

1                                   **INTERSTATE MEDICAL LICENSURE COMPACT**

2   2015 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Raymond P. Ward**

5   Senate Sponsor: Evan J. Vickers

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7   **LONG TITLE**

8   **General Description:**

9               This bill enacts an interstate licensing compact to streamline the licensing of a  
10 physician in multiple states.

11 **Highlighted Provisions:**

12               This bill:

- 13               ▶ establishes the purpose of the compact;
- 14               ▶ defines terms;
- 15               ▶ establishes eligibility for licensure under the compact;
- 16               ▶ establishes a license application issuance and renewal process;
- 17               ▶ establishes a database for physician licensure;
- 18               ▶ provides a process for joint investigations and disciplinary actions;
- 19               ▶ creates an Interstate Medical Licensure Compact Commission;
- 20               ▶ creates powers and duties for the Interstate Medical Licensure Compact

21 Commission, including:

- 22               • finance powers;
- 23               • organization and operation;
- 24               • rulemaking; and
- 25               • oversight;
- 26               ▶ establishes an enforcement mechanism and dispute resolution process for the

27 Interstate Medical Licensure Compact; and



28           ▶ provides a process for withdrawal from the compact and dissolution of the compact.

29 **Money Appropriated in this Bill:**

30           None

31 **Other Special Clauses:**

32           None

33 **Utah Code Sections Affected:**

34 ENACTS:

35           **58-67b-101**, Utah Code Annotated 1953

36           **58-67b-102**, Utah Code Annotated 1953

37           **58-67b-103**, Utah Code Annotated 1953

38           **58-67b-104**, Utah Code Annotated 1953

39           **58-67b-105**, Utah Code Annotated 1953

40           **58-67b-106**, Utah Code Annotated 1953

41           **58-67b-107**, Utah Code Annotated 1953

42           **58-67b-108**, Utah Code Annotated 1953

43           **58-67b-109**, Utah Code Annotated 1953

44           **58-67b-110**, Utah Code Annotated 1953

45           **58-67b-111**, Utah Code Annotated 1953

46           **58-67b-112**, Utah Code Annotated 1953

47           **58-67b-113**, Utah Code Annotated 1953

48           **58-67b-114**, Utah Code Annotated 1953

49           **58-67b-115**, Utah Code Annotated 1953

50           **58-67b-116**, Utah Code Annotated 1953

51           **58-67b-117**, Utah Code Annotated 1953

52           **58-67b-118**, Utah Code Annotated 1953

53           **58-67b-119**, Utah Code Annotated 1953

54           **58-67b-120**, Utah Code Annotated 1953

55           **58-67b-121**, Utah Code Annotated 1953

56           **58-67b-122**, Utah Code Annotated 1953

57           **58-67b-123**, Utah Code Annotated 1953

58           **58-67b-124**, Utah Code Annotated 1953

59 [58-67b-125](#), Utah Code Annotated 1953

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61 *Be it enacted by the Legislature of the state of Utah:*

62 Section 1. Section **58-67b-101** is enacted to read:

63 **CHAPTER 67b. INTERSTATE MEDICAL LICENSURE COMPACT**

64 **58-67b-101. Title.**

65 This chapter is known as the "Interstate Medical Licensure Compact."

66 Section 2. Section **58-67b-102** is enacted to read:

67 **58-67b-102. Section 1 -- Purpose.**

68 In order to strengthen access to health care, and in recognition of the advances in the  
69 delivery of health care, the member states of the Interstate Medical Licensure Compact have  
70 allied in common purpose to develop a comprehensive process that complements the existing  
71 licensing and regulatory authority of state medical boards and provides a streamlined process  
72 that allows physicians to become licensed in multiple states, thereby enhancing the portability  
73 of a medical license and ensuring the safety of patients. The Compact creates another pathway  
74 for licensure and does not otherwise change a state's existing Medical Practice Act. The  
75 Compact also adopts the prevailing standard for licensure and affirms that the practice of  
76 medicine occurs where the patient is located at the time of the physician-patient encounter, and  
77 therefore, requires the physician to be under the jurisdiction of the state medical board where  
78 the patient is located. State medical boards that participate in the Compact retain the  
79 jurisdiction to impose an adverse action against a license to practice medicine in that state  
80 issued to a physician through the procedures in the Compact.

