

HOUSE BILL NO. 237

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE SEATON

Introduced: 1/15/16

Referred: Prefiled

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to an interstate compact on medical licensure; amending the duties of**
2 **the State Medical Board; and relating to the Department of Public Safety's authority to**
3 **conduct national criminal history record checks of physicians."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 08.64.101 is amended to read:

6 **Sec. 08.64.101. Duties.** The board shall

7 (1) examine and issue licenses to applicants;

8 (2) develop written guidelines to ensure that licensing requirements are
9 not unreasonably burdensome and the issuance of licenses is not unreasonably
10 withheld or delayed;

11 (3) after a hearing, impose disciplinary sanctions on persons who
12 violate this chapter or the regulations or orders of the board;

13 (4) adopt regulations ensuring that renewal of licenses is contingent
14 upon proof of continued competency on the part of the licensee; [AND]

(5) under regulations adopted by the board, contract with private professional organizations to establish an impaired medical professionals program to identify, confront, evaluate, and treat persons licensed under this chapter who abuse alcohol, other drugs, or other substances or are mentally ill or cognitively impaired;

and

(6) implement the Interstate Medical Licensure Compact.

* **Sec. 2.** AS 08.64.190 is amended by adding a new subsection to read:

(b) A physician shall submit, along with an application for an expedited license under AS 08.64.550, the applicant's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check. The board shall forward the fingerprints and fees to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

* **Sec. 3.** AS 08.64.250 is amended by adding a new subsection to read:

(b) The board shall waive the examination requirement and license by credentials if the physician meets the requirements for an expedited license under AS 08.64.520 - 08.64.550.

* **Sec. 4.** AS 08.64.315 is amended by adding a new paragraph to read:

(9) expedited license issued or renewed the Interstate Medical Licensure Compact.

* **Sec. 5.** AS 08.64.370 is amended to read:

Sec. 08.64.370. Exceptions to application of chapter. AS 08.64.010 - 08.64.380 do [THIS CHAPTER DOES] not apply to

(1) officers in the regular medical service of the armed services of the United States or the United States Public Health Service while in the discharge of their official duties;

(2) a physician or osteopath, who is not a resident of this state, who is asked by a physician or osteopath licensed in this state to help in the diagnosis or treatment of a case;

(3) the practice of the religious tenets of a church;

(4) a physician in the regular medical service of the United States Public Health Service or the armed services of the United States volunteering services without pay or other remuneration to a hospital, clinic, medical office, or other medical facility in the state;

(5) a person who is certified as a direct-entry midwife by the department under AS 08.65 while engaged in the practice of midwifery whether or not the person accepts compensation for those services.

* **Sec. 6.** AS 08.64.380(5) is amended to read:

(5) "practice of medicine" or "practice of osteopathy" means, unless the context otherwise requires, [:]

(A) for a fee, donation or other consideration, to diagnose, treat, operate on, prescribe for, or administer to, any human ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other mental or physical condition; or to attempt to perform or represent that a person is authorized to perform any of the acts set out in this subparagraph;

(B) to use or publicly display a title in connection with a person's name including "doctor of medicine," "physician," "M.D.," or "doctor of osteopathic medicine" or "D.O." or a specialist designation including "surgeon," "dermatologist," or a similar title in such a manner as to show that the person is willing or qualified to diagnose or treat the sick or injured;

* **Sec. 7.** AS 08.64 is amended by adding new sections to read:

Article 5. Interstate Medical Licensure Compact.

Sec. 08.64.500. Compact enacted. The Interstate Medical Licensure Compact as contained in AS 08.64.500 - 08.64.740 is enacted into law and entered into on behalf of the state with all other states and legally joining in it in a form substantially as follows in AS 08.64.510 - 08.64.740.

