

**SENATE BILL NO. 2173**

Introduced by

Senators J. Lee, Anderson, Mathern

Representatives Lefor, Schneider, Westlind

1 A BILL for an Act to create and enact a new section to chapter 43-17 and a new chapter to  
2 title 43 of the North Dakota Century Code, relating to the interstate medical licensure compact  
3 and the payment of fees under the compact.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 43-17 of the North Dakota Century Code is created  
6 and enacted as follows:

7 Fees levied under subsection 1 of article XIII of the interstate medical licensure compact by  
8 the interstate medical licensure compact commission to the state of North Dakota must be paid  
9 by the board through the board's funding mechanism, and the board may not request funds  
10 deposited in the general fund for the fee.

11 **SECTION 2.** A new chapter to title 43 of the North Dakota Century Code is created and  
12 enacted as follows:

13 **ARTICLE I - PURPOSE**

14 In order to strengthen access to health care, and in recognition of the advances in the  
15 delivery of health care, the member states of the interstate medical licensure compact have  
16 allied in common purpose to develop a comprehensive process that complements the existing  
17 licensing and regulatory authority of state medical boards and provides a streamlined process  
18 that allows physicians to become licensed in multiple states, thereby enhancing the portability of  
19 a medical license and ensuring the safety of patients. The compact creates another pathway for  
20 licensure and does not otherwise change a state's existing medical practice act. The compact  
21 also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs  
22 where the patient is located at the time of the physician-patient encounter, and therefore,  
23 requires the physician to be under the jurisdiction of the state medical board where the patient  
24 is located. State medical boards that participate in the compact retain the jurisdiction to impose

1 an adverse action against a license to practice medicine in that state issued to a physician  
2 through the procedures in the compact.

3 **ARTICLE II - DEFINITIONS**

4 In this compact:

5 1. "Bylaws" means those bylaws established by the interstate commission pursuant to  
6 article XI for its governance, or for directing and controlling its actions and conduct.

7 2. "Commissioner" means the voting representative appointed by each member board  
8 pursuant to article XI.

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

13 4. "Expedited license" means a full and unrestricted medical license granted by a  
14 member state to an eligible physician through the process set forth in the compact.

15 5. "Interstate commission" means the interstate commission created pursuant to  
16 article XI.

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

19 7. "Medical practice act" means laws and regulations governing the practice of allopathic  
20 and osteopathic medicine within a member state.

21 8. "Member board" means a state agency in a member state which acts in the sovereign  
22 interests of the state by protecting the public through licensure, regulation, and  
23 education of physicians as directed by the state government.

24 9. "Member state" means a state that has enacted the compact.

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

26 11. "Physician" means any individual who:

27 a. Is a graduate of a medical school accredited by the liaison committee on medical  
28 education, the commission on osteopathic college accreditation, or a medical  
29 school listed in the international medical education directory or its equivalent;

30 b. Passed each component of the United States medical licensing examination  
31 (USMLE) or the comprehensive osteopathic medical licensing examination

- 1           (COMLEX-USA) within three attempts, or any of its predecessor examinations  
2           accepted by a state medical board as an equivalent examination for licensure  
3           purposes;  
4           c. Successfully completed graduate medical education approved by the  
5           accreditation council for graduate medical education or the American osteopathic  
6           association;  
7           d. Holds specialty certification or a time-unlimited specialty certificate recognized by  
8           the American board of medical specialties or the American osteopathic  
9           association's bureau of osteopathic specialists;  
10          e. Possesses a full and unrestricted license to engage in the practice of medicine  
11          issued by a member board;  
12          f. Has never been convicted or received adjudication, deferred adjudication,  
13          community supervision, or deferred disposition for any offense by a court of  
14          appropriate jurisdiction;  
15          g. Has never held a license authorizing the practice of medicine subjected to  
16          discipline by a licensing agency in any state, federal, or foreign jurisdiction,  
17          excluding any action related to nonpayment of fees related to a license;  
18          h. Has never had a controlled substance license or permit suspended or revoked by  
19          a state or the United States drug enforcement administration; and  
20          i. Is not under active investigation by a licensing agency or law enforcement  
21          authority in any state, federal, or foreign jurisdiction.  
22          12. "Practice of medicine" means the clinical prevention, diagnosis, or treatment of human  
23          disease, injury, or condition requiring a physician to obtain and maintain a license in  
24          compliance with the medical practice act of a member state.  
25          13. "Rule" means a written statement by the interstate commission promulgated pursuant  
26          to article XII of the compact, that is of general applicability, implements, interprets, or  
27          prescribes a policy or provision of the compact, or an organizational, procedural, or  
28          practice requirement of the interstate commission, and has the force and effect of  
29          statutory law in a member state, and includes the amendment, repeal, or suspension  
30          of an existing rule.  
31          14. "State" means any state, commonwealth, district, or territory of the United States.

