

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 61

Introduced by Kolterman, 24.

Read first time January 05, 2017

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to health care; to amend sections 38-2028 and
- 2 38-2034, Reissue Revised Statutes of Nebraska; to adopt the
- 3 Interstate Medical Licensure Compact; to harmonize provisions; and
- 4 to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 25 of this act shall be known and may be
2 cited as the Interstate Medical Licensure Compact.

3 Sec. 2. The purposes of the Interstate Medical Licensure Compact
4 are, through means of joint and cooperative action among the member
5 states of the compact (1) to develop a comprehensive process that
6 complements the existing licensing and regulatory authority of state
7 medical boards and that provides a streamlined process that allows
8 physicians to become licensed in multiple states, thereby enhancing the
9 portability of a medical license and ensuring the safety of patients, (2)
10 to create another pathway for licensure that does not otherwise change a
11 state's existing medicine and surgery practice act, (3) to adopt the
12 prevailing standard for licensure, affirm that the practice of medicine
13 occurs where the patient is located at the time of the physician-patient
14 encounter, and require the physician to be under the jurisdiction of the
15 state medical board where the patient is located, (4) to ensure that
16 state medical boards that participate in the compact retain the
17 jurisdiction to impose an adverse action against a license to practice
18 medicine in that state issued to a physician through the procedures in
19 the compact, and (5) to create the Interstate Medical Licensure Compact
20 Commission.

21 Sec. 3. For purposes of the Interstate Medical Licensure Compact:

22 (a) Bylaws means those bylaws established by the interstate
23 commission pursuant to section 12 of this act for its governance or for
24 directing and controlling its actions and conduct;

25 (b) Commissioner means the voting representative appointed by each
26 member board pursuant to section 12 of this act;

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

1 (d) Expedited license means a full and unrestricted medical license
2 granted by a member state to an eligible physician through the process
3 set forth in the compact;

4 (e) Interstate commission means the interstate commission created
5 pursuant to section 12 of this act;

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

9 (g) Medicine and surgery practice act means laws and regulations
10 governing the practice of medicine within a member state;

11 (h) Member board means a state agency in a member state that acts in
12 the sovereign interests of the state by protecting the public through
13 licensure, regulation, and education of physicians as directed by the
14 state government;

15 (i) Member state means a state that has enacted the compact;

16 (j) Practice of medicine means the clinical prevention, diagnosis,
17 or treatment of human disease, injury, or condition requiring a physician
18 to obtain and maintain a license in compliance with the medicine and
19 surgery practice act of a member state;

20 (k) Physician means any person who:

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

25 (2) Passed each component of the United States Medical Licensing
26 Examination or the Comprehensive Osteopathic Medical Licensing
27 Examination within three attempts, or any of its predecessor examinations
28 accepted by a state medical board as an equivalent examination for
29 licensure purposes;

30 (3) Successfully completed graduate medical education approved by
31 the Accreditation Council for Graduate Medical Education or the American

1 Osteopathic Association;

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

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

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

10 (7) Has never had a license authorizing the practice of medicine
11 subjected to discipline by a licensing agency in any state, federal, or
12 foreign jurisdiction, excluding any action related to nonpayment of fees
13 related to a license;

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

17 (9) Is not under active investigation by a licensing agency or law
18 enforcement authority in any state, federal, or foreign jurisdiction;

19 (1) Offense means a felony, gross misdemeanor, or crime of moral
20 turpitude;

21 (m) Rule means a written statement by the interstate commission
22 promulgated pursuant to section 13 of this act that is of general
23 applicability, implements, interprets, or prescribes a policy or
24 provision of the compact, or an organizational, procedural, or practice
25 requirement of the interstate commission, and has the force and effect of
26 statutory law in a member state, and includes the amendment, repeal, or
27 suspension of an existing rule;

28 (n) State means any state, commonwealth, district, or territory of
29 the United States; and

30 (o) State of principal license means a member state where a
31 physician holds a license to practice medicine and which has been

1 designated as such by the physician for purposes of registration and
2 participation in the compact.

3 Sec. 4. (a) A physician must meet the eligibility requirements as
4 defined in subdivision (k) of section 3 of this act to receive an
5 expedited license under the terms and provisions of the Interstate
6 Medical Licensure Compact.

7 (b) A physician who does not meet the requirements of subdivision
8 (k) of section 3 of this act may obtain a license to practice medicine in
9 a member state if the individual complies with all laws and requirements,
10 other than the compact, relating to the issuance of a license to practice
11 medicine in that state.

