

2
3 State of Arkansas
4 94th General Assembly

A Bill

JMB/JMB
HOUSE BILL

5
6
7 By: Representatives A. Collins, L. Johnson

8
9 Filed with: House Committee on Public Health, Welfare, and Labor
10 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

11 AN ACT TO ESTABLISH THE INTERSTATE MEDICAL LICENSURE
12 COMPACT; AND FOR OTHER PURPOSES.
13
14

Subtitle

15
16 TO ESTABLISH THE INTERSTATE MEDICAL
17 LICENSURE COMPACT.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21
22 SECTION 1. Arkansas Code Title 17, Chapter 95, is amended to add an
23 additional subchapter to read as follows:

Subchapter 12 – Interstate Medical Licensure Compact

24
25
26 17-95-1201. Text of compact.

27 The Interstate Medical Licensure Compact is enacted into law and
28 entered into by this state with all states legally joining therein and in the
29 form substantially as follows:

INTERSTATE MEDICAL LICENSURE COMPACT

SECTION 1. PURPOSE

30
31
32 In order to strengthen access to health care, and in recognition of the
33 advances in the delivery of health care, the member states of the Interstate
34 Medical Licensure Compact have allied in common purpose to develop a
35 comprehensive process that complements the existing licensing and regulatory
36

1 authority of state medical boards, provides a streamlined process that allows
2 physicians to become licensed in multiple states, thereby enhancing the
3 portability of a medical license and ensuring the safety of patients. The
4 Compact creates another pathway for licensure and does not otherwise change a
5 state's existing Medical Practice Act. The Compact also adopts the prevailing
6 standard for licensure and affirms that the practice of medicine occurs where
7 the patient is located at the time of the physician-patient encounter, and
8 therefore, requires the physician to be under the jurisdiction of the state
9 medical board where the patient is located. State medical boards that
10 participate in the Compact retain the jurisdiction to impose an adverse
11 action against a license to practice medicine in that state issued to a
12 physician through the procedures in the Compact.

14 SECTION 2. DEFINITIONS

15 In this compact:

16 (a) "Bylaws" means those bylaws established by the Interstate
17 Commission pursuant to Section 11.

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

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

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

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

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

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

35 (h) "Member Board" means a state agency in a member state that acts in
36 the sovereign interests of the state by protecting the public through

1 licensure, regulation, and education of physicians as directed by the state
2 government.

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

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

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

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

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

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

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

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

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

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

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

36 (9) Is not under active investigation by a licensing agency or

1 law enforcement authority in any state, federal, or foreign jurisdiction.

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

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

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

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

17
18 SECTION 3. ELIGIBILITY

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

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

26
27 SECTION 4. DESIGNATION OF STATE OF PRINCIPAL LICENSE

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

32 (1) The state of principal residence for the physician, or

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

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

36 (4) If no state qualifies under subsection (1), subsection (2),

1 or subsection (3), the state designated as state of residence for purpose of
2 federal income tax.

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

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

9
10 SECTION 5. APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

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

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

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

25 (2) The member board within the state selected as the state of
26 principal license shall, in the course of verifying eligibility, perform a
27 criminal background check of an applicant, including the use of the results
28 of fingerprint or other biometric data checks compliant with the requirements
29 of the Federal Bureau of Investigation, with the exception of federal
30 employees who have suitability determination in accordance with 5 C.F.R. §
31 731.202.

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

35 (c) Upon verification in subsection (b), physicians eligible for an
36 expedited license shall complete the registration process established by the

1 Interstate Commission to receive a license in a member state selected
2 pursuant to subsection (a), including the payment of any applicable fees.

3 (d) After receiving verification of eligibility under subsection (b)
4 and any fees under subsection (c), a member board shall issue an expedited
5 license to the physician. This license shall authorize the physician to
6 practice medicine in the issuing state consistent with the Medical Practice
7 Act and all applicable laws and regulations of the issuing member board and
8 member state.