- 1        15. "State of principal license" means a member state where a physician holds a license  
2        to practice medicine and which has been designated as such by the physician for  
3        purposes of registration and participation in the compact.

4                                   **ARTICLE III - ELIGIBILITY**

- 5        1. A physician must meet the eligibility requirements as defined in subsection 11 of  
6        article II to receive an expedited license under the terms and provisions of the  
7        compact.  
8        2. A physician who does not meet the requirements of subsection 11 of article II may  
9        obtain a license to practice medicine in a member state if the individual complies with  
10       all laws and requirements, other than the compact, relating to the issuance of a license  
11       to practice medicine in that state.

12                                  **ARTICLE IV - DESIGNATION OF STATE OF PRINCIPAL LICENSE**

- 13       1. A physician shall designate a member state as the state of principal license for  
14       purposes of registration for expedited licensure through the compact if the physician  
15       possesses a full and unrestricted license to practice medicine in that state, and the  
16       state is:  
17        a. The state of primary residence for the physician;  
18        b. The state where at least twenty-five percent of the practice of medicine occurs;  
19        c. The location of the physician's employer; or  
20        d. If no state qualifies under subdivisions a, b, or c, the state designated as state of  
21        residence for purpose of federal income tax.  
22       2. A physician may redesignate a member state as state of principal license at any time,  
23       as long as the state meets the requirements in subsection 1.  
24       3. The interstate commission may develop rules to facilitate redesignation of another  
25       member state as the state of principal license.

26                                  **ARTICLE V - APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE**

- 27       1. A physician seeking licensure through the compact shall file an application for an  
28       expedited license with the member board of the state selected by the physician as the  
29       state of principal license.  
30       2. Upon receipt of an application for an expedited license, the member board within the  
31       state selected as the state of principal license shall evaluate whether the physician is

1 eligible for expedited licensure and issue a letter of qualification, verifying or denying  
2 the physician's eligibility, to the interstate commission.

3 a. Static qualifications, which include verification of medical education, graduate  
4 medical education, results of any medical or licensing examination, and other  
5 qualifications as determined by the interstate commission through rule, may not  
6 be subject to additional primary source verification if already primary source  
7 verified by the state of principal license.

8 b. The member board within the state selected as the state of principal license shall,  
9 in the course of verifying eligibility, perform a criminal background check of an  
10 applicant, including the use of the results of fingerprint or other biometric data  
11 checks compliant with the requirements of the federal bureau of investigation,  
12 with the exception of federal employees who have suitability determination in  
13 accordance with title 5, Code of Federal Regulations, section 731.202.

14 c. Appeal on the determination of eligibility must be made to the member state  
15 where the application was filed and must be subject to the law of that state.

16 3. Upon verification in subsection 2, physicians eligible for an expedited license shall  
17 complete the registration process established by the interstate commission to receive  
18 a license in a member state selected pursuant to subsection 1, including the payment  
19 of any applicable fees.

20 4. After receiving verification of eligibility under subsection 2 and any fees under  
21 subsection 3, a member board shall issue an expedited license to the physician. This  
22 license must authorize the physician to practice medicine in the issuing state  
23 consistent with the medical practice act and all applicable laws and regulations of the  
24 issuing member board and member state.

25 5. An expedited license must be valid for a period consistent with the licensure period in  
26 the member state and in the same manner as required for other physicians holding a  
27 full and unrestricted license within the member state.