12 Sec. 5. (a) A physician shall designate a member state as the state
13 of principal license for purposes of registration for expedited licensure
14 through the Interstate Medical Licensure Compact if the physician
15 possesses a full and unrestricted license to practice medicine in that
16 state, and the state is:

17 (1) The state of primary residence for the physician;

18 (2) The state where at least twenty-five percent of the practice of
19 medicine occurs;

20 (3) The location of the physician's employer;

21 (4) If no state qualifies under subdivision (1), (2), or (3) of this
22 subsection, the state designated as state of residence for purpose of
23 federal income tax.

24 (b) A physician may redesignate a member state as state of principal
25 license at any time, as long as the state meets the requirements in
26 subsection (a) of this section.

27 (c) The interstate commission is authorized to develop rules to
28 facilitate redesignation of another member state as the state of
29 principal license.

30 Sec. 6. (a) A physician seeking licensure through the Interstate
31 Medical Licensure Compact shall file an application for an expedited

1 license with the member board of the state selected by the physician as
2 the state of principal license.

3 (b) Upon receipt of an application for an expedited license, the
4 member board within the state selected as the state of principal license
5 shall evaluate whether the physician is eligible for expedited licensure
6 and issue a letter of qualification, verifying or denying the physician's
7 eligibility, to the interstate commission.

8 (i) Static qualifications, which include verification of medical
9 education, graduate medical education, results of any medical or
10 licensing examination, and other qualifications as determined by the
11 interstate commission through rule, shall not be subject to additional
12 primary source verification where already primary source verified by the
13 state of principal license.

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

21 (iii) Appeal on the determination of eligibility shall be made to
22 the member state where the application was filed and shall be subject to
23 the law of that state.

24 (c) Upon verification in subsection (b) of this section, physicians
25 eligible for an expedited license shall complete the registration process
26 established by the interstate commission to receive a license in a member
27 state selected pursuant to subsection (a) of this section, including the
28 payment of any applicable fees.

29 (d) After receiving verification of eligibility under subsection (b)
30 of this section and any fees under subsection (c) of this section, a
31 member board shall issue an expedited license to the physician. This

1 license shall authorize the physician to practice medicine in the issuing
2 state consistent with the medicine and surgery practice act and all
3 applicable laws and regulations of the issuing member board and member
4 state.

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

9 (f) An expedited license obtained through the compact shall be
10 terminated if a physician fails to maintain a license in the state of
11 principal licensure for a nondisciplinary reason, without redesignation
12 of a new state of principal licensure.

13 (g) The interstate commission is authorized to develop rules
14 regarding the application process, including payment of any applicable
15 fees, and the issuance of an expedited license.

16 Sec. 7. (a) A member state issuing an expedited license authorizing
17 the practice of medicine in that state may impose a fee for a license
18 issued or renewed through the Interstate Medical Licensure Compact.

19 (b) The interstate commission is authorized to develop rules
20 regarding fees for expedited licenses.

21 Sec. 8. (a) A physician seeking to renew an expedited license
22 granted in a member state shall complete a renewal process with the
23 interstate commission if the physician:

24 (1) Maintains a full and unrestricted license in a state of
25 principal license;

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

29 (3) Has not had a license authorizing the practice of medicine
30 subject to discipline by a licensing agency in any state, federal, or
31 foreign jurisdiction, excluding any action related to nonpayment of fees

1 related to a license; and

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

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

8 (c) The interstate commission shall collect any renewal fees charged
9 for the renewal of a license and distribute the fees to the applicable
10 member board.

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

13 (e) Physician information collected by the interstate commission
14 during the renewal process will be distributed to all member boards.

15 (f) The interstate commission is authorized to develop rules to
16 address renewal of licenses obtained through the Interstate Medical
17 Licensure Compact.

18 Sec. 9. (a) The interstate commission shall establish a database of
19 all physicians licensed, or who have applied for licensure, under section
20 6 of this act.

21 (b) Notwithstanding any other provision of law, member boards shall
22 report to the interstate commission any public action or complaints
23 against a licensed physician who has applied or received an expedited
24 license through the Interstate Medical Licensure Compact.

25 (c) Member boards shall report disciplinary or investigatory
26 information determined as necessary and proper by rule of the interstate
27 commission.

28 (d) Member boards may report any nonpublic complaint, disciplinary,
29 or investigatory information not required by subsection (c) of this
30 section to the interstate commission.