Sec. 08.64.510. 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 medical boards, provides a streamlined process that allows

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

11 **Sec. 08.64.520. Definitions.** In this compact,

12 (1) "bylaws" means those bylaws established by the Interstate
 13 Commission pursuant to AS 08.64.610 for its governance, or for directing and
 14 controlling its actions and conduct;

15 (2) "commissioner" means the voting representative appointed by each
 16 member board pursuant to AS 08.64.610;

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

22 (4) "expedited license" means a full and unrestricted medical license
 23 granted by a member state to an eligible physician through the process set forth in the
 24 Compact;

25 (5) "Interstate Commission" means the interstate commission created
 26 pursuant to AS 08.64.610;

27 (6) "license" means authorization by a state for a physician to engage
 28 in the practice of medicine, which would be unlawful without the authorization;

29 (7) "Medical Practice Act" means laws and regulations governing the
 30 practice of allopathic and osteopathic medicine within a member state;

31 (8) "member board" means a state agency in a member state that acts

1 in the sovereign interests of the state by protecting the public through licensure,
2 regulation, and education of physicians as directed by the state government;

3 (9) "member state" means a state that has enacted the Compact;

4 (10) "practice of medicine" means the clinical prevention, diagnosis, or
5 treatment of human disease, injury, or condition requiring a physician to obtain and
6 maintain a license in compliance with the Medical Practice Act of a member state;

7 (11) "physician" means any person who

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

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

17 (C) successfully completed graduate medical education
18 approved by the Accreditation Council for Graduate Medical Education or the
19 American Osteopathic Association;

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

23 (E) possesses a full and unrestricted license to engage in the
24 practice of medicine issued by a member board;

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

28 (G) has never held a license authorizing the practice of
29 medicine subjected to discipline by a licensing agency in any state, federal, or
30 foreign jurisdiction, excluding any action related to non-payment of fees
31 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) "offense" means a felony, gross misdemeanor, or crime of moral turpitude;

(13) "rule" means a written statement by the Interstate Commission promulgated pursuant to AS 08.64.620 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, and has the force and effect of law in a member state, and includes the amendment, repeal, or suspension of an existing rule;

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

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

Sec. 08.64.530. Eligibility. (a) A physician must meet the eligibility requirements as defined in AS 08.64.520(11) to receive an expedited license under the terms and provisions of the Compact.

(b) A physician who does not meet the requirements of AS 08.64.520(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.

Sec. 08.64.540. Designation of state of principal license. (a) A physician shall 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:

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

(2) the state where at least 25% of the practice of medicine occurs;

1 (3) the location of the physician's employer; or

2 (4) if no state qualifies under (1) - (3) of this section, the state
3 designated as state of residence for purpose of federal income tax.

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

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

8 **Sec. 08.64.550. Application and issuance of expedited license.** (a) A
9 physician seeking licensure through the Compact shall file an application for an
10 expedited license with the member board of the state selected by the physician as the
11 state of principal license.

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

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

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

28 (3) an appeal on the determination of eligibility shall be made to the
29 member state where the application was filed and shall be subject to the law of that
30 state.

31 (c) Upon verification in (b) of this section, physicians eligible for an expedited

1 license shall complete the registration process established by the Interstate
 2 Commission to receive a license in a member state selected pursuant to (a) of this
 3 section, including the payment of any applicable fees.

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

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

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

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

18 **Sec. 08.64.560. Fees for expedited licensure.** (a) A member state issuing an
 19 expedited license authorizing the practice of medicine in that state may impose a fee
 20 for a license issued or renewed through the Compact.

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

23 **Sec. 08.64.570. Renewal and continued participation.** (a) A physician
 24 seeking to renew an expedited license granted in a member state shall complete a
 25 renewal process with the Interstate Commission if the physician:

26 (1) maintains a full and unrestricted license in a state of principal
 27 license;

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

31 (3) 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 non-payment of fees related to a license; and

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

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

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

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

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

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

Sec. 08.64.580. Coordinated information system. (a) The Interstate Commission shall establish a database of all physicians licensed, or who have applied for licensure, under AS 08.64.550.

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

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

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

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

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

(g) The Interstate Commission is authorized to develop rules for mandated or

1 discretionary sharing of information by member boards.

2 **Sec. 08.64.590. Joint investigations.** (a) Licensure and disciplinary records of
3 physicians are deemed investigative.

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

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

10 (d) Member boards may share any investigative, litigation, or compliance
11 materials in furtherance of any joint or individual investigation initiated under the
12 Compact.

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

16 **Sec. 08.64.600. Disciplinary actions.** (a) Any disciplinary action taken by any
17 member board against a physician licensed through the Compact shall be deemed
18 unprofessional conduct which may be subject to discipline by other member boards, in
19 addition to any violation of the Medical Practice Act or regulations in that state.