28 6. An expedited license obtained through the compact must be terminated if a physician  
29 fails to maintain a license in the state of principal licensure for a nondisciplinary  
30 reason, without redesignation of a new state of principal licensure.

- 1        7. The interstate commission may develop rules regarding the application process,  
2        including payment of any applicable fees, and the issuance of an expedited license.

3                                **ARTICLE VI - FEES FOR EXPEDITED LICENSURE**

- 4        1. A member state issuing an expedited license authorizing the practice of medicine in  
5        that state may impose a fee for a license issued or renewed through the compact.  
6        2. The interstate commission may develop rules regarding fees for expedited licenses.

7                                **ARTICLE VII - RENEWAL AND CONTINUED PARTICIPATION**

- 8        1. A physician seeking to renew an expedited license granted in a member state shall  
9        complete a renewal process with the interstate commission if the physician:  
10       a. Maintains a full and unrestricted license in a state of principal license;  
11       b. Has not been convicted or received adjudication, deferred adjudication,  
12       community supervision, or deferred disposition for any offense by a court of  
13       appropriate jurisdiction;  
14       c. Has not had a license authorizing the practice of medicine subject to discipline by  
15       a licensing agency in any state, federal, or foreign jurisdiction, excluding any  
16       action related to nonpayment of fees related to a license; and  
17       d. Has not had a controlled substance license or permit suspended or revoked by a  
18       state or the United States drug enforcement administration.  
19       2. Physicians shall comply with all continuing professional development or continuing  
20       medical education requirements for renewal of a license issued by a member state.  
21       3. The interstate commission shall collect any renewal fees charged for the renewal of a  
22       license and distribute the fees to the applicable member board.  
23       4. Upon receipt of any renewal fees collected in subsection 3, a member board shall  
24       renew the physician's license.  
25       5. Physician information collected by the interstate commission during the renewal  
26       process must be distributed to all member boards.  
27       6. The interstate commission may develop rules to address renewal of licenses obtained  
28       through the compact.

29                                **ARTICLE VIII - COORDINATED INFORMATION SYSTEM**

- 30       1. The interstate commission shall establish a database of all physicians licensed, or who  
31       have applied for licensure, under article V.

- 1       2. Notwithstanding any other provision of law, member boards shall report to the  
2       interstate commission any public action or complaints against a licensed physician  
3       who has applied or received an expedited license through the compact.
- 4       3. Member boards shall report disciplinary or investigatory information determined as  
5       necessary and proper by rule of the interstate commission.
- 6       4. Member boards may report any nonpublic complaint, disciplinary, or investigatory  
7       information not required by subsection 3 to the interstate commission.
- 8       5. Member boards shall share complaint or disciplinary information about a physician  
9       upon request of another member board.
- 10      6. All information provided to the interstate commission or distributed by member boards  
11      must be confidential, filed under seal, and used only for investigatory or disciplinary  
12      matters.
- 13      7. The interstate commission may develop rules for mandated or discretionary sharing of  
14      information by member boards.

#### **ARTICLE IX - JOINT INVESTIGATIONS**

- 16      1. Licensure and disciplinary records of physicians are deemed investigative.
- 17      2. In addition to the authority granted to a member board by its respective medical  
18      practice act or other applicable state law, a member board may participate with other  
19      member boards in joint investigations of physicians licensed by the member boards.
- 20      3. A subpoena issued by a member state must be enforceable in other member states.
- 21      4. Member boards may share any investigative, litigation, or compliance materials in  
22      furtherance of any joint or individual investigation initiated under the compact.
- 23      5. Any member state may investigate actual or alleged violations of the statutes  
24      authorizing the practice of medicine in any other member state in which a physician  
25      holds a license to practice medicine.

#### **ARTICLE X - DISCIPLINARY ACTIONS**

- 27      1. Any disciplinary action taken by any member board against a physician licensed  
28      through the compact must be deemed unprofessional conduct, which may be subject  
29      to discipline by other member boards, in addition to any violation of the medical  
30      practice act or regulations in that state.