81 Section 3. Section **58-67b-103** is enacted to read:

82 **58-67b-103. Section 2 -- Definitions**

83 In this compact:

84 (1) "Bylaws" means those bylaws established by the Interstate Commission pursuant to  
85 Section [58-67b-112](#) for its governance, or for directing and controlling its actions and conduct.

86 (2) "Commissioner" means the voting representative appointed by each member board  
87 pursuant to Section [58-67b-112](#).

88 (3) "Conviction" means a finding by a court that an individual is guilty of a criminal  
89 offense through adjudication, or entry of a plea of guilt or no contest to the charge by the

90 offender. Evidence of an entry of a conviction of a criminal offense by the court shall be  
91 considered final for purposes of disciplinary action by a member board.

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

94 (5) "Interstate Commission" means the interstate commission created pursuant to  
95 Section [58-67b-112](#).

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

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

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

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

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

105 (11) "Physician" means any person who:

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

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

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

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

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

120 (f) has never been convicted, received adjudication, deferred adjudication, community

121 supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

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

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

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

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

132 (13) "Rule" means a written statement by the Interstate Commission promulgated  
133 pursuant to Section 58-67b-113 that is of general applicability, implements, interprets, or  
134 prescribes a policy or provision of the Compact, or an organizational, procedural, or practice  
135 requirement of the Interstate Commission, and has the force and effect of statutory law in a  
136 member state, and includes the amendment, repeal, or suspension of an existing rule.

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

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

141 Section 4. Section **58-67b-104** is enacted to read:

142 **58-67b-104. Section 3 -- Eligibility.**

143 (1) A physician must meet the eligibility requirements as defined in Subsection  
144 58-67b-103(11) to receive an expedited license under the terms and provisions of the Compact.

145 (2) A physician who does not meet the requirements of Subsection 58-67b-103(11)  
146 may obtain a license to practice medicine in a member state if the individual complies with all  
147 laws and requirements, other than the Compact, relating to the issuance of a license to practice  
148 medicine in that state.

149 Section 5. Section **58-67b-105** is enacted to read:

150 **58-67b-105. Section 4 -- Designation of state of principal license.**

151 (1) A physician shall designate a member state as the state of principal license for

152 purposes of registration for expedited licensure through the Compact if the physician possesses  
 153 a full and unrestricted license to practice medicine in that state, and the state is:

- 154 (a) the state of primary residence for the physician;  
 155 (b) the state where at least 25% of the practice of medicine occurs;  
 156 (c) the location of the physician's employer; or  
 157 (d) if no state qualifies under Subsection (1)(a), Subsection (1)(b), or Subsection (1)(c),  
 158 the state designated as state of residence for purpose of federal income tax.

159 (2) A physician may redesignate a member state as state of principal license at any  
 160 time, as long as the state meets the requirements in Subsection (1).

161 (3) The Interstate Commission is authorized to develop rules to facilitate redesignation  
 162 of another member state as the state of principal license.

163 Section 6. Section **58-67b-106** is enacted to read:

164 **58-67b-106. Section 5 -- Application and issuance of expedited licensure.**

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

168 (2) Upon receipt of an application for an expedited license, the member board within  
 169 the state selected as the state of principal license shall evaluate whether the physician is eligible  
 170 for expedited licensure and issue a letter of qualification, verifying or denying the physician's  
 171 eligibility, to the Interstate Commission, including:

172 (a) static qualifications, which include verification of medical education, graduate  
 173 medical education, results of any medical or licensing examination, and other qualifications as  
 174 determined by the Interstate Commission through rule, shall not be subject to additional  
 175 primary source verification where the primary source has already been verified by the state of  
 176 principal license;

177 (b) ~~§~~→ **(i)** ←~~§~~ the member board within the state selected as the state of principal license  
 177a shall, in

