

**MINA' TRENTAI TRES NA LIHESLATURAN GUÅHAN**  
**2016 (SECOND) Regular Session**

**Bill No. 328-33 (COR)**

Introduced by:

D.G. RODRIGUEZ, JR. ✓

**AN ACT TO ADD NEW ARTICLE 2A TO CHAPTER 12,  
PART 1 OF TITLE 10, GUAM CODE ANNOTATED,  
FOR PURPOSES OF ADOPTING THE INTERSTATE  
MEDICAL LICENSURE COMPACT PURSUANT TO  
LAW.**

2016 FEB 24 PM 2:30

1        **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2        **Section 1. Legislative Finding and Intent.** *I Liheslaturan* Guåhan finds that the  
3 Guam Board of Medical Examiners has adopted by resolution the “Interstate Medical  
4 Licensure Compact”, an interstate compact providing for reciprocal licensure between  
5 member states for qualified physicians from member states meeting physician licensing  
6 criteria, which, at a minimum 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, or a  
9 medical school listed in the International Medical Education Directory or its  
10 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 examinations  
14 accepted by a state medical board as an equivalent examination for licensure  
15 purposes;

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

1 Osteopathic Association;

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

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

7 It is the desire of the Guam Board of Medical Examiners that Guam become a  
8 member state in the Compact by adopting the "Interstate Medical Licensure Compact"  
9 pursuant to law.

10 The Compact initially became effective and binding upon legislative enactment of  
11 the Compact into law by no less than seven (7) states. Thereafter, it becomes effective  
12 and binding on a state upon enactment of the Compact into law by that state, or territory.

13 It is the intent of *I Liheslaturan Guåhan* that Guam become a member state by  
14 adopting the "Interstate Medical Licensure Compact."

15 **Section 2.** A new Article 2A is *added* to Chapter 12, Part 1, of Title 10, Guam  
16 Code Annotated, hereby adopting by law the "Interstate Medical Licensure Compact", to  
17 read:

## 18 "Article 2A

### 19 Adoption of Interstate Medical Licensure Compact

#### 20 Section 1. Purpose

21 In order to strengthen access to health care, and in recognition of the advances in  
22 the delivery of health care, the member states of the Interstate Medical Licensure  
23 Compact have allied in common purpose to develop a comprehensive process that  
24 complements the existing licensing and regulatory authority of state medical boards,  
25 provides a streamlined process that allows physicians to become licensed in multiple  
26 states, thereby enhancing the portability of a medical license and ensuring the safety of

1 patients. The Compact creates another pathway for licensure and does not otherwise  
2 change a state's existing Medical Practice Act. The Compact also adopts the prevailing  
3 standard for licensure and affirms that the practice of medicine occurs where the patient  
4 is located at the time of the physician-patient encounter, and therefore, requires the  
5 physician to be under the jurisdiction of the state medical board where the patient is  
6 located. State medical boards that participate in the Compact retain the jurisdiction to  
7 impose an adverse action against a license to practice medicine in that state issued to a  
8 physician through the procedures in the Compact.

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10 **Section 2. Definitions**

11 In this compact:

12 (a) "Bylaws" means those bylaws established by the Interstate Commission  
13 pursuant to Section 11 for its governance, or for directing and controlling its actions and  
14 conduct.

15 (b) "Commissioner" means the voting representative appointed by each member  
16 board pursuant to Section 11.

17 (c) "Conviction" means a finding by a court that an individual is guilty of a  
18 criminal offense through adjudication, or entry of a plea of guilt or no contest to the  
19 charge by the offender. Evidence of an entry of a conviction of a criminal offense by the  
20 court shall be considered final for purposes of disciplinary action by a member board.

21 (d) "Expedited License" means a full and unrestricted medical license granted by a  
22 member state to an eligible physician through the process set forth in the Compact.

23 (e) "Interstate Commission" means the interstate commission created pursuant to  
24 Section 11.

25 (f) "License" means authorization by a state for a physician to engage in the  
26 practice of medicine, which would be unlawful without the authorization.

1 (g) "Medical Practice Act" means laws and regulations governing the practice of  
2 allopathic and osteopathic medicine within a member state.

3 (h) "Member Board" means a state agency in a member state that acts in the  
4 sovereign interests of the state by protecting the public through licensure, regulation, and  
5 education of physicians as directed by the state government.

6 (i) "Member State" means a state that has enacted the Compact.

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

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

11 (1) Is a graduate of a medical school accredited by the Liaison Committee  
12 on Medical Education, the Commission on Osteopathic College  
13 Accreditation, or a medical school listed in the International Medical  
14 Education Directory or its equivalent;

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

20 (3) Successfully completed graduate medical education approved by the  
21 Accreditation Council for Graduate Medical Education or the American  
22 Osteopathic Association;

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

26 (5) Possesses a full and unrestricted license to engage in the practice of

1 medicine issued by a member board;

2 (6) Has never been convicted, received adjudication, deferred adjudication,  
3 community supervision, or deferred disposition for any offense by a court of  
4 appropriate jurisdiction;

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

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

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

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

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

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

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

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1           **Section 3. Eligibility**

2           (a) A physician must meet the eligibility requirements as defined in Section 2(k) to  
3 receive an expedited license under the terms and provisions of the Compact.