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

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

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

20 21 SECTION 6. FEES FOR EXPEDITED LICENSURE

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

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

27 28 SECTION 7. RENEWAL AND CONTINUED PARTICIPATION

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

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

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

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

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

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

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

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

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

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

20
21 SECTION 8. COORDINATED INFORMATION SYSTEM

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

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

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

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

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

36 (f) All information provided to the Interstate Commission or

1 distributed by member boards shall be confidential, filed under seal, and
2 used only for investigatory or disciplinary matters.

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

6 SECTION 9. JOINT INVESTIGATIONS

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

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

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

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

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

22 SECTION 10. DISCIPLINARY ACTIONS

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

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

36 (c) If disciplinary action is taken against a physician by a member

1 board not in the state of principal license, any other member board may deem
2 the action conclusive as to matter of law and fact decided, and:

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

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

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

19
20 SECTION 11. INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

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

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

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

32 (d) The Interstate Commission shall consist of two voting
33 representatives appointed by each member state who shall serve as
34 Commissioners. In states where allopathic and osteopathic physicians are
35 regulated by separate member boards, or if the licensing and disciplinary
36 authority is split between separate member boards, or if the licensing and

1 disciplinary authority is split between multiple member boards within a
2 member state, the member state shall appoint one representative from each
3 member board. A Commissioner shall be a(n):

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

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

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

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

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

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

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

29 (1) Relate solely to the internal personnel practice and
30 procedures of the Interstate Commission;

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

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

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

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

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

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

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

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

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

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

24
25 SECTION 12. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

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

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

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

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

35 (e) Establish and appoint committees including, but not limited to, an
36 executive committee as required by Section 11, which shall have the power to

1 act on behalf of the Interstate Commission in carrying out its powers and
2 duties;

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

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

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

8 (i) Purchase and maintain insurance and bonds;

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

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

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

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

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

23 (o) Establish a budget and make expenditures;

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

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

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

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

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

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

1
2 SECTION 13. FINANCE POWERS

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

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

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

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

17
18 SECTION 14. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

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

28 (c) Officers selected in subsection (b) shall serve without
29 remuneration for the Interstate Commission.

30 (d) The officers and employees of the Interstate Commission shall be
31 immune from suit and liability, either personally or in their official
32 capacity, for a claim for damage to or loss of property or personal injury or
33 other civil liability caused or arising out of, or relating to, an actual or
34 alleged act, error, or omission that occurred, or that such person had a
35 reasonable basis for believing occurred, within the scope of Interstate
36 Commission employment, duties, or responsibilities; provided that such person

1 shall not be protected from suit or liability for damage, loss, injury, or
2 liability caused by the intentional or willful and wanton misconduct of such
3 person.

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

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

25 (g) To the extent not covered by the state involved, member state, or
26 the Interstate Commission, the representatives or employees of the Interstate
27 Commission shall be held harmless in the amount of a settlement or judgement,
28 including attorney's fees and costs, obtained against such persons arising
29 out of an actual or alleged act, error, or omission that occurred within the
30 scope of the Interstate Commission employment, duties, or responsibilities,
31 or that such persons had a reasonable basis for believing occurred within the
32 scope of Interstate Commission employment, duties, or responsibilities,
33 provided that the actual or alleged act, error, or omission did not result
34 from intentional or willful and wanton misconduct on the part of such person.

35
36 SECTION 15. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

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

22

23 SECTION 16. OVERSIGHT OF INTERSTATE COMPACT

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

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

34 (c) The Interstate Commission shall be entitled to receive all
35 services of process in any such proceeding, and shall have standing to
36 intervene in the proceeding for all purposes. Failure to provide service of

1 process to the Interstate Commission shall render a judgment or order void as
2 to the Interstate Commission, the Compact, or promulgated rules.

3
4 SECTION 17. ENFORCEMENT OF INTERSTATE COMPACT

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

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

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

19
20 SECTION 18. DEFAULT PROCEDURES

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

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

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

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

35 (c) If the defaulting state fails to cure the default, the defaulting
36 state shall be terminated from the Compact upon an affirmative vote of a

1 majority of the Commissioners and all rights, privileges, and benefits
2 conferred by the Compact shall terminate on the effective date of
3 termination. A cure of the default does not relieve the offending state of
4 obligations or liabilities incurred during the period of the default.