178 the course of verifying eligibility, perform a criminal background check of an applicant,  
 179 including the use of the results of fingerprint or other biometric data checks compliant with the  
 180 requirements of the Federal Bureau of Investigation, with the exception of federal employees  
 181 who have suitability determination in accordance with U.S. C.F.R. Sec. 731.202; and

181a **§→ **(ii) if the state selected as the state of principal license is Utah:****

181b **(A)the member board in Utah shall submit the applicant's fingerprints and any other**  
 181c **personal identification information necessary for the performance of the background check** ☺

181d **to the Bureau of Criminal Identification within the Utah Department of Public Safety; and**  
181e **(B)the Bureau of Criminal Identification shall perform the background check,**  
181f **including submitting the personal identification information to the Federal Bureau of**  
181g **Investigation, and inform the member board of the results; and** ←**§**  
182 **(c) appeal on the determination of eligibility shall be made to the member state where**

183 the application was filed and shall be subject to the law of that state.

184 (3) Upon verification in Subsection (2), physicians eligible for an expedited license  
185 shall complete the registration process established by the Interstate Commission to receive a  
186 license in a member state selected pursuant to Subsection (1), including the payment of any  
187 applicable fees.

188 (4) After receiving verification of eligibility under Subsection (2) and any fees under  
189 Subsection (3), a member board shall issue an expedited license to the physician. This license  
190 shall authorize the physician to practice medicine in the issuing state consistent with the  
191 Medical Practice Act and all applicable laws and regulations of the issuing member board and  
192 member state.

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

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

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

201 Section 7. Section **58-67b-107** is enacted to read:

202 **58-67b-107. Section 6 -- Fees for expedited licensure.**

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

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

207 Section 8. Section **58-67b-108** is enacted to read:

208 **58-67b-108. Section 7 -- Renewal and continued participation.**

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

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

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



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

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

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

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

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

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

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

229 Section 9. Section **58-67b-109** is enacted to read:

230 **58-67b-109. Section 8 -- Coordinated information system.**

231 (1) The Interstate Commission shall establish a database of all physicians licensed, or  
232 who have applied for licensure, under Section [58-67b-106](#).

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

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

238 (4) Member boards may report any non-public complaint, disciplinary, or investigatory  
239 information not required by Subsection (3) to the Interstate Commission.

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

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

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

247 Section 10. Section **58-67b-110** is enacted to read:

248 **58-67b-110. Section 9 -- Joint investigations.**

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

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

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

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

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

259 Section 11. Section **58-67b-111** is enacted to read:

260 **58-67b-111. Section 10 -- Disciplinary actions.**

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

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

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

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

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

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

288 Section 12. Section **58-67b-112** is enacted to read:

289 **58-67b-112. Section 11 -- Interstate Medical Licensure Compact Commission.**

290 (1) The member states hereby create the "Interstate Medical Licensure Compact  
291 Commission."

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

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

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

305 (a) an allopathic or osteopathic physician appointed to a member board;

306 (b) an executive director, executive secretary, or similar executive of a member board;

307 or

308 (c) a member of the public appointed to a member board.

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

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

315 (7) Each commissioner participating at a meeting of the Interstate Commission is  
316 entitled to one vote. A majority of commissioners shall constitute a quorum for the transaction  
317 of business, unless a larger quorum is required by the bylaws of the Interstate Commission. A  
318 commissioner shall not delegate a vote to another commissioner. In the absence of its  
319 commissioner, a member state may delegate voting authority for a specified meeting to another  
320 person from that state who shall meet the requirements of Subsection (4).

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

325 (a) relate solely to the internal personnel practices and procedures of the Interstate  
326 Commission;

327 (b) discuss matters specifically exempted from disclosure by federal statute;

328 (c) discuss trade secrets, commercial, or financial information that is privileged or  
329 confidential;

330 (d) involve accusing a person of a crime, or formally censuring a person;

331 (e) discuss information of a personal nature where disclosure would constitute a clearly  
332 unwarranted invasion of personal privacy;

333 (f) discuss investigative records compiled for law enforcement purposes; or

334 (g) specifically relate to the participation in a civil action or other legal proceeding.