31 (e) Member boards shall share complaint or disciplinary information

1 about a physician upon request of another member board.

2 (f) All information provided to the interstate commission or
3 distributed by member boards shall be confidential, filed under seal, and
4 used only for investigatory or disciplinary matters.

5 (g) The interstate commission is authorized to develop rules for
6 mandated or discretionary sharing of information by member boards.

7 Sec. 10. (a) Licensure and disciplinary records of physicians are
8 deemed investigative.

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

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

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

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

21 Sec. 11. (a) Any disciplinary action taken by any member board
22 against a physician licensed through the Interstate Medical Licensure
23 Compact shall be deemed unprofessional conduct which may be subject to
24 discipline by other member boards, in addition to any violation of the
25 medicine and surgery practice act or regulations in that state.

26 (b) If a license granted to a physician by the member board in the
27 state of principal license is revoked, surrendered or relinquished in
28 lieu of discipline, or suspended, then all licenses issued to the
29 physician by member boards shall automatically be placed, without further
30 action necessary by any member board, on the same status. If the member
31 board in the state of principal license subsequently reinstates the

1 physician's license, a license issued to the physician by any other
2 member board shall remain encumbered until that respective member board
3 takes action to reinstate the license in a manner consistent with the
4 medicine and surgery practice act of that state.

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

8 (i) Impose the same or lesser sanction against the physician so long
9 as such sanctions are consistent with the medicine and surgery practice
10 act of that state; or

11 (ii) Pursue separate disciplinary action against the physician under
12 its respective medicine and surgery practice act, regardless of the
13 action taken in other member states.

14 (d) If a license granted to a physician by a member board is
15 revoked, surrendered or relinquished in lieu of discipline, or suspended,
16 then any license issued to the physician by any other member board shall
17 be suspended, automatically and immediately without further action
18 necessary by the other member board, for ninety days upon entry of the
19 order by the disciplining board, to permit the member board to
20 investigate the basis for the action under the medicine and surgery
21 practice act of that state. A member board may terminate the automatic
22 suspension of the license it issued prior to the completion of the
23 ninety-day suspension period in a manner consistent with the medicine and
24 surgery practice act of that state.

25 Sec. 12. (a) The member states hereby create the Interstate Medical
26 Licensure Compact Commission.

27 (b) The purpose of the interstate commission is the administration
28 of the Interstate Medical Licensure Compact, which is a discretionary
29 state function.

30 (c) The interstate commission shall be a body corporate and joint
31 agency of the member states and shall have all the responsibilities,

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

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

12 (1) A physician appointed to a member board;

13 (2) An executive director, executive secretary, or similar executive
14 of a member board; or

15 (3) A member of the public appointed to a member board.

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

22 (f) The bylaws may provide for meetings of the interstate commission
23 to be conducted by telecommunication or electronic communication.

24 (g) Each commissioner participating at a meeting of the interstate
25 commission is entitled to one vote. A majority of commissioners shall
26 constitute a quorum for the transaction of business, unless a larger
27 quorum is required by the bylaws of the interstate commission. A
28 commissioner shall not delegate a vote to another commissioner. In the
29 absence of its commissioner, a member state may delegate voting authority
30 for a specified meeting to another person from that state who shall meet
31 the requirements of subsection (d) of this section.

1 (h) The interstate commission shall provide public notice of all
2 meetings and all meetings shall be open to the public. The interstate
3 commission may close a meeting, in full or in portion, where it
4 determines by a two-thirds vote of the commissioners present that an open
5 meeting would be likely to:

6 (1) Relate solely to the internal personnel practices and procedures
7 of the interstate commission;

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

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

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

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

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

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

20 (i) The interstate commission shall keep minutes which shall fully
21 describe all matters discussed in a meeting and shall provide a full and
22 accurate summary of actions taken, including record of any roll call
23 votes.

24 (j) The interstate commission shall make its information and
25 official records, to the extent not otherwise designated in the compact
26 or by its rules, available to the public for inspection.

27 (k) The interstate commission shall establish an executive
28 committee, which shall include officers, members, and others as
29 determined by the bylaws. The executive committee shall have the power to
30 act on behalf of the interstate commission, with the exception of
31 rulemaking, during periods when the interstate commission is not in

1 session. When acting on behalf of the interstate commission, the
2 executive committee shall oversee the administration of the compact
3 including enforcement and compliance with the provisions of the compact,
4 its bylaws and rules, and other such duties as necessary.