- 1       2. If a license granted to a physician by the member board in the state of principal license  
2       is revoked, surrendered, or relinquished in lieu of discipline or suspended, all licenses  
3       issued to the physician by member boards must automatically be placed, without  
4       further action necessary by any member board, on the same status. If the member  
5       board in the state of principal license subsequently reinstates the physician's license,  
6       a license issued to the physician by any other member board must remain  
7       encumbered until that respective member board takes action to reinstate the license in  
8       a manner consistent with the medical practice act of that state.
- 9       3. If disciplinary action is taken against a physician by a member board not in the state of  
10      principal license, any other member board may deem the action conclusive as to  
11      matter of law and fact decided, and:
  - 12      a. Impose the same or lesser sanction against the physician so long as such  
13      sanctions are consistent with the medical practice act of that state; or
  - 14      b. Pursue separate disciplinary action against the physician under its respective  
15      medical practice act, regardless of the action taken in other member states.
- 16      4. If a license granted to a physician by a member board is revoked, surrendered, or  
17      relinquished in lieu of discipline, or suspended, any license issued to the physician by  
18      any other member board must be suspended, automatically and immediately without  
19      further action necessary by the other member board, for ninety days upon entry of the  
20      order by the disciplining board, to permit the member board to investigate the basis for  
21      the action under the medical practice act of that state. A member board may terminate  
22      the automatic suspension of the license it issued before the completion of the  
23      ninety-day suspension period in a manner consistent with the medical practice act of  
24      that state.

#### **ARTICLE XI - INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION**

- 26      1. The member states hereby create the interstate medical licensure compact  
27      commission.
- 28      2. The purpose of the interstate commission is the administration of the interstate  
29      medical licensure compact, which is a discretionary state function.
- 30      3. The interstate commission must be a body corporate and joint agency of the member  
31      states and must have all the responsibilities, powers, and duties set forth in the



1           compact, and such additional powers as may be conferred upon it by a subsequent  
2           concurrent action of the respective legislatures of the member states in accordance  
3           with the terms of the compact.

4           4. The interstate commission must consist of two voting representatives appointed by  
5           each member state who shall serve as commissioners. In states where allopathic and  
6           osteopathic physicians are regulated by separate member boards, or if the licensing  
7           and disciplinary authority is split between multiple member boards within a member  
8           state, the member state shall appoint one representative from each member board. A  
9           commissioner must be:

10          a. An allopathic or osteopathic physician appointed to a member board;

11          b. An executive director, executive secretary, or similar executive of a member  
12          board; or

13          c. A member of the public appointed to a member board.

14          5. The interstate commission shall meet at least once each calendar year. A portion of  
15          this meeting must be a business meeting to address such matters as may properly  
16          come before the commission, including the election of officers. The chairperson may  
17          call additional meetings and shall call for a meeting upon the request of a majority of  
18          the member states.

19          6. The bylaws may provide for meetings of the interstate commission to be conducted by  
20          telecommunication or electronic communication.

21          7. Each commissioner participating at a meeting of the interstate commission is entitled  
22          to one vote. A majority of commissioners constitutes a quorum for the transaction of  
23          business, unless a larger quorum is required by the bylaws of the interstate  
24          commission. A commissioner may not delegate a vote to another commissioner. In the  
25          absence of its commissioner, a member state may delegate voting authority for a  
26          specified meeting to another individual from that state who must meet the  
27          requirements of subsection 4.

28          8. The interstate commission shall provide public notice of all meetings and all meetings  
29          must be open to the public. The interstate commission may close a meeting, in full or  
30          in portion, if it determines by a two-thirds vote of the commissioners present that an  
31          open meeting would be likely to:

- 1           a. Relate solely to the internal personnel practices and procedures of the interstate
- 2           commission;
- 3           b. Discuss matters specifically exempted from disclosure by federal statute;
- 4           c. Discuss trade secrets, commercial, or financial information that is privileged or
- 5           confidential;
- 6           d. Involve accusing a person of a crime, or formally censuring a person;
- 7           e. Discuss information of a personal nature if disclosure would constitute a clearly
- 8           unwarranted invasion of personal privacy;
- 9           f. Discuss investigative records compiled for law enforcement purposes; or
- 10          g. Specifically relate to the participation in a civil action or other legal proceeding.
- 11          9. The interstate commission shall keep minutes that fully describe all matters discussed
- 12          in a meeting and shall provide a full and accurate summary of actions taken, including
- 13          record of any roll call votes.
- 14          10. The interstate commission shall make its information and official records, to the extent
- 15          not otherwise designated in the compact or by its rules, available to the public for
- 16          inspection.
- 17          11. The interstate commission shall establish an executive committee, which must include
- 18          officers, members, and others as determined by the bylaws. The executive committee
- 19          must have the power to act on behalf of the interstate commission, with the exception
- 20          of rulemaking, during periods when the interstate commission is not in session. If
- 21          acting on behalf of the interstate commission, the executive committee shall oversee
- 22          the administration of the compact, including enforcement and compliance with the
- 23          provisions of the compact, its bylaws and rules, and other such duties as necessary.
- 24          12. The interstate commission may establish other committees for governance and
- 25          administration of the compact.

## **ARTICLE XII - POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

The interstate commission has the duty and power to:

- 28          1. Oversee and maintain the administration of the compact;
- 29          2. Promulgate rules that must be binding to the extent and in the manner provided for in
- 30          the compact;

- 1       3. Issue, upon the request of a member state or member board, advisory opinions
- 2           concerning the meaning or interpretation of the compact, its bylaws, rules, and
- 3           actions;
- 4       4. Enforce compliance with compact provisions, the rules promulgated by the interstate
- 5           commission, and the bylaws, using all necessary and proper means, including the use
- 6           of judicial process;
- 7       5. Establish and appoint committees including, an executive committee as required by
- 8           article XI which may act on behalf of the interstate commission in carrying out its
- 9           powers and duties;
- 10      6. Pay, or provide for the payment of the expenses related to the establishment,
- 11           organization, and ongoing activities of the interstate commission;
- 12      7. Establish and maintain one or more offices;
- 13      8. Borrow, accept, hire, or contract for services of personnel;
- 14      9. Purchase and maintain insurance and bonds;
- 15      10. Employ an executive director who must have such powers to employ, select, or
- 16           appoint employees, agents, or consultants, and to determine their qualifications,
- 17           define their duties, and fix their compensation;
- 18      11. Establish personnel policies and programs relating to conflicts of interest, rates of
- 19           compensation, and qualifications of personnel;
- 20      12. Accept donations and grants of money, equipment, supplies, materials, and services,
- 21           and to receive, utilize, and dispose of it in a manner consistent with the conflict of
- 22           interest policies established by the interstate commission;
- 23      13. Lease, purchase, accept contributions or donations of, or otherwise to own, hold,
- 24           improve, or use, any property, real, personal, or mixed;
- 25      14. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
- 26           any property, real, personal, or mixed;
- 27      15. Establish a budget and make expenditures;
- 28      16. Adopt a seal and bylaws governing the management and operation of the interstate
- 29           commission;
- 30      17. Report annually to the legislatures and governors of the member states concerning the
- 31           activities of the interstate commission during the preceding year. Such reports must

1           also include reports of financial audits and any recommendations that may have been  
2           adopted by the interstate commission;

3       18. Coordinate education, training, and public awareness regarding the compact, its  
4           implementation, and its operation;

5       19. Maintain records in accordance with the bylaws;

6       20. Seek and obtain trademarks, copyrights, and patents; and

7       21. Perform such functions as may be necessary or appropriate to achieve the purposes  
8           of the compact.

### **ARTICLE XIII - FINANCE POWERS**

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

17       2. The interstate commission may not incur obligations of any kind before securing the  
18           funds adequate to meet the same.

19       3. The interstate commission may not pledge the credit of any of the member states,  
20           except by, and with the authority of, the member state.

21       4. The interstate commission must be subject to a yearly financial audit conducted by a  
22           certified or licensed public accountant and the report of the audit must be included in  
23           the annual report of the interstate commission.

### **ARTICLE XIV - ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION**

25       1. The interstate commission shall, by a majority of commissioners present and voting,  
26           adopt bylaws to govern its conduct as may be necessary or appropriate to carry out  
27           the purposes of the compact within twelve months of the first interstate commission  
28           meeting.

