

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND SEVENTEEN

S.P. 467 - L.D. 1359

**An Act To Adopt the Interstate Medical Licensure Compact**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 25 MRSA §1542-A, sub-§1, ¶¶K and L**, as enacted by PL 2015, c. 300, Pt. B, §3, are amended to read:

K. Who has applied for employment with the Department of Administrative and Financial Services, Bureau of Revenue Services, Office of Tax Policy and whose fingerprints have been required by the Associate Commissioner for Tax Policy pursuant to Title 36, section 194-B; ~~or~~

L. Who is assigned to provide services to the Department of Administrative and Financial Services, Bureau of Revenue Services pursuant to a contract or subcontract for services to the bureau and whose fingerprints have been required by the State Tax Assessor pursuant to Title 36, section 194-C;

**Sec. 2. 25 MRSA §1542-A, sub-§1, ¶¶M and N** are enacted to read:

M. Who is licensed under Title 32, chapter 36 and has applied for an expedited license under Title 32, section 18506; or

N. Who is licensed under Title 32, chapter 48 and has applied for an expedited license under Title 32, section 18506.

**Sec. 3. 25 MRSA §1542-A, sub-§3, ¶¶L and M** are enacted to read:

L. The State Police shall take or cause to be taken the fingerprints of the person named in subsection 1, paragraph M at the request of that person and upon payment of the expenses by that person as required by Title 32, section 2571-A.

M. The State Police shall take or cause to be taken the fingerprints of the person named in subsection 1, paragraph N at the request of that person and upon payment of the expenses by that person as required by Title 32, section 3275-A.

**Sec. 4. 25 MRSA §1542-A, sub-§4**, as amended by PL 2015, c. 300, Pt. B, §5, is further amended to read:

**4. Duty to submit to State Bureau of Identification.** It is the duty of the law enforcement agency taking the fingerprints as required by subsection 3, paragraphs A, B and G to transmit immediately to the State Bureau of Identification the criminal fingerprint record. Fingerprints taken pursuant to subsection 1, paragraph C, D, E or F or pursuant to subsection 5 may not be submitted to the State Bureau of Identification unless an express request is made by the commanding officer of the State Bureau of Identification. Fingerprints taken pursuant to subsection 1, paragraph G must be transmitted immediately to the State Bureau of Identification to enable the bureau to conduct state and national criminal history record checks for the Department of Education. The bureau may not use the fingerprints for any purpose other than that provided for under Title 20-A, section 6103. The bureau shall retain the fingerprints, except as provided under Title 20-A, section 6103, subsection 9. Fingerprints taken pursuant to subsection 1, paragraph I and subsection 3, paragraph I must be transmitted immediately to the State Bureau of Identification to enable the bureau to conduct state and national criminal history record checks for the court and the Department of Public Safety, Gambling Control Board, respectively. Fingerprints taken pursuant to subsection 1, paragraph J, K or L must be transmitted immediately to the State Bureau of Identification to enable the bureau to conduct state and national criminal history record checks for the Department of Administrative and Financial Services, Bureau of Revenue Services. Fingerprints taken pursuant to subsection 1, paragraph M must be transmitted immediately to the State Bureau of Identification to enable the bureau to conduct state and national criminal history record checks for the Board of Osteopathic Licensure, established in Title 32, chapter 36. Fingerprints taken pursuant to subsection 1, paragraph N must be transmitted immediately to the State Bureau of Identification to enable the bureau to conduct state and national criminal history record checks for the Board of Licensure in Medicine, established in Title 32, chapter 48.

**Sec. 5. 32 MRSA §2571-A** is enacted to read:

**§2571-A. Background check for expedited licensure through the Interstate Medical Licensure Compact**

**1. Background check.** The board shall request a background check for an individual licensed under this chapter who applies for an expedited license under section 18506. The background check must include criminal history record information obtained from the Maine Criminal Justice Information System and the Federal Bureau of Investigation.