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

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

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

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

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

26 27 SECTION 19. DISPUTE RESOLUTION

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

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

33 34 SECTION 20. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

36 (b) The Compact shall become effective and binding upon legislative

1 enactment of the Compact into law by no less than seven (7) states.

2 Thereafter, it shall become effective and binding on a state upon enactment
3 of the Compact into law by that state.

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

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

11
12 SECTION 21. WITHDRAWAL

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

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

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

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

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

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

35 (g) The Interstate Commission is authorized to develop rules to
36 address the impact of the withdrawal of a member state on licenses granted in

1 other member states to physicians who designated the withdrawing member state
2 as the state of principal license.

3
4 SECTION 22. DISSOLUTION

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

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

12
13 SECTION 23. SEVERABILITY AND CONSTRUCTION

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

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

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

22
23 SECTION 24. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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

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

1
2 17-95-1202. Administration of compact – Rules.

3 (a) The Arkansas State Medical Board is the Interstate Medical
4 Licensure Compact administrator for this state.

5 (b)(1) The board shall promulgate rules necessary to implement this
6 subchapter.

7 (2) Rules promulgated by the board under subdivision (b)(1) of
8 this section shall be consistent with the Interstate Medical Licensure
9 Compact necessary to implement this subchapter.

10 (c) The board is not required to adopt the rules of the Interstate
11 Medical Licensure Compact Commission for those rules to be effective in this
12 state.

13
14 SECTION 2. Arkansas Code § 17-95-107(c)(1), concerning credentialing
15 information submitted to the Arkansas State Medical Board by board-licensed
16 physicians, is amended to read as follows:

17 (c)(1)(A)(i) All physicians licensed by the board shall submit such
18 credentialing information as the board may request so that the board may
19 verify the information by the primary source verification procedure in order
20 to make the information available to credentialing organizations.

21 (ii) If the physician should fail to submit the
22 information as the board requests within a period of thirty (30) days, the
23 failure can result in the suspension of the physician’s license to practice
24 medicine in the State of Arkansas after the matter is presented to the full
25 board for a hearing pursuant to the Arkansas Administrative Procedure Act, §
26 25-15-201 et seq.

27 (B) Upon entering the Interstate Medical Licensure
28 Compact, the board shall verify credentials either through:

29 (i)(a) The Federal Credentials Verification Service.

30 (b) As used in subdivision (c)(1)(B)(i) of
31 this section, "Federal Credentials Verification Service" means a system that
32 is used by the Federation of State Medical Boards to streamline licensure
33 across states; or

34 (ii) The state credentials verification service that
35 has been modified to align with the compact.

36

1 SECTION 3. Arkansas Code § 17-95-306, concerning criminal background
2 checks for a license or renewal of a license issued by the Arkansas State
3 Medical Board, is amended to add an additional subsection to read as follows:

4 (d) Upon entering the Interstate Medical Licensure Compact, the board
5 shall require that every applicant for a compact licensure shall provide
6 written authorization to the board to allow the Division of Arkansas State
7 Police to release the results of a state and federal criminal history
8 background check report to the board as provided in this section.

9
10 SECTION 4. DO NOT CODIFY. Initial rules.

11 (a) The Arkansas State Medical Board shall promulgate rules necessary
12 to implement this act.

13 (b) When adopting the initial rules to implement this act, the final
14 rules shall be filed with the Secretary of State for adoption under § 25-15-
15 204(f):

16 (1) On or before January 1, 2026; or

17 (2) If approval under § 10-3-309 has not occurred by January 1,
18 2026, as soon as practicable after approval under § 10-3-309.

19 (c) The board shall file the proposed rule with the Legislative
20 Council under § 10-3-309(c) sufficiently in advance of January 1, 2026, so
21 that the Legislative Council may consider the rule for approval before
22 January 1, 2026.

23
24
25 Referred by Representative L. Johnson

26 Prepared by: JMB/JMB

27
28