29       2. The interstate commission shall elect or appoint annually from among its  
30           commissioners a chairperson, a vice chairperson, and a treasurer, each of whom must  
31           have such authority and duties as may be specified in the bylaws. The chairperson, or

1 in the chairperson's absence or disability, the vice chairperson, shall preside at all  
2 meetings of the interstate commission.

3 3. Officers selected in subsection 2 shall serve without remuneration from the interstate  
4 commission.

5 4. The officers and employees of the interstate commission must be immune from suit  
6 and liability, either personally or in their official capacity, for a claim for damage to or  
7 loss of property or personal injury or other civil liability caused or arising out of, or  
8 relating to, an actual or alleged act, error, or omission that occurred, or that such  
9 individual had a reasonable basis for believing occurred, within the scope of interstate  
10 commission employment, duties, or responsibilities; provided that such individual may  
11 not be protected from suit or liability for damage, loss, injury, or liability caused by the  
12 intentional or willful and wanton misconduct of such individual.

13 a. The liability of the executive director and employees of the interstate commission  
14 or representatives of the interstate commission, acting within the scope of such  
15 individual's employment or duties for acts, errors, or omissions occurring within  
16 such individual's state, may not exceed the limits of liability set forth under the  
17 constitution and laws of that state for state officials, employees, and agents. The  
18 interstate commission is considered to be an instrumentality of the states for the  
19 purposes of any such action. This subsection may not be construed to protect  
20 such individual from suit or liability for damage, loss, injury, or liability caused by  
21 the intentional or willful and wanton misconduct of such individual.

22 b. The interstate commission shall defend the executive director, its employees, and  
23 subject to the approval of the attorney general or other appropriate legal counsel  
24 of the member state represented by an interstate commission representative,  
25 shall defend such interstate commission representative in any civil action seeking  
26 to impose liability arising out of an actual or alleged act, error, or omission that  
27 occurred within the scope of interstate commission employment, duties, or  
28 responsibilities, or that the defendant had a reasonable basis for believing  
29 occurred within the scope of interstate commission employment, duties, or  
30 responsibilities, provided that the actual or alleged act, error, or omission did not

1                   result from intentional or willful and wanton misconduct on the part of such  
2                   individual.

3                   c. To the extent not covered by the state involved, member state, or the interstate  
4                   commission, the representatives, or employees of the interstate commission  
5                   must be held harmless in the amount of a settlement or judgment, including  
6                   attorney's fees and costs, obtained against such individuals arising out of an  
7                   actual or alleged act, error, or omission that occurred within the scope of  
8                   interstate commission employment, duties, or responsibilities, or that such  
9                   individuals had a reasonable basis for believing occurred within the scope of  
10                  interstate commission employment, duties, or responsibilities, provided that the  
11                  actual or alleged act, error, or omission did not result from intentional or willful  
12                  and wanton misconduct on the part of such individuals.

13                  **ARTICLE XV - RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

- 14                  1. The interstate commission shall promulgate reasonable rules in order to effectively  
15                  and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, if  
16                  the interstate commission exercises its rulemaking authority in a manner that is  
17                  beyond the scope of the purposes of the compact, or the powers granted under the  
18                  compact, such an action by the interstate commission must be invalid and have no  
19                  force or effect.
- 20                  2. Rules deemed appropriate for the operations of the interstate commission must be  
21                  made pursuant to a rulemaking process that substantially conforms to the model state  
22                  administrative procedure act of 2010, and subsequent amendments thereto.
- 23                  3. Not later than thirty days after a rule is promulgated, any person may file a petition for  
24                  judicial review of the rule in the United States district court for the District of Columbia  
25                  or the federal district where the interstate commission has its principal offices,  
26                  provided that the filing of such a petition may not stay or otherwise prevent the rule  
27                  from becoming effective unless the court finds that the petitioner has a substantial  
28                  likelihood of success. The court shall give deference to the actions of the interstate  
29                  commission consistent with applicable law and may not find the rule to be unlawful if  
30                  the rule represents a reasonable exercise of the authority granted to the interstate  
31                  commission.