5 (l) The interstate commission may establish other committees for
6 governance and administration of the compact.

7 Sec. 13. The interstate commission shall have the duty and power
8 to:

9 (a) Oversee and maintain the administration of the Interstate
10 Medical Licensure Compact;

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

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

16 (d) Enforce compliance with compact provisions, the rules
17 promulgated by the interstate commission, and the bylaws, using all
18 necessary and proper means, including, but not limited to, the use of
19 judicial process;

20 (e) Establish and appoint committees including, but not limited to,
21 an executive committee as required by section 12 of this act, which shall
22 have the power to act on behalf of the interstate commission in carrying
23 out its powers and duties;

24 (f) Pay, or provide for the payment of, the expenses related to the
25 establishment, organization, and ongoing activities of the interstate
26 commission;

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

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

29 (i) Purchase and maintain insurance and bonds;

30 (j) Employ an executive director who shall have such powers to
31 employ, select or appoint employees, agents, or consultants, and to

1 determine their qualifications, define their duties, and fix their
2 compensation;

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

5 (l) Accept donations and grants of money, equipment, supplies,
6 materials and services, and to receive, utilize, and dispose of it in a
7 manner consistent with the conflict of interest policies established by
8 the interstate commission;

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

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

14 (o) Establish a budget and make expenditures;

15 (p) Adopt a seal and bylaws governing the management and operation
16 of the interstate commission;

17 (q) Report annually to the legislatures and governors of the member
18 states concerning the activities of the interstate commission during the
19 preceding year. Such reports shall also include reports of financial
20 audits and any recommendations that may have been adopted by the
21 interstate commission;

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

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

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

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

28 Sec. 14. (a) The interstate commission may levy on and collect an
29 annual assessment from each member state to cover the cost of the
30 operations and activities of the interstate commission and its staff. The
31 total assessment must be sufficient to cover the annual budget approved

1 each year for which revenue is not provided by other sources. The
2 aggregate annual assessment amount shall be allocated upon a formula to
3 be determined by the interstate commission, which shall promulgate a rule
4 binding upon all member states.

5 (b) The interstate commission shall not incur obligations of any
6 kind prior to securing the funds adequate to meet the same.

7 (c) The interstate commission shall not pledge the credit of any of
8 the member states, except by, and with the authority of, the member
9 state.

10 (d) The interstate commission shall be subject to a yearly financial
11 audit conducted by a certified or licensed public accountant and the
12 report of the audit shall be included in the annual report of the
13 interstate commission.

14 Sec. 15. (a) The interstate commission shall, by a majority of
15 commissioners present and voting, adopt bylaws to govern its conduct as
16 may be necessary or appropriate to carry out the purposes of the
17 Interstate Medical Licensure Compact within twelve months of the first
18 interstate commission meeting.

19 (b) The interstate commission shall elect or appoint annually from
20 among its commissioners a chairperson, a vice-chairperson, and a
21 treasurer, each of whom shall have such authority and duties as may be
22 specified in the bylaws. The chairperson, or in the chairperson's absence
23 or disability, the vice-chairperson, shall preside at all meetings of the
24 interstate commission.

25 (c) Officers selected in subsection (b) of this section shall serve
26 without remuneration from the interstate commission.

27 (d) The officers and employees of the interstate commission shall be
28 immune from suit and liability, either personally or in their official
29 capacity, for a claim for damage to or loss of property or personal
30 injury or other civil liability caused or arising out of, or relating to,
31 an actual or alleged act, error, or omission that occurred, or that such

1 person had a reasonable basis for believing occurred, within the scope of
2 interstate commission employment, duties, or responsibilities; provided
3 that such person shall not be protected from suit or liability for
4 damage, loss, injury, or liability caused by the intentional or willful
5 and wanton misconduct of such person.

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

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

29 (3) To the extent not covered by the state involved, member state,
30 or the interstate commission, the representatives or employees of the
31 interstate commission shall be held harmless in the amount of a

1 settlement or judgment, including attorney's fees and costs, obtained
2 against such persons arising out of an actual or alleged act, error, or
3 omission that occurred within the scope of interstate commission
4 employment, duties, or responsibilities, or that such persons had a
5 reasonable basis for believing occurred within the scope of interstate
6 commission employment, duties, or responsibilities, provided that the
7 actual or alleged act, error, or omission did not result from intentional
8 or willful and wanton misconduct on the part of such persons.