A. The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8.

B. The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information.

C. An applicant shall submit to having fingerprints taken. The State Police, upon payment by the applicant, shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the

Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety.

D. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709.

E. State and federal criminal history record information of an applicant may be used by the board for the purpose of screening that applicant.

F. Information obtained pursuant to this subsection is confidential. The results of background checks received by the board are for official use only and may not be disseminated to the Interstate Medical Licensure Compact Commission, established in section 18512, or to any other person or entity.

G. An individual whose expedited licensure through the Interstate Medical Licensure Compact under chapter 145 has expired and who has not applied for renewal may request in writing that the State Bureau of Identification remove the individual's fingerprints from the bureau's fingerprint file. In response to a written request, the bureau shall remove the individual's fingerprints from the fingerprint file and provide written confirmation of that removal.

2. Rules. The board, following consultation with the State Bureau of Identification, shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 6. 32 MRSA §3275-A** is enacted to read:

**§3275-A. Background check for expedited licensure through the Interstate Medical Licensure Compact**

**1. Background check.** The board shall request a background check for an individual licensed under this chapter who applies for an expedited license under section 18506. The background check must include criminal history record information obtained from the Maine Criminal Justice Information System and the Federal Bureau of Investigation.

A. The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8.

B. The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information.

C. An applicant shall submit to having fingerprints taken. The State Police, upon payment by the applicant, shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the

portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety.

D. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709.

E. State and federal criminal history record information of an applicant may be used by the board for the purpose of screening that applicant.

F. Information obtained pursuant to this subsection is confidential. The results of background checks received by the board are for official use only and may not be disseminated to the Interstate Medical Licensure Compact Commission, established in section 18512, or to any other person or entity.

G. An individual whose expedited licensure through the Interstate Medical Licensure Compact under chapter 145 has expired and who has not applied for renewal may request in writing that the State Bureau of Identification remove the individual's fingerprints from the bureau's fingerprint file. In response to a written request, the bureau shall remove the individual's fingerprints from the fingerprint file and provide written confirmation of that removal.

2. Rules. The board, following consultation with the State Bureau of Identification, shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 7. 32 MRSA c. 145** is enacted to read:

## **CHAPTER 145**

### **INTERSTATE MEDICAL LICENSURE COMPACT**

#### **§18501. Short title**

This chapter may be known and cited as "the Interstate Medical Licensure Compact."

#### **§18502. Purpose**

In order to strengthen access to health care and in recognition of the advances in the delivery of health care, the member states of the Interstate Medical Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state member boards and provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The compact creates another pathway for licensure and does not otherwise change a state's existing medical practice act. The compact also adopts the prevailing standard for

licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter and therefore requires the physician to be under the jurisdiction of the state member board where the patient is located. State member boards that participate in the compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the compact.

This compact is the Maine enactment of the Interstate Medical Licensure Compact as revised by the Interstate Medical Licensure Compact Commission. The form, format and text of the compact have been changed minimally so as to conform to Maine statutory conventions. The changes are technical in nature and it is the intent of the Legislature that this Act be interpreted as substantively the same as the Interstate Medical Licensure Compact that is enacted by other member states.

### **§18503. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Bylaws.** "Bylaws" means those bylaws adopted by the interstate commission pursuant to section 18512 for its governance or for directing and controlling its actions and conduct.

**2. Commissioner.** "Commissioner" means the voting representative appointed by a member board pursuant to section 18512.

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

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

**5. Interstate commission.** "Interstate commission" means the Interstate Medical Licensure Compact Commission created pursuant to section 18512.

**6. License.** "License" means authorization by a state for a physician to engage in the practice of medicine.

**7. Medical practice act.** "Medical practice act" means the laws and rules governing the practice of allopathic and osteopathic medicine within a member state.