1                                   **ARTICLE XVI - OVERSIGHT OF INTERSTATE COMPACT**

- 2           1. The executive, legislative, and judicial branches of state government in each member  
3           state shall enforce the compact and shall take all actions necessary and appropriate to  
4           effectuate the compact's purposes and intent. The provisions of the compact and the  
5           rules promulgated under the compact must have standing as statutory law but may not  
6           override existing state authority to regulate the practice of medicine.
- 7           2. All courts shall take judicial notice of the compact and the rules in any judicial or  
8           administrative proceeding in a member state pertaining to the subject matter of the  
9           compact which may affect the powers, responsibilities, or actions of the interstate  
10          commission.
- 11          3. The interstate commission must be entitled to receive all service of process in any  
12          such proceeding, and must have standing to intervene in the proceeding for all  
13          purposes. Failure to provide service of process to the interstate commission renders a  
14          judgment or order void as to the interstate commission, the compact, or promulgated  
15          rules.

16                                   **ARTICLE XVII - ENFORCEMENT OF INTERSTATE COMPACT**

- 17          1. The interstate commission, in the reasonable exercise of its discretion, shall enforce  
18          the provisions and rules of the compact.
- 19          2. The interstate commission may, by majority vote of the commissioners, initiate legal  
20          action in the United States district court for the District of Columbia, or, at the  
21          discretion of the interstate commission, in the federal district where the interstate  
22          commission has its principal offices, to enforce compliance with the provisions of the  
23          compact, and its promulgated rules and bylaws, against a member state in default.  
24          The relief sought may include both injunctive relief and damages. If judicial  
25          enforcement is necessary, the prevailing party must be awarded all costs of such  
26          litigation including reasonable attorney's fees.
- 27          3. The remedies in this chapter may not be the exclusive remedies of the interstate  
28          commission. The interstate commission may avail itself of any other remedies  
29          available under state law or the regulation of a profession.

30                                   **ARTICLE XVIII - DEFAULT PROCEDURES**

- 1       1. The grounds for default, include failure of a member state to perform such obligations  
2       or responsibilities imposed upon it by the compact or the rules and bylaws of the  
3       interstate commission promulgated under the compact.
- 4       2. If the interstate commission determines a member state has defaulted in the  
5       performance of its obligations or responsibilities under the compact, or the bylaws or  
6       promulgated rules, the interstate commission shall:
  - 7       a. Provide written notice to the defaulting state and other member states, of the  
8       nature of the default, the means of curing the default, and any action taken by the  
9       interstate commission. The interstate commission shall specify the conditions by  
10       which the defaulting state must cure its default; and
  - 11       b. Provide remedial training and specific technical assistance regarding the default.
- 12       3. If the defaulting state fails to cure the default, the defaulting state must be terminated  
13       from the compact upon an affirmative vote of a majority of the commissioners and all  
14       rights, privileges, and benefits conferred by the compact must terminate on the  
15       effective date of termination. A cure of the default does not relieve the offending state  
16       of obligations or liabilities incurred during the period of the default.
- 17       4. Termination of membership in the compact must be imposed only after all other means  
18       of securing compliance have been exhausted. Notice of intent to terminate must be  
19       given by the interstate commission to the governor, the majority and minority leaders  
20       of the defaulting state's legislature, and each of the member states.
- 21       5. The interstate commission shall establish rules and procedures to address licenses  
22       and physicians that are materially impacted by the termination of a member state or  
23       the withdrawal of a member state.
- 24       6. The member state that has been terminated is responsible for all dues, obligations,  
25       and liabilities incurred through the effective date of termination, including obligations  
26       the performance of which extends beyond the effective date of termination.
- 27       7. The interstate commission may not bear any costs relating to any state that has been  
28       found to be in default or which has been terminated from the compact, unless  
29       otherwise mutually agreed upon in writing between the interstate commission and the  
30       defaulting state.



- 1       8. The defaulting state may appeal the action of the interstate commission by petitioning  
2       the United States district court for the District of Columbia or the federal district where  
3       the interstate commission has its principal offices. The prevailing party must be  
4       awarded all costs of such litigation including reasonable attorney's fees.