9 Sec. 16. (a) The interstate commission shall promulgate reasonable
10 rules in order to effectively and efficiently achieve the purposes of the
11 Interstate Medical Licensure Compact. Notwithstanding the foregoing, in
12 the event the interstate commission exercises its rulemaking authority in
13 a manner that is beyond the scope of the purposes of the compact, or the
14 powers granted hereunder, then such an action by the interstate
15 commission shall be invalid and have no force or effect.

16 (b) Rules deemed appropriate for the operations of the interstate
17 commission shall be made pursuant to a rulemaking process that
18 substantially conforms to the Model State Administrative Procedure Act of
19 2010 and subsequent amendments thereto.

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

31 Sec. 17. (a) The executive, legislative, and judicial branches of

1 state government in each member state shall enforce the Interstate
2 Medical Licensure Compact and shall take all actions necessary and
3 appropriate to effectuate the compact's purposes and intent. The
4 provisions of the compact and the rules promulgated under the compact
5 shall have standing as statutory law but shall not override existing
6 state authority to regulate the practice of medicine.

7 (b) All courts shall take judicial notice of the compact and the
8 rules in any judicial or administrative proceeding in a member state
9 pertaining to the subject matter of the compact which may affect the
10 powers, responsibilities or actions of the interstate commission.

11 (c) The interstate commission shall be entitled to receive all
12 service of process in any such proceeding, and shall have standing to
13 intervene in the proceeding for all purposes. Failure to provide service
14 of process to the interstate commission shall render a judgment or order
15 void as to the interstate commission, the compact, or promulgated rules.

16 Sec. 18. (a) The interstate commission, in the reasonable exercise
17 of its discretion, shall enforce the provisions and rules of the
18 Interstate Medical Licensure Compact.

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

29 (c) The remedies in the compact shall not be the exclusive remedies
30 of the interstate commission. The interstate commission may avail itself
31 of any other remedies available under state law or the regulation of a

1 profession.

2 Sec. 19. (a) The grounds for default include, but are not limited
3 to, failure of a member state to perform such obligations or
4 responsibilities imposed upon it by the Interstate Medical Licensure
5 Compact, or the rules and bylaws of the interstate commission promulgated
6 under the compact.

7 (b) If the interstate commission determines that a member state has
8 defaulted in the performance of its obligations or responsibilities under
9 the compact, or the bylaws or promulgated rules, the interstate
10 commission shall:

11 (1) Provide written notice to the defaulting state and other member
12 states, of the nature of the default, the means of curing the default,
13 and any action taken by the interstate commission. The interstate
14 commission shall specify the conditions by which the defaulting state
15 must cure its default; and

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

18 (c) If the defaulting state fails to cure the default, the
19 defaulting state shall be terminated from the compact upon an affirmative
20 vote of a majority of the commissioners and all rights, privileges, and
21 benefits conferred by the compact shall terminate on the effective date
22 of termination. A cure of the default does not relieve the offending
23 state of obligations or liabilities incurred during the period of the
24 default.

25 (d) Termination of membership in the compact shall be imposed only
26 after all other means of securing compliance have been exhausted. Notice
27 of intent to terminate shall be given by the interstate commission to the
28 governor, the majority and minority leaders of the defaulting state's
29 legislature, and each of the member states.

30 (e) The interstate commission shall establish rules and procedures
31 to address licenses and physicians that are materially impacted by the

1 termination of a member state, or the withdrawal of a member state.

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

6 (g) The interstate commission shall not bear any costs relating to
7 any state that has been found to be in default or which has been
8 terminated from the compact, unless otherwise mutually agreed upon in
9 writing between the interstate commission and the defaulting state.

10 (h) The defaulting state may appeal the action of the interstate
11 commission by petitioning the United States District Court for the
12 District of Columbia or the federal district where the interstate
13 commission has its principal offices. The prevailing party shall be
14 awarded all costs of such litigation including reasonable attorney's
15 fees.

16 Sec. 20. (a) The interstate commission shall attempt, upon the
17 request of a member state, to resolve disputes which are subject to the
18 Interstate Medical Licensure Compact and which may arise among member
19 states or member boards.

20 (b) The interstate commission shall promulgate rules providing for
21 both mediation and binding dispute resolution as appropriate.

22 Sec. 21. (a) Any state is eligible to become a member state of the
23 Interstate Medical Licensure Compact.

24 (b) The compact shall become effective and binding upon legislative
25 enactment of the compact into law by no less than seven states.
26 Thereafter, it shall become effective and binding on a state upon
27 enactment of the compact into law by that state.

