8 (c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from
9 the Compact upon an affirmative vote of a majority of the Commissioners and all rights, privileges,
10 and benefits conferred by the Compact shall terminate on the effective date of termination. A cure
11 of the default does not relieve the offending state of obligations or liabilities incurred during the
12 period of the default.

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

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

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

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

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

8 **§30-3F-19. Dispute resolution.**

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

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

14 **§30-3F-20. Member states, effective date and amendment.**

15 (a) Any state is eligible to become a member state of the Compact.

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

19 (c) The governors of nonmember states, or their designees, shall be invited to participate in
20 the activities of the Interstate Commission on a nonvoting basis prior to adoption of the Compact by
21 all states.

22 (d) The Interstate Commission may propose amendments to the Compact for enactment by

1 the member states. No amendment shall become effective and binding upon the Interstate
2 Commission and the member states unless and until it is enacted into law by unanimous consent of
3 the member states.

4 **§30-3F-21. Withdrawal.**

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

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

11 (c) The withdrawing state shall immediately notify the chairperson of the Interstate
12 Commission in writing upon the introduction of legislation repealing the Compact in the withdrawing
13 state.

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

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

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

22 (g) The Interstate Commission is authorized to develop rules to address the impact of the

1 withdrawal of a member state on licenses granted in other member states to physicians who
2 designated the withdrawing member state as the state of principal license.

3 **§30-3F-22. Dissolution.**

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

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

9 **§30-3F-23. Severability and construction.**

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

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

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

15 **§30-3F-24. Binding effect of Compact and other laws.**

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

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

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

22 (d) All agreements between the Interstate Commission and the member states are binding in

1 accordance with their terms.

2 (e) In the event any provision of the Compact exceeds the Constitutional limits imposed on
3 the Legislature of any member state, such provision shall be ineffective to the extent of the conflict
4 with the Constitutional provision in question in that member state.

NOTE: The purpose of this bill is to adopt and approve the Interstate Medical Licensure Compact.

This article is new; therefore, it has been completely underscored.