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

29 (c) If disciplinary action is taken against a physician by a member board not in
30 the state of principal license, any other member board may deem the action conclusive
31 as to matter of law and fact decided, and impose the same or lesser sanction(s) against

1 the physician so long as such sanctions are consistent with the Medical Practice Act of
 2 that state or pursue separate disciplinary action against the physician under its
 3 respective Medical Practice Act, regardless of the action taken in other member states.

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

13 **Sec. 08.64.610. Interstate Medical Licensure Compact Commission.** (a)
 14 The member states hereby create the "Interstate Medical Licensure Compact
 15 Commission.

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

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

23 (d) The Interstate Commission shall consist of two voting representatives
 24 appointed by each member state who shall serve as Commissioners. In states where
 25 allopathic and osteopathic physicians are regulated by separate member boards, or if
 26 the licensing and disciplinary authority is split between multiple member boards
 27 within a member state, the member state shall appoint one representative from each
 28 member board. A Commissioner shall be

29 (1) an allopathic or osteopathic physician appointed to a member
 30 board;

31 (2) an executive director, executive secretary, or similar executive of a

1 member board; or

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

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

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

10 (g) Each Commissioner participating at a meeting of the Interstate
11 Commission is entitled to one vote. A majority of Commissioners shall constitute a
12 quorum for the transaction of business, unless a larger quorum is required by the
13 bylaws of the Interstate Commission. A Commissioner shall not delegate a vote to
14 another Commissioner. In the absence of its Commissioner, a member state may
15 delegate voting authority for a specified meeting to another person from that state who
16 shall meet the requirements of (d) of this section.

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

21 (1) relate solely to the internal personnel practices and procedures of
22 the Interstate Commission;

23 (2) discuss matters specifically exempted from disclosure by federal
24 statute;

25 (3) discuss trade secrets, commercial, or financial information that is
26 privileged or confidential;

27 (4) involve accusing a person of a crime, or formally censuring a
28 person;

29 (5) discuss information of a personal nature where disclosure would
30 constitute a clearly unwarranted invasion of personal privacy;

31 (6) discuss investigative records compiled for law enforcement

1 purposes; or

2 (7) specifically relate to the participation in a civil action or other legal
3 proceeding.

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

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

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

18 (l) The Interstate Commission may establish other committees for governance
19 and administration of the Compact.

20 **Sec. 08.64.620. Powers and duties of the Interstate Commission.** The
21 Interstate Commission shall have the duty and power to

- 22 (1) oversee and maintain the administration of the Compact;
23 (2) promulgate rules which shall be binding to the extent and in the
24 manner provided for in the Compact;
25 (3) issue, upon the request of a member state or member board,
26 advisory opinions concerning the meaning or interpretation of the Compact, its
27 bylaws, rules, and actions;
28 (4) enforce compliance with Compact provisions, the rules
29 promulgated by the Interstate Commission, and the bylaws, using all necessary and
30 proper means, including but not limited to the use of judicial process;
31 (5) establish and appoint committees including, but not limited to, an

1 executive committee as required by AS 08.64.610, which shall have the power to act
2 on behalf of the Interstate Commission in carrying out its powers and duties;

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

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

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

7 (9) purchase and maintain insurance and bonds;

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

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

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

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

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

20 (15) establish a budget and make expenditures;

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

23 (17) report annually to the legislatures and governors of the member
24 states concerning the activities of the Interstate Commission during the preceding
25 year. Such reports shall also include reports of financial audits and any
26 recommendations that may have been adopted by the Interstate Commission;

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

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

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

31 (21) perform such functions as may be necessary or appropriate to

1 achieve the purposes of the Compact.

2 **Sec. 08.64.630. Finance powers.** (a) The Interstate Commission may levy on
3 and collect an annual assessment from each member state to cover the cost of the
4 operations and activities of the Interstate Commission and its staff. The total
5 assessment must be sufficient to cover the annual budget approved each year for
6 which revenue is not provided by other sources. The aggregate annual assessment
7 amount shall be allocated upon a formula to be determined by the Interstate
8 Commission, which shall promulgate a rule binding upon all member states.

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

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

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

16 **Sec. 08.64.640. Organization and operation of the Interstate Commission.**

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

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

26 (c) Officers selected in (b) of this section shall serve without remuneration
27 from the Interstate Commission.

