

1 S.253

2 Introduced by Senator Ayer

3 Referred to Committee on Health and Welfare

4 Date: January 3, 2018

5 Subject: Professions and occupations; medicine; Interstate Medical Licensure
6 Compact

7 Statement of purpose of bill as introduced: This bill proposes to adopt the
8 Interstate Medical Licensure Compact in Vermont.

9 An act relating to Vermont's adoption of the Interstate Medical Licensure
10 Compact

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 26 V.S.A. chapter 23, subchapter 3A is added to read:

13 Subchapter 3A. Interstate Medical Licensure Compact

14 § 1420. INTERSTATE MEDICAL LICENSURE COMPACT; ADOPTION

15 This subchapter is the Vermont adoption of the Interstate Medical Licensure
16 Compact as revised by the Interstate Medical Licensure Compact Commission.

17 The form, format, and text of the compact have been conformed to the
18 conventions of the Vermont Statutes Annotated. It is the intent of the General
19 Assembly that this subchapter be interpreted as substantively the same as the
20 Interstate Medical Licensure Compact that is enacted by other member states.

1 § 1420a. PURPOSE

2 In order to strengthen access to health care, and in recognition of the
3 advances in the delivery of health care, the member states of the Interstate
4 Medical Licensure Compact have allied in common purpose to develop a
5 comprehensive process that complements the existing licensing and regulatory
6 authority of state medical boards and provides a streamlined process that
7 allows physicians to become licensed in multiple states, thereby enhancing the
8 portability of a medical license and ensuring the safety of patients. The
9 Compact creates another pathway for licensure and does not otherwise change
10 a state's existing Medical Practice Act. The Compact also adopts the
11 prevailing standard for licensure and affirms that the practice of medicine
12 occurs where the patient is located at the time of the physician-patient
13 encounter, and therefore, requires the physician to be under the jurisdiction of
14 the state medical board where the patient is located. State medical boards that
15 participate in the Compact retain the jurisdiction to impose an adverse action
16 against a license to practice medicine in that state issued to a physician through
17 the procedures in the Compact.

18 § 1420b. DEFINITIONS

19 As used in this compact:

20 (1) "Bylaws" means those bylaws established by the Interstate
21 Commission pursuant to section 1420k of this subchapter for its governance

1 or for directing and controlling its actions and conduct.

2 (2) “Commissioner” means the voting representative appointed by each
3 member board pursuant to section 1420k of this subchapter.

4 (3) “Conviction” means a finding by a court that an individual is guilty
5 of a criminal offense through adjudication or entry of a plea of guilt or no
6 contest to the charge by the offender. Evidence of an entry of a conviction of a
7 criminal offense by the court shall be considered final for purposes of
8 disciplinary action by a member board.

9 (4) “Expedited License” means a full and unrestricted medical license
10 granted by a member state to an eligible physician through the process set
11 forth in the Compact.

12 (5) “Interstate Commission” means the interstate commission created
13 pursuant to section 1420k of this subchapter.

14 (6) “License” means authorization by a state for a physician to engage
15 in the practice of medicine, which would be unlawful without the
16 authorization.

17 (7) “Medical Practice Act” means laws and regulations governing the
18 practice of allopathic and osteopathic medicine within a member state.

19 (8) “Member Board” means a state agency in a member state that acts in
20 the sovereign interests of the state by protecting the public through licensure,
21 regulation, and education of physicians as directed by the state government.

1 (9) “Member State” means a state that has enacted the Compact.

2 (10) “Practice of Medicine” means the clinical prevention, diagnosis, or
3 treatment of human disease, injury, or condition requiring a physician to obtain
4 and maintain a license in compliance with the Medical Practice Act of a
5 member state.

6 (11) “Physician” means any person who:

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

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

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

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

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

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

6 (G) has never held a license authorizing the practice of medicine
7 subjected to discipline by a licensing agency in any state, federal, or foreign
8 jurisdiction, excluding any action related to nonpayment of fees related to a
9 license;

10 (H) has never had a controlled substance license or permit suspended
11 or revoked by a state or the U.S. Drug Enforcement Administration; and

12 (I) is not under active investigation by a licensing agency or law
13 enforcement authority in any state, federal, or foreign jurisdiction.

14 (12) “Offense” means a felony, gross misdemeanor, or crime of moral
15 turpitude.

16 (13) “Rule” means a written statement by the Interstate Commission
17 promulgated pursuant to section 1420I of this subchapter that is of general
18 applicability, implements, interprets, or prescribes a policy or provision of the
19 Compact, or an organizational, procedural, or practice requirement of the
20 Interstate Commission, and has the force and effect of statutory law in a
21 member state, and includes the amendment, repeal, or suspension of an

1 existing rule.

2 (14) “State” means any state, commonwealth, district, or territory of the
3 United States.

4 (15) “State of Principal License” means a member state where a
5 physician holds a license to practice medicine and that has been designated as
6 such by the physician for purposes of registration and participation in the
7 Compact.

8 § 1420c. ELIGIBILITY

9 (a) A physician must meet the eligibility requirements as defined in
10 subdivision 1420b(11) of this subchapter to receive an expedited license under
11 the terms and provisions of the Compact.

12 (b) A physician who does not meet the requirements of subdivision
13 1420b(11) of this subchapter may obtain a license to practice medicine in a
14 member state if the individual complies with all laws and requirements, other
15 than the Compact, relating to the issuance of a license to practice medicine in
16 that state.