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

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

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

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

350           Section 13. Section **58-67b-113** is enacted to read:

351           **58-67b-113. Section 12 -- Powers and duties of the Interstate Commission.**

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

353           (1) oversee and maintain the administration of the Compact;

354           (2) promulgate rules which shall be binding to the extent and in the manner provided  
355 for in the Compact;

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

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

361           (5) establish and appoint committees including, but not limited to, an executive  
362 committee as required by Section [58-67b-112](#), which shall have the power to act on behalf of  
363 the Interstate Commission in carrying out its powers and duties;

364           (6) pay, or provide for the payment of the expenses related to the establishment,  
365 organization, and ongoing activities of the Interstate Commission;

366           (7) establish and maintain one or more offices;

367           (8) borrow, accept, hire, or contract for services of personnel;

368           (9) purchase and maintain insurance and bonds;

369 (10) employ an executive director who shall have the power to employ, select, or  
370 appoint employees, agents, or consultants, and to determine their qualifications, define their  
371 duties, and fix their compensation;

372 (11) establish personnel policies and programs relating to conflicts of interest, rates of  
373 compensation, and qualifications of personnel;

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

377 (13) lease, purchase, accept contributions or donations of, or otherwise own, hold,  
378 improve, or use, any property, real, personal, or mixed;

379 (14) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of  
380 any property, real, personal, or mixed;

381 (15) establish a budget and make expenditures;

382 (16) adopt a seal and bylaws governing the management and operation of the Interstate  
383 Commission;

384 (17) report annually to the legislatures and governors of the member states concerning  
385 the activities of the Interstate Commission during the preceding year, which shall include  
386 reports of financial audits and any recommendations that may have been adopted by the  
387 Interstate Commission;

388 (18) coordinate education, training, and public awareness regarding the Compact, its  
389 implementation, and its operation;

390 (19) maintain records in accordance with the bylaws;

391 (20) seek and obtain trademarks, copyrights, and patents; and

392 (21) perform such functions as may be necessary or appropriate to achieve the purposes  
393 of the Compact.

394 Section 14. Section **58-67b-114** is enacted to read:

395 **58-67b-114. Section 13 -- Finance powers.**

396 (1) The Interstate Commission may levy and collect an annual assessment from each  
397 member state to cover the cost of the operations and activities of the Interstate Commission and  
398 its staff. The total assessment must be sufficient to cover the annual budget approved each year  
399 for which revenue is not provided by other sources. The aggregate annual assessment amount

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

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

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

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

409 Section 15. Section **58-67b-115** is enacted to read:

410 **58-67b-115. Section 14 -- Organization and operation of the Interstate**  
411 **Commission.**

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

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

420 (3) Officers selected in Subsection (2) shall serve without remuneration from the  
421 Interstate Commission.

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

430 (b) The liability of the executive director and employees of the Interstate Commission

431 or representatives of the Interstate Commission, acting within the scope of such person's  
432 employment or duties for acts, errors, or omissions occurring within such person's state, may  
433 not exceed the limits of liability set forth under the constitution and laws of that state for state  
434 officials, employees, and agents. The Interstate Commission is considered to be an  
435 instrumentality of the states for the purposes of any such action. Nothing in this Subsection  
436 (4)(b) shall be construed to protect such person from suit or liability for damage, loss, injury, or  
437 liability caused by the intentional or willful and wanton misconduct of such person.

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

447 (d) To the extent not covered by the state involved, the member state, or the Interstate  
448 Commission, the representatives or employees of the Interstate Commission shall be held  
449 harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained  
450 against such persons arising out of an actual or alleged act, error, or omission that occurred  
451 within the scope of Interstate Commission employment, duties, or responsibilities, or that such  
452 persons had a reasonable basis for believing occurred within the scope of Interstate  
453 Commission employment, duties, or responsibilities, provided that the actual or alleged act,  
454 error, or omission did not result from intentional or willful and wanton misconduct on the part  
455 of such persons.

456 Section 16. Section **58-67b-116** is enacted to read:

457 **58-67b-116. Section 15 -- Rulemaking functions of the Interstate Commission.**

458 (1) The Interstate Commission shall promulgate reasonable rules in order to effectively  
459 and efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the  
460 event the Interstate Commission exercises its rulemaking authority in a manner that is beyond  
461 the scope of the purposes of the Compact, or the powers granted hereunder, then such an action



462 by the Interstate Commission shall be invalid and have no force or effect.