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

1 or that such person had a reasonable basis for believing occurred, within the scope of
2 Interstate Commission employment, duties, or responsibilities; provided that such
3 person shall not be protected from suit or liability for damage, loss, injury, or liability
4 caused by the intentional or willful and wanton misconduct of such person. The
5 immunity provided by this section shall be subject to the following:

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

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

25 (3) to the extent not covered by the state involved, member state, or the
26 Interstate Commission, the representatives or employees of the Interstate Commission
27 shall be held harmless in the amount of a settlement or judgment, including attorney's
28 fees and costs, obtained against such persons arising out of an actual or alleged act,
29 error, or omission that occurred within the scope of Interstate Commission
30 employment, duties, or responsibilities, or that such persons had a reasonable basis for
31 believing occurred within the scope of Interstate Commission employment, duties, or

1 responsibilities, provided that the actual or alleged act, error, or omission did not result
2 from intentional or willful and wanton misconduct on the part of such persons.

3 **Sec. 08.64.650. Rulemaking functions of the Interstate Commission.** (a)

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

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

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

23 **Sec. 08.64.660. Oversight of Interstate Compact.** (a) The executive,

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

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

1 Interstate Commission.

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

7 **Sec. 08.64.670. Enforcement of Interstate Compact.** (a) The Interstate
8 Commission, in the reasonable exercise of its discretion, shall enforce the provisions
9 and rules of the Compact.

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

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

21 **Sec. 08.64.680. Default procedures.** (a) The grounds for default include, but
22 are not limited to, failure of a member state to perform such obligations or
23 responsibilities imposed upon it by the Compact, or the rules and bylaws of the
24 Interstate Commission promulgated under the Compact.

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

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

1 (2) provide remedial training and specific technical assistance
2 regarding the default.

3 (c) If the defaulting state fails to cure the default, the defaulting state shall be
4 terminated from the Compact upon an affirmative vote of a majority of the
5 Commissioners and all rights, privileges, and benefits conferred by the Compact shall
6 terminate on the effective date of termination. A cure of the default does not relieve
7 the offending state of obligations or liabilities incurred during the period of the
8 default.

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

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

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

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

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

28 **Sec. 08.64.690. Dispute resolution.** (a) The Interstate Commission shall
29 attempt, upon the request of a member state, to resolve disputes which are subject to
30 the Compact and which may arise among member states or member boards.

31 (b) The Interstate Commission shall promulgate rules providing for both

1 mediation and binding dispute resolution as appropriate.

2 **Sec. 08.64.700. Member states, effective date and amendment.** (a) Any state
3 is eligible to become a member state of the Compact.

4 (b) The Compact shall become effective and binding upon legislative
5 enactment of the Compact into law by no less than seven (7) states. Thereafter, it shall
6 become effective and binding on a state upon enactment of the Compact into law by
7 that state.

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

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

15 **Sec. 08.64.710. Withdrawal.** (a) Once effective, the Compact shall continue in
16 force and remain binding upon each and every member state; provided that a member
17 state may withdraw from the Compact by specifically repealing the statute which
18 enacted the Compact into law.

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

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

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

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

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

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

8 **Sec. 08.64.720. Dissolution.** (a) The Compact shall dissolve effective upon the
 9 date of the withdrawal or default of the member state which reduces the membership
 10 in the Compact to one (1) member state.

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

15 **Sec. 08.64.730. Severability and construction.** (a) The provisions of the
 16 Compact shall be severable, and if any phrase, clause, sentence, or provision is
 17 deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

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

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

22 **Sec. 08.64.740. Binding effect of compact and other laws.** (a) Nothing herein
 23 prevents the enforcement of any other law of a member state that is not inconsistent
 24 with the Compact.

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

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

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

31 (e) In the event any provision of the Compact exceeds the constitutional limits

1 imposed on the legislature of any member state, such provision shall be ineffective to
2 the extent of the conflict with the constitutional provision in question in that member
3 state.

4 **Sec. 08.64.750. Compact administrator.** Under the compact established in
5 AS 08.64.500 - AS 08.64.740, the chair of the board may designate a person to serve
6 as the compact administrator. The compact administrator shall cooperate with all
7 departments, agencies, and officers of and in the government of this state and its
8 subdivisions in facilitating the proper administration of the compact.

9 * **Sec. 8.** AS 12.62.400(a) is amended by adding a new paragraph to read:

10 (18) expedited licensure as a physician through the Interstate Medical
11 Licensure Compact under AS 08.64.550.