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

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

**10. Offense.** "Offense" means a felony, a Class A, Class B or Class C crime, an aggravated crime, a gross misdemeanor or a crime involving moral turpitude.

**11. Physician.** "Physician" means a person who:

A. Is a graduate of a medical school accredited by the Liaison Committee on Medical Education or the American Osteopathic Association's Commission on Osteopathic College Accreditation, or its successor, or a medical school listed in the International Medical Education Directory database or its successor;

B. Passed each component of the United States Medical Licensing Examination or the Comprehensive Osteopathic Medical Licensing Examination within 3 attempts or a predecessor examination accepted by a state member board as an equivalent examination for licensure purposes;

C. Successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;

D. Holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;

E. Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;

F. Has never been convicted or received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;

G. Has never held a license authorizing the practice of medicine and been subjected to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license;

H. Has never had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration; and

I. Is not under active investigation by a licensing agency or law enforcement authority in any state, federal or foreign jurisdiction.

**12. Practice of medicine.** "Practice of medicine" means the clinical prevention, diagnosis or treatment of a human disease, injury or condition requiring a physician to obtain and maintain a license in compliance with the medical practice act of a member state.

**13. Rule.** "Rule" means a written statement by the interstate commission promulgated pursuant to section 18513 that is of general applicability; implements, interprets or prescribes a policy or provision of the compact or an organizational, procedural or practice requirement of the interstate commission; has the force and effect of statutory law in a member state; and includes the amendment, repeal or suspension of an existing rule.

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

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

#### **§18504. Eligibility**

1. Eligibility requirements. A physician may receive an expedited license under the terms and provisions of the compact.

2. Exception. An individual who does not meet the requirements of section 18503, subsection 11 may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the compact, relating to the issuance of a license to practice medicine in that state.

#### **§18505. Designation of state of principal license**

1. State of principal license. A physician must designate a member state as the state of principal license for purposes of registration for expedited licensure through the compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

- A. The state of primary residence for the physician;
- B. The state where at least 25% of the physician's practice of medicine occurs;
- C. The location of the physician's employer; or
- D. If no state qualifies under paragraphs A to C, the state designated as the physician's state of residence for the purpose of federal income tax.

2. Redesignation. A physician may designate another member state as the state of principal license at any time after a designation under subsection 1, as long as the state meets the requirements in subsection 1.

3. Rules. The interstate commission is authorized to adopt rules pursuant to section 18516 to facilitate designation pursuant to subsection 2 of another member state as the state of principal license.

#### **§18506. Application for and issuance of expedited license**

1. Application. A physician seeking licensure through the compact must file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

2. Evaluation. Upon receipt of an application for an expedited license, the member board of the state selected by the physician as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the interstate commission.

A. Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination and other qualifications as determined by the interstate commission through rule, are not subject to additional primary source verification when already verified by primary source by the state of principal license.

B. The member board of the state selected by the physician as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks in compliance with the requirements of the Federal Bureau of Investigation, with the exception of federal employees who have been determined suitable in accordance with 5 Code of Federal Regulations, Section 731.202.

An appeal on the determination of eligibility must be made to the member state where the application was filed and is subject to the law of that state.

**3. Registration process.** Upon verification in subsection 2, a physician eligible for an expedited license must complete the registration process established by the interstate commission to receive an expedited license in a member state selected pursuant to subsection 1, including the payment of any applicable fees under section 18507.

**4. Expedited license.** After receiving verification of eligibility under subsection 2 and any fees under subsection 3, a member board shall issue an expedited license to the physician. The license authorizes the physician to practice medicine in the issuing state consistent with the medical practice act and all applicable laws and rules of the issuing member board and member state.

**5. Validity.** An expedited license is valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

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

**7. Rules.** The interstate commission is authorized to adopt rules pursuant to section 18516 regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

#### **§18507. Fees for expedited licensure**

**1. Fees.** A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the compact.

**2. Rules.** The interstate commission is authorized to adopt rules pursuant to section 18516 regarding fees for expedited licenses.