4           (b) A physician who does not meet the requirements of Section 2(k) may obtain a  
5 license to practice medicine in a member state if the individual complies with all laws  
6 and requirements, other than the Compact, relating to the issuance of a license to practice  
7 medicine in that state.

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9           **Section 4. Designation of State of Principal License**

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

13               (1) the state of primary residence for the physician, or

14               (2) the state where at least 25% of the practice of medicine occurs, or

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

16               (4) if no state qualifies under subsection (1), subsection (2), or subsection  
17 (3), the state designated as state of residence for purpose of federal income  
18 tax.

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

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

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24           **Section 5. Application and Issuance of Expedited Licensure**

25          (a) A physician seeking licensure through the Compact shall file an application for  
26 an expedited license with the member board of the state selected by the physician as the

1 state of principal license.

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

6 (i) Static qualifications, which include verification of medical education,  
7 graduate medical education, results of any medical or licensing examination,  
8 and other qualifications as determined by the Interstate Commission through  
9 rule, shall not be subject to additional primary source verification where  
10 already primary source verified by the state of principal license.

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

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

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

25 (d) After receiving verification of eligibility under subsection (b) and any fees  
26 under subsection (c), a member board shall issue an expedited license to the physician.

1 This license shall authorize the physician to practice medicine in the issuing state  
2 consistent with the Medical Practice Act and all applicable laws and regulations of the  
3 issuing member board and member state.

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

7 (f) An expedited license obtained through the Compact shall be terminated if a  
8 physician fails to maintain a license in the state of principal licensure for a non-  
9 disciplinary reason, without redesignation of a new state of principal licensure.

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

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#### 14 **Section 6. Fees for Expedited Licensure**

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

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

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#### 21 **Section 7. Renewal and Continued Participation**

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

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

25 (2) Has not been convicted, received adjudication, deferred adjudication,  
26 community supervision, or deferred disposition for any offense by a court of



1 appropriate jurisdiction;

2 (3) Has not had a license authorizing the practice of medicine subject to discipline  
3 by a licensing agency in any state, federal, or foreign jurisdiction, excluding any  
4 action related to non-payment of fees related to a license; and

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

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

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

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

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

16 (f) The Interstate Commission is authorized to develop rules to address renewal of  
17 licenses obtained through the Compact.

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19 **Section 8. Coordinated Information System**

20 (a) The Interstate Commission shall establish a database of all physicians  
21 licensed, or who have applied for licensure, under Section 5.

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

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

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

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

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

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

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11 **Section 9. Joint Investigations**

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

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

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

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

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

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24 **Section 10. Disciplinary Actions**

25 (a) Any disciplinary action taken by any member board against a physician  
26 licensed through the Compact shall be deemed unprofessional conduct which may be

1 subject to discipline by other member boards, in addition to any violation of the Medical  
2 Practice Act or regulations in that state.

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

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

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

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

18 (d) If a license granted to a physician by a member board is revoked, surrendered  
19 or relinquished in lieu of discipline, or suspended, then any license(s) issued to the  
20 physician by any other member board(s) shall be suspended, automatically and  
21 immediately without further action necessary by the other member board(s), for ninety  
22 (90) days upon entry of the order by the disciplining board, to permit the member  
23 board(s) to investigate the basis for the action under the Medical Practice Act of that  
24 state. A member board may terminate the automatic suspension of the license it issued  
25 prior to the completion of the ninety (90) day suspension period in a manner consistent  
26 with the Medical Practice Act of that state.

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**Section 11. Interstate Medical Licensure Compact Commission**

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

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

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

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

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

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

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

3 (g) Each Commissioner participating at a meeting of the Interstate Commission is  
4 entitled to one vote. A majority of Commissioners shall constitute a quorum for the  
5 transaction of business, unless a larger quorum is required by the bylaws of the Interstate  
6 Commission. A Commissioner shall not delegate a vote to another Commissioner. In  
7 the absence of its Commissioner, a member state may delegate voting authority for a  
8 specified meeting to another person from that state who shall meet the requirements of  
9 subsection (d).

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

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

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

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

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

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

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

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

25 (i) The Interstate Commission shall keep minutes which shall fully describe all  
26 matters discussed in a meeting and shall provide a full and accurate summary of actions

1 taken, including record of any roll call votes.

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

5 (k) The Interstate Commission shall establish an executive committee, which shall  
6 include officers, members, and others as determined by the bylaws. The executive  
7 committee shall have the power to act on behalf of the Interstate Commission, with the  
8 exception of rulemaking, during periods when the Interstate Commission is not in  
9 session. When acting on behalf of the Interstate Commission, the executive committee  
10 shall oversee the administration of the Compact including enforcement and compliance  
11 with the provisions of the Compact, its bylaws and rules, and other such duties as  
12 necessary.