5                                   **ARTICLE XIX - DISPUTE RESOLUTION**

- 6       1. The interstate commission shall attempt, upon the request of a member state, to  
7       resolve disputes that are subject to the compact and which may arise among member  
8       states or member boards.

- 9       2. The interstate commission shall promulgate rules providing for both mediation and  
10       binding dispute resolution as appropriate.

11                                   **ARTICLE XX - MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT**

- 12       1. Any state is eligible to become a member state of the compact.
- 13       2. The compact must become effective and binding upon legislative enactment of the  
14       compact into law by no less than seven states. Thereafter, the compact must become  
15       effective and binding on a state upon enactment of the compact into law by that state.
- 16       3. The governors of nonmember states, or their designees, must be invited to participate  
17       in the activities of the interstate commission on a nonvoting basis before adoption of  
18       the compact by all states.
- 19       4. The interstate commission may propose amendments to the compact for enactment  
20       by the member states. An amendment may not become effective and binding upon the  
21       interstate commission and the member states unless and until it is enacted into law by  
22       unanimous consent of the member states.

23                                   **ARTICLE XXI - WITHDRAWAL**

- 24       1. Once effective, the compact must continue in force and remain binding upon each and  
25       every member state, provided that a member state may withdraw from the compact by  
26       specifically repealing the statute that enacted the compact into law.
- 27       2. Withdrawal from the compact must be by the enactment of a statute repealing the  
28       same, but may not take effect until one year after the effective date of such statute and  
29       until written notice of the withdrawal has been given by the withdrawing state to the  
30       governor of each other member state.

- 1       3. The withdrawing state shall immediately notify the chairperson of the interstate  
2       commission in writing upon the introduction of legislation repealing the compact in the  
3       withdrawing state.
- 4       4. The interstate commission shall notify the other member states of the withdrawing  
5       state's intent to withdraw within sixty days of its receipt of notice provided under  
6       subsection 3.
- 7       5. The withdrawing state is responsible for all dues, obligations, and liabilities incurred  
8       through the effective date of withdrawal, including obligations, the performance of  
9       which extend beyond the effective date of withdrawal.
- 10      6. Reinstatement following withdrawal of a member state must occur upon the  
11      withdrawing state reenacting the compact or upon such later date as determined by  
12      the interstate commission.
- 13      7. The interstate commission may develop rules to address the impact of the withdrawal  
14      of a member state on licenses granted in other member states to physicians who  
15      designated the withdrawing member state as the state of principal license.

#### **ARTICLE XXII - DISSOLUTION**

- 17      1. The compact shall dissolve effective upon the date of the withdrawal or default of the  
18      member state which reduces the membership in the compact to one member state.
- 19      2. Upon the dissolution of the compact, the compact becomes null and void and must be  
20      of no further force or effect, and the business and affairs of the interstate commission  
21      must be concluded and surplus funds must be distributed in accordance with the  
22      bylaws.

#### **ARTICLE XXIII - SEVERABILITY AND CONSTRUCTION**

- 24      1. The provisions of the compact must be severable, and if any phrase, clause,  
25      sentence, or provision is deemed unenforceable, the remaining provisions of the  
26      compact must be enforceable.
- 27      2. The provisions of the compact must be liberally construed to effectuate its purposes.
- 28      3. The compact may not be construed to prohibit the applicability of other interstate  
29      compacts to which the states are members.

#### **ARTICLE XXIV - BINDING EFFECT OF COMPACT AND OTHER LAWS**

- 1        1. This chapter does not prevent the enforcement of any other law of a member state  
2        that is not inconsistent with the compact.
- 3        2. All laws in a member state in conflict with the compact are superseded to the extent of  
4        the conflict.
- 5        3. All lawful actions of the interstate commission, including all rules and bylaws  
6        promulgated by the commission, are binding upon the member states.
- 7        4. All agreements between the interstate commission and the member states are binding  
8        in accordance with their terms.
- 9        5. If any provision of the compact exceeds the constitutional limits imposed on the  
10       legislature of any member state, such provision must be ineffective to the extent of the  
11       conflict with the constitutional provision in question in that member state.