### **§18508. Renewal and continued participation**

**1. License renewal process.** A physician seeking to renew an expedited license granted in a member state must complete a renewal process with the interstate commission. The physician is eligible for renewal if the physician:

- A. Maintains a full and unrestricted license in a state of principal license;
- B. Has not been convicted or received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;
- C. Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license; and
- D. Has not had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.

**2. Professional development.** A physician must comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

**3. Renewal fees.** The interstate commission shall collect from the physician any renewal fee charged for the renewal of a license and distribute the fee to the applicable member board.

**4. License renewal.** Upon receipt of the renewal fee collected in subsection 3, a member board shall renew the physician's license.

**5. Physician information.** Physician information collected by the interstate commission during the renewal process must be distributed to all member boards.

**6. Rules.** The interstate commission is authorized to adopt rules pursuant to section 18516 to address renewal of licenses obtained through the compact.

### **§18509. Coordinated information system**

**1. Database.** The interstate commission shall establish a database of all physicians licensed or who have applied for licensure under section 18506.

**2. Public action or complaint.** Notwithstanding any other provision of law, a member board shall report to the interstate commission any public action or complaint against a physician licensed by that member board who has applied for or received an expedited license through the compact.

**3. Disciplinary or investigatory information.** A member board shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.

**4. Other reports.** A member board may report any nonpublic complaint, disciplinary or investigatory information not required to be reported by subsection 3 to the interstate commission.

**5. Information sharing.** A member board shall share complaint or disciplinary information about a physician upon request of another member board.

**6. Confidentiality.** Information provided to the interstate commission or distributed by a member board is confidential within the meaning of Title 1, section 402, subsection 3, paragraph A and may be used only for investigatory or disciplinary matters under sections 18510 and 18511.

**7. Rules.** The interstate commission is authorized to adopt rules pursuant to section 18516 regarding mandated or discretionary sharing of information by member boards.

#### **§18510. Joint investigations**

**1. Joint investigations.** In addition to the authority granted to a member board by its respective medical practice act or other applicable state law, a member board may participate with other member boards in joint investigations of a physician licensed by the member boards.

**2. Subpoenas.** A subpoena issued by a member state is enforceable in other member states.

**3. Materials sharing.** Notwithstanding any other provision of law, a member board may share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

**4. Investigations in other member states.** A member state may investigate actual or alleged violations of the laws authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

#### **§18511. Disciplinary actions**

**1. Unprofessional conduct.** A physician licensed through the compact who is the subject of a disciplinary action taken by a member board is deemed to have engaged in unprofessional conduct and may be subject to discipline by another member board, in addition to discipline for any violation of the medical practice act or rules in that member board's state.

**2. License revocation.** If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards must automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board remains encumbered until that respective member board takes action to reinstate the license in a manner consistent with the medical practice act of that member board's state.

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

A. Impose the same or a lesser sanction against the physician as long as such sanction is consistent with the medical practice act of that member board's state; or

B. Pursue separate disciplinary action against the physician under the medical practice act of the member board's state, regardless of the action taken in other member states.

**4. Licenses in other member states.** If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license issued to the physician by any other member board must be suspended, automatically and immediately without further action necessary by the other member board, for 90 days upon entry of the order by the disciplining member board, to permit the other member board to investigate the basis for the action under the medical practice act of that member board's state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the 90-day suspension period in a manner consistent with the medical practice act of that member board's state.

#### **§18512. Interstate medical licensure compact commission**

**1. Commission established.** The Interstate Medical Licensure Compact Commission is established.

**2. Duties.** The interstate commission shall administer the Interstate Medical Licensure Compact.

**3. Powers.** The interstate commission is a body corporate and joint agency of the member states and has all the responsibilities, powers and duties set forth in the compact and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the compact.