13 (l) The Interstate Commission may establish other committees for governance and  
14 administration of the Compact.

15

16 **Section 12. Powers And Duties Of The Interstate Commission**

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

18 (a) Oversee and maintain the administration of the Compact;

19 (b) Promulgate rules which shall be binding to the extent and in the manner  
20 provided for in the Compact;

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

23 (d) Enforce compliance with Compact provisions, the rules promulgated by the  
24 Interstate Commission, and the bylaws, using all necessary and proper means, including  
25 but not limited to the use of judicial process;

26 (e) Establish and appoint committees including, but not limited to, an executive

1 committee as required by Section 11, which shall have the power to act on behalf of the  
2 Interstate Commission in carrying out its powers and duties;

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

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

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

7 (i) Purchase and maintain insurance and bonds;

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

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

13 (l) Accept donations and grants of money, equipment, supplies, materials and  
14 services, and to receive, utilize, and dispose of it in a manner consistent with the conflict  
15 of interest policies established by the Interstate Commission;

16 (m) Lease, purchase, accept contributions or donations of, or otherwise to own,  
17 hold, improve or use, any property, real, personal, or mixed;

18 (n) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose  
19 of any property, real, personal, or mixed;

20 (o) Establish a budget and make expenditures;

21 (p) Adopt a seal and bylaws governing the management and operation of the  
22 Interstate Commission;

23 (q) Report annually to the legislatures and governors of the member states  
24 concerning the activities of the Interstate Commission during the preceding year. Such  
25 reports shall also include reports of financial audits and any recommendations that may  
26 have been adopted by the Interstate Commission;

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

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

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

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

7  
8 **Section 13. Finance Powers**

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

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

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

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

23  
24 **Section 14. Organization and Operation of the Interstate Commission**

25 (a) The Interstate Commission shall, by a majority of Commissioners present and  
26 voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry



1 out the purposes of the Compact within twelve (12) months of the first Interstate  
2 Commission meeting.

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

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

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

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

1 person.

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

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

## 23 24 **Section 15. Rulemaking Functions of the Interstate Commission**

25 (a) The Interstate Commission shall promulgate reasonable rules in order to  
26 effectively and efficiently achieve the purposes of the Compact. Notwithstanding the

1 foregoing, in the event the Interstate Commission exercises its rulemaking authority in a  
2 manner that is beyond the scope of the purposes of the Compact, or the powers granted  
3 hereunder, then such an action by the Interstate Commission shall be invalid and have  
4 no force or effect.

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

8 (c) Not later than thirty (30) days after a rule is promulgated, any person may file a  
9 petition for judicial review of the rule in the United States District Court for the District  
10 of Columbia or the federal district where the Interstate Commission has its principal  
11 offices, provided that the filing of such a petition shall not stay or otherwise prevent the  
12 rule from becoming effective unless the court finds that the petitioner has a substantial  
13 likelihood of success. The court shall give deference to the actions of the Interstate  
14 Commission consistent with applicable law and shall not find the rule to be unlawful if  
15 the rule represents a reasonable exercise of the authority granted to the Interstate  
16 Commission.

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## 18 **Section 16. Oversight of Interstate Compact**

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

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

1 Commission.

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

7

### 8 **Section 17. Enforcement of Interstate Compact**

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

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

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

22

### 23 **Section 18. Default Procedures**

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

1 (b) If the Interstate Commission determines that a member state has defaulted in  
2 the performance of its obligations or responsibilities under the Compact, or the bylaws or  
3 promulgated rules, the Interstate Commission shall:

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

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

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

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

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

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

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

1 defaulting state.

2 (h) The defaulting state may appeal the action of the Interstate Commission by  
3 petitioning the United where the Interstate Commission has its principal offices. The  
4 prevailing party shall be awarded all costs of such litigation including reasonable  
5 attorney's fees.

6

7 **Section 19. Dispute Resolution**

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

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

13

14 **Section 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  
17 of the Compact into law by no less than seven (7) states. Thereafter, it shall become  
18 effective and binding on a state upon enactment of the Compact into law by that state.

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

22 (d) The Interstate Commission may propose amendments to the Compact for  
23 enactment by the member states. No amendment shall become effective and binding  
24 upon the Interstate Commission and the member states unless and until it is enacted into  
25 law by unanimous consent of the member states.

26

1           **Section 21. Withdrawal**

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

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

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

12           (d) The Interstate Commission shall notify the other member states of the  
13 withdrawing state's intent to withdraw within sixty (60) days of its receipt of notice  
14 provided under subsection (c).

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

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

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

24  
25           **Section 22. Dissolution**

26           (a) The Compact shall dissolve effective upon the date of the withdrawal or

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

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

7

### 8 **Section 23. Severability and Construction**

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

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

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

16

### 17 **Section 24. Binding Effect of Compact And Other Laws**

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

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

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

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

26 (e) In the event any provision of the Compact exceeds the constitutional limits



- 1 imposed on the legislature of any member state, such provision shall be ineffective to the
- 2 extent of the conflict with the constitutional provision in question in that member state.”