28 (c) The governors of nonmember states, or their designees, shall be
29 invited to participate in the activities of the interstate commission on
30 a nonvoting basis prior to adoption of the compact by all states.

31 (d) The interstate commission may propose amendments to the compact

1 for enactment by the member states. No amendment shall become effective
2 and binding upon the interstate commission and the member states unless
3 and until it is enacted into law by unanimous consent of the member
4 states.

5 Sec. 22. (a) Once effective, the Interstate Medical Licensure
6 Compact shall continue in force and remain binding upon each and every
7 member state, except that a member state may withdraw from the compact by
8 specifically repealing the statute which enacted the compact into law.

9 (b) Withdrawal from the compact shall be by the enactment of a
10 statute repealing the same, but shall not take effect until one year
11 after the effective date of such statute and until written notice of the
12 withdrawal has been given by the withdrawing state to the governor of
13 each other member state.

14 (c) The withdrawing state shall immediately notify the chairperson
15 of the interstate commission in writing upon the introduction of
16 legislation repealing the compact in the withdrawing state.

17 (d) The interstate commission shall notify the other member states
18 of the withdrawing state's intent to withdraw within sixty days of its
19 receipt of notice provided under subsection (c) of this section.

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

24 (f) Reinstatement following withdrawal of a member state shall occur
25 upon the withdrawing state reenacting the compact or upon such later date
26 as determined by the interstate commission.

27 (g) The interstate commission is authorized to develop rules to
28 address the impact of the withdrawal of a member state on licenses
29 granted in other member states to physicians who designated the
30 withdrawing member state as the state of principal license.

31 Sec. 23. (a) The Interstate Medical Licensure Compact shall

1 dissolve effective upon the date of the withdrawal or default of the
2 member state which reduces the membership in the compact to one member
3 state.

4 (b) Upon the dissolution of the compact, the compact becomes null
5 and void and shall be of no further force or effect, and the business and
6 affairs of the interstate commission shall be concluded and surplus funds
7 shall be distributed in accordance with the bylaws.

8 Sec. 24. (a) The provisions of the Interstate Medical Licensure
9 Compact shall be severable, and if any phrase, clause, sentence, or
10 provision is deemed unenforceable, the remaining provisions of the
11 compact shall be enforceable.

12 (b) The provisions of the compact shall be liberally construed to
13 effectuate its purposes.

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

17 Sec. 25. (a) Nothing in the Interstate Medical Licensure Compact
18 prevents the enforcement of any other law of a member state that is not
19 inconsistent with the compact.

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

22 (c) All lawful actions of the interstate commission, including all
23 rules and bylaws promulgated by the commission, are binding upon the
24 member states.

25 (d) All agreements between the interstate commission and the member
26 states are binding in accordance with their terms.

27 (e) In the event any provision of the compact exceeds the
28 constitutional limits imposed on the legislature of any member state,
29 such provision shall be ineffective to the extent of the conflict with
30 the constitutional provision in question in that member state.

31 Sec. 26. Section 38-2028, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 38-2028 An applicant for a license to practice medicine and surgery
3 based on a license in another state or territory of the United States or
4 the District of Columbia shall comply with the requirements of the
5 Interstate Medical Licensure Compact or meet the standards set by the
6 board pursuant to section 38-126, except that an applicant who has not
7 passed one of the licensing examinations specified in the rules and
8 regulations but has been duly licensed to practice medicine and surgery
9 in some other state or territory of the United States of America or in
10 the District of Columbia and obtained that license based upon a state
11 examination, as approved by the board, may be issued a license by the
12 department, with the recommendation of the board, to practice medicine
13 and surgery.

14 Sec. 27. Section 38-2034, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 38-2034 An applicant for a license to practice osteopathic medicine
17 and surgery based on a license in another state or territory of the
18 United States or the District of Columbia shall comply with the
19 requirements of the Interstate Medical Licensure Compact or meet the
20 standards set by the board pursuant to section 38-126, except that an
21 applicant who has not passed one of the licensing examinations specified
22 in the rules and regulations but has been duly licensed to practice
23 osteopathic medicine and surgery in some other state or territory of the
24 United States of America or in the District of Columbia and obtained that
25 license based upon a state examination, as approved by the board, may be
26 issued a license by the department, upon the recommendation of the board,
27 to practice osteopathic medicine and surgery.

28 Sec. 28. Original sections 38-2028 and 38-2034, Reissue Revised
29 Statutes of Nebraska, are repealed.