**4. Membership.** The interstate commission consists of 2 voting representatives appointed by each member state, who serve as commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A commissioner must:

A. Be an allopathic or osteopathic physician appointed to a member board;

B. Be an executive director, executive secretary or similar executive of a member board; or

C. Be a member of the public appointed to a member board.

**5. Meetings; officers.** The interstate commission shall meet at least once each calendar year to address such matters as may properly come before the commission.

including the election of officers including the chair. The chair may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

**6. Telecommunication or electronic communication.** The bylaws of the commission may provide for meetings to be conducted by telecommunication or electronic communication.

**7. Quorum.** A commissioner participating at a meeting of the interstate commission is entitled to one vote. A majority of commissioners constitutes a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. A commissioner may not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who meets the requirements of subsection 4.

**8. Public notice.** The interstate commission shall provide public notice of all meetings, and all meetings must be open to the public. The interstate commission may close a meeting, in full or in portion, if it determines by a 2/3 vote of the commissioners present that an open meeting would be likely to:

A. Relate solely to the internal personnel practices and procedures of the interstate commission;

B. Discuss matters specifically exempted from disclosure by federal statute;

C. Discuss trade secrets or commercial or financial information that is privileged or confidential;

D. Involve accusing a person of a crime or formally censuring a person;

E. Discuss information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

F. Discuss investigative records compiled for law enforcement purposes; or

G. Specifically relate to participation in a civil action or other legal proceeding.

**9. Minutes.** The interstate commission shall keep minutes that must fully describe all matters discussed in a meeting and provide a full and accurate summary of actions taken, including a record of any roll call votes.

**10. Public records.** The interstate commission shall make its information and official records, to the extent not otherwise designated in the compact or by rules adopted by the interstate commission, available to the public for inspection.

**11. Executive committee.** The interstate commission shall establish an executive committee, which must include officers, members and others as determined by the bylaws. The executive committee has the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. When acting on behalf of the interstate commission, the executive committee shall oversee the administration of the compact, including enforcement of and compliance with the provisions of the compact and the interstate commission's bylaws and rules, and perform other such duties as necessary.

12. Other committees. The interstate commission may establish other committees, in addition to the executive committee under subsection 11, for governance and administration of the compact.

**§18513. Powers and duties of the interstate commission**

**1. Duties.** The interstate commission shall:

A. Oversee and maintain the administration of the compact;

B. Adopt rules pursuant to section 18516, which are binding to the extent and in the manner provided for in the compact;

C. Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact and the interstate commission's bylaws, rules and actions;

D. Enforce compliance with compact provisions and the rules and bylaws adopted by the interstate commission using all necessary and proper means, including but not limited to the use of judicial process;

E. Pay, or provide for the payment of, the expenses related to the establishment, organization and ongoing activities of the interstate commission;

F. Purchase and maintain insurance and bonds;

G. Employ an executive director who has the power to employ, select or appoint employees, agents or consultants and to determine their qualifications, define their duties and fix their compensation;

H. Establish personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel;

I. Establish a budget and make expenditures;

J. Adopt a seal and bylaws governing the management and operation of the interstate commission;

K. Report annually to the legislatures and governors of the member states concerning the activities of the interstate commission during the preceding year. Reports must include reports of financial audits and any recommendations adopted by the interstate commission; and

L. Maintain records in accordance with the bylaws.

**2. Powers.** The interstate commission may:

A. Establish and appoint committees, including, but not limited to, an executive committee as required by section 18512, that have the power to act on behalf of the interstate commission in carrying out its powers and duties;

B. Establish and maintain one or more offices;

C. Borrow, accept, hire or contract for the services of personnel;

D. Accept donations and grants of money, equipment, supplies, materials and services, and receive, use and dispose of donations and grants in a manner consistent with the conflict of interest policies established by the interstate commission;

E. Lease, purchase, accept contributions or donations of or otherwise own, hold, improve or use any property, real, personal or mixed;

F. Sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

G. Coordinate education, training and public awareness regarding the compact and its implementation and operation;

H. Seek and obtain trademarks, copyrights and patents; and

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

#### **§18514. Finance powers**

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

**2. Obligations.** The interstate commission may not incur an obligation of any kind prior to securing the funds adequate to meet that obligation.