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

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

474 Section 17. Section **58-67b-117** is enacted to read:

475 **58-67b-117. Section 16 -- Oversight of Interstate Compact.**

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

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

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

488 Section 18. Section **58-67b-118** is enacted to read:

489 **58-67b-118. Section 17 -- Enforcement of Interstate Compact.**

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

492 (2) The Interstate Commission may, by majority vote of the commissioners, initiate

493 legal action in the United States District Court for the District of Columbia, or, at the discretion  
494 of the Interstate Commission, in the federal district where the Interstate Commission has its  
495 principal offices, to enforce compliance with the provisions of the Compact, and its  
496 promulgated rules and bylaws, against a member state in default. The relief sought may  
497 include both injunctive relief and damages. In the event judicial enforcement is necessary, the  
498 prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

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

502 Section 19. Section **58-67b-119** is enacted to read:

503 **58-67b-119. Section 18 -- Default procedures.**

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

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

510 (a) provide written notice to the defaulting state and other member states, of the nature  
511 of the default, the means of curing the default, and any action taken by the Interstate  
512 Commission. The Interstate Commission shall specify the conditions by which the defaulting  
513 state must cure its default; and

514 (b) provide remedial training and specific technical assistance regarding the default.

515 (3) If the defaulting state fails to cure the default, the defaulting state shall be  
516 terminated from the Compact upon an affirmative vote of a majority of the commissioners and  
517 all rights, privileges, and benefits conferred by the Compact shall terminate on the effective  
518 date of termination. A cure of the default does not relieve the offending state of obligations or  
519 liabilities incurred during the period of the default.

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

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

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

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

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

537 Section 20. Section **58-67b-120** is enacted to read:

538 **58-67b-120. Section 19 -- Dispute resolution.**

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

542 (2) The Interstate Commission shall promulgate rules providing for both mediation and  
543 binding dispute resolution as appropriate.

544 Section 21. Section **58-67b-121** is enacted to read:

545 **58-67b-121. Section 20 -- Member states, effective date and amendment.**

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

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

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

553 (4) The Interstate Commission may propose amendments to the Compact for  
554 enactment by the member states. No amendment shall become effective and binding upon the

555 Interstate Commission and the member states unless and until it is enacted into law by  
556 unanimous consent of the member states.

557 Section 22. Section **58-67b-122** is enacted to read:

558 **58-67b-122. Section 21 -- Withdrawal.**

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

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

566 (3) The withdrawing state shall immediately notify the chairperson of the Interstate  
567 Commission in writing upon the introduction of legislation repealing the Compact in the  
568 withdrawing state.

569 (4) The Interstate Commission shall notify the other member states of the withdrawing  
570 state's intent to withdraw within 60 days of its receipt of notice provided under Subsection (3).

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

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

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

580 Section 23. Section **58-67b-123** is enacted to read:

581 **58-67b-123. Section 22 -- Dissolution.**

582 (1) The Compact shall dissolve effective upon the date of the withdrawal or default of  
583 the member state that reduces the membership in the Compact to one member state.

584 (2) Upon the dissolution of the Compact, the Compact becomes null and void and shall  
585 be of no further force or effect, and the business and affairs of the Interstate Commission shall

586 be concluded and surplus funds shall be distributed in accordance with the bylaws.

587 Section 24. Section **58-67b-124** is enacted to read:

588 **58-67b-124. Section 23 -- Severability and construction.**

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

592 (2) The provisions of the Compact shall be liberally construed to effectuate its  
593 purposes.

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

596 Section 25. Section **58-67b-125** is enacted to read:

597 **58-67b-125. Section 24 -- Binding effect of Compact and other laws.**

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

600 (2) All laws in a member state, including Title 63G, Chapter 4, Administrative  
601 Procedures Act, in conflict with the Compact are superseded to the extent of the conflict.

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

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

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

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**Legislative Review Note**  
as of 1-12-15 10:23 AM

**Office of Legislative Research and General Counsel**