EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor Of Guam

FEB 13 2018

GCA 34-16-1521
Speaker Benjamin J.F. Cruz

FEB 13 2018
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Received By: Ellen

Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuåttro Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 124-34 (COR), **"AN ACT TO *ADD* A NEW ARTICLE 2A TO CHAPTER 12, PART 1, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ADOPTING THE "INTERSTATE MEDICAL LICENSURE COMPACT" PURSUANT TO LAW,"** which was signed on February 9, 2018, as **Public Law 34-73.**

Senseramente,

EDDIE BAZA CALVO

2018 FEB 13 PM 3:47 C.S.

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LÅHEN GUÅHAN*

This is to certify that **Bill No. 124-34 (COR), "AN ACT TO *ADD* A NEW ARTICLE 2A TO CHAPTER 12, PART 1, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ADOPTING THE "INTERSTATE MEDICAL LICENSURE COMPACT" PURSUANT TO LAW,"** was on the 26th day of January 2018, duly and regularly passed.

Benjamin J.F. Cruz
Speaker

Attested:

Régine Biscoe Lee
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 29 day of JAN, 2018, at 1:45 o'clock P.M.

Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: FEB 09 2018

Public Law No. 34-73

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. 124-34 (COR)

Introduced by: Dennis G. Rodriguez, Jr.
Joe S. San Agustin
Fernando Barcinas Esteves
Tommy Morrison
FRANK B. AGUON, JR.
William M. Castro
Telena Cruz Nelson
Thomas C. Ada
B. J.F. Cruz
James V. Espaldon
Régine Biscoe Lee
Louise B. Muña
Michael F.Q. San Nicolas
Therese M. Terlaje
Mary Camacho Torres

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

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the Guam Board of Medical Examiners has adopted by resolution the "Interstate Medical Licensure Compact," an interstate compact providing for reciprocal licensure between member states for qualified physicians from member states meeting physician licensing criteria, which, at a minimum, means any person who:

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

(b) has passed each component of the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) within three (3) attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

(c) has successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;

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

(e) possesses a full and unrestricted license to engage in the practice of medicine issued by a member board.

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

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

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

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

"**ARTICLE 2A**

ADOPTION OF INTERSTATE MEDICAL LICENSURE COMPACT

Section 1. Purpose. In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the Interstate Medical Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides 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. The Compact creates another pathway for licensure and does not otherwise change a state's existing Medical Practice Act. The Compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the Compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the Compact.

Section 2. Definitions.

In this Compact:

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

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

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

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

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

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

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

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

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

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

(k) "Physician" means any person who:

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 3. Eligibility.

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

(b) A physician who does not meet the requirements of Section 2(k) may obtain a license to practice medicine in a member state if the individual

complies with all laws and requirements, other than the Compact, relating to the issuance of a license to practice medicine in that state.

Section 4. Designation of State of Principal License.

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

(1) the state of primary residence for the physician; or

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

(3) the location of the physician's employer; or

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

(b) A physician may re-designate a member state as state of principal license at any time, as long as the state meets the requirements in Subsection (a).

(c) The Interstate Commission is authorized to develop rules to facilitate re-designation of another member state as the state of principal license.

Section 5. Application and Issuance of Expedited Licensure.

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

(b) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license *shall*

evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the Interstate Commission.

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

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

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

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

(d) After receiving verification of eligibility under Subsection (b) and any fees under Subsection (c), a member board *shall* issue an expedited license to the physician. This license *shall* authorize the physician to practice

medicine in the issuing state consistent with the Medical Practice Act and all applicable laws and regulations of the issuing member board and member state.

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

(f) An expedited license obtained though the Compact *shall* be terminated if a physician fails to maintain a license in the state of principal licensure for a non-disciplinary reason, without re-designation of a new state of principal licensure.

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

Section 6. Fees for Expedited Licensure.

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

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

Section 7. Renewal and Continued Participation.

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

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

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

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

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

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

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

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

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

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

Section 8. Coordinated Information System.

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

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

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

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

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

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

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

Section 9. Joint Investigations.

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

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

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

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

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

Section 10. Disciplinary Actions.

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

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

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

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

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

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

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.

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

(g) Each Commissioner participating at a meeting of the Interstate Commission is entitled to one vote. A majority of Commissioners *shall* constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission. A Commissioner *shall*

not delegate a vote to another Commissioner. In the absence of its Commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of Subsection (d).

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

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

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

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

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

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

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

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

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

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

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

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

Section 12. Powers and Duties of the Interstate Commission.

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

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

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

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

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

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

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

(g) Establish and maintain one or more offices;

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

(i) Purchase and maintain insurance and bonds;

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

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

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

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

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

(o) Establish a budget and make expenditures;

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

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

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

(s) Maintain records in accordance with the bylaws;

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

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

Section 13. Finance Powers.

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

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

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

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

Section 14. Organization and Operation of the Interstate Commission.

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

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

(c) Officers selected in Subsection (b) *shall* serve without remuneration from the Interstate Commission.

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

(1) The liability of the executive director and employees of the Interstate Commission or representatives of the Interstate Commission, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the

constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

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

(3) To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission *shall* be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate

Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

Section 15. Rulemaking Functions of the Interstate Commission.

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

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

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

Section 16. Oversight of Interstate Compact.

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

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

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

Section 17. Enforcement of Interstate Compact.

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

(b) The Interstate Commission may, by majority vote of the Commissioners, initiate legal action in the United States District Court for the District of Columbia, or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the Compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement

is necessary, the prevailing party *shall* be awarded all costs of such litigation including reasonable attorney's fees.

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

Section 18. Default Procedures.

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

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

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

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

(c) If the defaulting state fails to cure the default, the defaulting state *shall* be terminated from the Compact upon an affirmative vote of a majority of the Commissioners and all rights, privileges, and benefits conferred by the Compact *shall* terminate on the effective date of termination. A cure of the

default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

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

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

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

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

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

Section 19. Dispute Resolution.

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

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

Section 20. Member States, Effective Date and Amendment.

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

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

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

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

Section 21. Withdrawal.

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

(b) Withdrawal from the Compact *shall* be by the enactment of a statute repealing the same, but *shall not* take effect until one (1) year after the

effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

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

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

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

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

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

Section 22. Dissolution.

(a) The Compact *shall* dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the Compact to one (1) member state.

(b) Upon the dissolution of the Compact, the Compact becomes null and void and *shall* be of no further force or effect, and the business and affairs

of the Interstate Commission *shall* be concluded and surplus funds *shall* be distributed in accordance with the bylaws.

Section 23. Severability and Construction.

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

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

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

Section 24. Binding Effect of Compact and Other Laws.

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

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

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

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

(e) In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, such provision *shall* be ineffective to the extent of the conflict with the constitutional provision in question in that member state."