**3. Credit.** The interstate commission may not pledge the credit of another member state, except by and with the authority of that member state.

**4. Financial audit.** The interstate commission is subject to a yearly financial audit conducted by a certified or licensed public accountant, and the report of the audit must be included in the annual report of the interstate commission under section 18513, subsection 1, paragraph K.

#### **§18515. Organization and operation of the interstate commission**

**1. Bylaws.** The interstate commission shall, by a majority of commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact within 12 months of the first interstate commission meeting.

**2. Officers.** The interstate commission shall elect or appoint annually from among its commissioners a chair, a vice-chair and a treasurer, each of whom has the authority and duties as specified in the bylaws. The chair, or in the chair's absence or disability, the vice-chair, shall preside at all meetings of the interstate commission.

**3. Remuneration.** Officers selected in subsection 2 serve without remuneration from the interstate commission.

**4. Immunity and liability.** An officer or employee of the interstate commission is immune from suit and liability, either personally or in that person's official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error or omission that occurred, or that that officer or employee has a reasonable basis for believing occurred, within the scope of interstate commission employment, duties or responsibilities, except that that officer or employee is not protected from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of that officer or employee.

A. The liability of the executive director or an employee or representative of the interstate commission, acting within the scope of that executive director's, representative's or employee's employment or duties for acts, errors or omissions occurring within that executive director's, representative's or employee's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any action to enforce liability. Nothing in this paragraph may be construed to protect a person from suit or liability for damage, loss or injury caused by the intentional or willful and wanton misconduct of the executive director, representative or employee.

B. The interstate commission shall defend the executive director, an employee and, subject to the approval of the attorney general or other appropriate legal counsel of the member state, an interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of the executive director, employee or representative.

C. To the extent not covered by the state involved, a member state or the interstate commission, a representative or employee of the interstate commission must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against that person arising out of an actual or alleged act, error or omission that occurred or that that representative or employee has a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of that representative or employee.

### **§18516. Rule-making functions of the interstate commission**

**1. Rules.** The interstate commission shall adopt reasonable rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A, in order to effectively and efficiently achieve the purposes of the compact; however, if the interstate commission exercises its rule-making authority in a manner that is beyond the scope of

the purposes of the compact or the powers granted under the compact, then such an action by the interstate commission is invalid and has no force or effect.

**2. Rules conformation.** Rules for the operations of the interstate commission must be adopted pursuant to a rule-making process that substantially conforms to the "Revised Model State Administrative Procedure Act" (2010), as amended, of the National Conference of Commissioners on Uniform State Laws.

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

#### **§18517. Oversight of interstate compact**

**1. Enforcement.** The executive, legislative and judicial branches of state government in each member state shall enforce the compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and the rules adopted under the compact have standing as statutory law but do not override existing state authority to regulate the practice of medicine.

**2. Courts.** All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the compact that may affect the powers, responsibilities or actions of the interstate commission.

**3. Service of process.** The interstate commission is entitled to receive all service of process in any proceeding under subsection 2 and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission renders a judgment or order void as to the interstate commission, the compact or adopted rules.

#### **§18518. Enforcement of interstate compact**

**1. Enforcement.** The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

**2. Compliance.** The interstate commission may, by majority vote of the commissioners, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices to enforce compliance with the provisions of the compact and its adopted rules and bylaws against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

**3. Remedies.** The remedies in this section are not the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

**§18519. Default procedures**

**1. Grounds.** The grounds for default under section 18518 include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the compact or the rules and bylaws of the interstate commission adopted under the compact.

**2. Default.** If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact or the bylaws or adopted rules, the interstate commission shall:

A. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default; and

B. Provide remedial training and specific technical assistance regarding the default.

**3. Termination.** If a defaulting state fails to cure the default, the defaulting state must be terminated from the compact in accordance with subsection 4 upon an affirmative vote of a majority of the commissioners and all rights, privileges and benefits conferred by the compact terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

**4. Notice of intent.** Termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate must be given by the interstate commission to the governor of the defaulting state, the majority and minority leaders of the defaulting state's legislature and each of the member states.

**5. Rules.** The interstate commission shall adopt rules pursuant to section 18516 and procedures to address licenses and physicians that are materially affected by the termination of a member state or the withdrawal of a member state.

**6. Obligations.** A member state that has been terminated is responsible for all dues, obligations and liabilities incurred through the effective date of termination, including obligations the performance of which extends beyond the effective date of termination.

**7. Costs.** The interstate commission may not bear any costs relating to any state that has been found to be in default or that has been terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

**8. Appeal.** A defaulting state may appeal an action of the interstate commission by petitioning the United States District Court for the District of Columbia or the federal

district where the interstate commission has its principal offices. The prevailing party must be awarded all costs of such litigation including reasonable attorney's fees.

#### **§18520. Dispute resolution**

**1. Resolution.** The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that arise among member states or member boards.

**2. Rules.** The interstate commission shall adopt rules pursuant to section 18516 providing for both mediation and binding dispute resolution, as appropriate.

#### **§18521. Member states, effective date and amendment**

**1. Eligibility.** Any state is eligible to become a member state of the compact.

**2. Effective date.** The compact becomes effective and binding upon legislative enactment of the compact into law by no fewer than 7 states. Thereafter, it becomes effective and binding on a state upon enactment of the compact into law by that state.

**3. Participation by nonmember states.** The governors of nonmember states, or their designees, must be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states.

**4. Amendments to compact.** The interstate commission may propose amendments to the compact for enactment by the member states. An amendment does not become effective and binding upon the interstate commission and the member states until it is enacted into law by unanimous consent of the member states.

#### **§18522. Withdrawal**

**1. Repeal.** Once effective, the compact continues in force and remains binding upon each member state, except that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.

**2. Effective date.** Withdrawal from the compact is by the enactment of a statute repealing the compact, but does not take effect until one year after the effective date of that statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

**3. Intent.** The withdrawing state shall immediately notify the chair of the interstate commission in writing upon the introduction of legislation repealing the compact in the withdrawing state.

**4. Notification.** The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of notice provided under subsection 3.

**5. Obligations.** The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extends beyond the effective date of withdrawal.

6. Reinstatement. Reinstatement following withdrawal of a member state occurs upon the withdrawing state's reenacting the compact or upon such later date as determined by the interstate commission.

7. Rules. The interstate commission is authorized to adopt rules pursuant to section 18516 to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

#### **§18523. Dissolution**

1. Effective date. The compact dissolves effective upon the date of the withdrawal or default of the member state that reduces the membership in the compact to one member state.

2. Surplus funds. Upon the dissolution of the compact, the compact becomes null and void and is of no further force or effect, and the business and affairs of the interstate commission are concluded and surplus funds must be distributed in accordance with the bylaws.

#### **§18524. Construction**

1. Liberal construction. The provisions of the compact must be liberally construed to effectuate its purposes.

2. Applicability of other compacts. Nothing in the compact may be construed to prohibit the applicability of other interstate compacts of which the states are members.

#### **§18525. Binding effect of compact and other laws**

1. Other law. Nothing in this chapter prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

2. Conflicts. All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

3. Actions. All lawful actions of the interstate commission, including all rules and bylaws adopted by the commission, are binding upon the member states.

4. Agreements. All agreements between the interstate commission and the member states are binding in accordance with their terms.

5. Constitutional limits. In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, that provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.