17 § 1420d. DESIGNATION OF STATE OF PRINCIPAL LICENSE

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

1 (1) the state of primary residence for the physician;
2 (2) the state where at least 25 percent of the practice of medicine occurs;
3 (3) the location of the physician’s employer; or
4 (4) if no state qualifies under subdivision (1), (2), or (3) of this
5 subsection, the state designated as state of residence for purpose of federal
6 income tax.

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

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

12 § 1420e. APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

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

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

21 (1) Static qualifications, which include verification of medical

1 education, graduate medical education, results of any medical or licensing
2 examination, and other qualifications as determined by the Interstate
3 Commission through rule, shall not be subject to additional primary source
4 verification where already primary source verified by the state of principal
5 license.

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

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

15 (c) Upon verification in subsection (b) of this section, physicians eligible
16 for an expedited license shall complete the registration process established by
17 the Interstate Commission to receive a license in a member state selected
18 pursuant to subsection (a) of this section, including the payment of any
19 applicable fees.

20 (d) After receiving verification of eligibility under subsection (b) and any
21 fees under subsection (c) of this section, a member board shall issue an

1 expedited license to the physician. This license shall authorize the physician to
2 practice medicine in the issuing state consistent with the Medical Practice Act
3 and all applicable laws and regulations of the issuing member board and
4 member state.

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

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

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

16 § 1420f. FEES FOR EXPEDITED LICENSURE

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

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

1 § 1420g. RENEWAL AND CONTINUED PARTICIPATION

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

5 (1) maintains a full and unrestricted license in a state of principal
6 license;

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

10 (3) has not had a license authorizing the practice of medicine subject to
11 discipline by a licensing agency in any state, federal, or foreign jurisdiction,
12 excluding any action related to nonpayment of fees related to a license; and

13 (4) has not had a controlled substance license or permit suspended or
14 revoked by a state or the U.S. Drug Enforcement Administration.

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

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

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

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

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

5 § 1420h. COORDINATED INFORMATION SYSTEM

6 (a) The Interstate Commission shall establish a database of all physicians
7 licensed or who have applied for licensure under section 1420e of this
8 subchapter.

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

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

15 (d) Member boards may report any nonpublic complaint, disciplinary, or
16 investigatory information not required by subsection (c) of this section to the
17 Interstate Commission.

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

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

1 investigatory or disciplinary matters.

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

4 § 1420i. JOINT INVESTIGATIONS

5 (a) Licensure and disciplinary records of physicians are deemed
6 investigative.

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

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

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

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

19 § 1420j. DISCIPLINARY ACTIONS

20 (a) Any disciplinary action taken by any member board against a physician
21 licensed through the Compact shall be deemed unprofessional conduct that

1 may be subject to discipline by other member boards, in addition to any
2 violation of the Medical Practice Act or regulations in that state.

3 (b) If a license granted to a physician by the member board in the state of
4 principal license is revoked, surrendered or relinquished in lieu of discipline,
5 or suspended, then all licenses issued to the physician by member boards shall
6 automatically be placed, without further action necessary by any member
7 board, on the same status. If the member board in the state of principal license
8 subsequently reinstates the physician's license, a license issued to the physician
9 by any other member board shall remain encumbered until that respective
10 member board takes action to reinstate the license in a manner consistent with
11 the Medical Practice Act of that state.

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

15 (1) impose the same or lesser sanction or sanctions against the physician
16 so long as such sanctions are consistent with the Medical Practice Act of that
17 state; or

18 (2) pursue separate disciplinary action against the physician under its
19 respective Medical Practice Act, regardless of the action taken in other
20 member states.

21 (d) If a license granted to a physician by a member board is revoked,

1 surrendered or relinquished in lieu of discipline, or suspended, then any license
2 or licenses issued to the physician by any other member board shall be
3 suspended, automatically and immediately without further action necessary by
4 the other member boards, for 90 days upon entry of the order by the
5 disciplining board, to permit the member boards to investigate the basis for the
6 action under the Medical Practice Act of that state. A member board may
7 terminate the automatic suspension of the license it issued prior to the
8 completion of the 90-day suspension period in a manner consistent with the
9 Medical Practice Act of that state.

10 § 1420k. INTERSTATE MEDICAL LICENSURE COMPACT

11 COMMISSION

12 (a) The member states hereby create the “Interstate Medical Licensure
13 Compact Commission.”

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

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

21 (d) The Interstate Commission shall consist of two voting representatives

1 appointed by each member state who shall serve as Commissioners. In states
2 where allopathic and osteopathic physicians are regulated by separate member
3 boards, or if the licensing and disciplinary authority is split between multiple
4 member boards within a member state, the member state shall appoint one
5 representative from each member board. A Commissioner shall be:

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

7 (2) an executive director, executive secretary, or similar executive of a
8 member board; or

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

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

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

17 (g) Each Commissioner participating at a meeting of the Interstate
18 Commission is entitled to one vote. A majority of Commissioners shall
19 constitute a quorum for the transaction of business, unless a larger quorum is
20 required by the bylaws of the Interstate Commission. A Commissioner shall
21 not delegate a vote to another Commissioner. In the absence of its

1 Commissioner, a member state may delegate voting authority for a specified
2 meeting to another person from that state who shall meet the requirements of
3 subsection (d) of this section.

4 (h) The Interstate Commission shall provide public notice of all meetings
5 and all meetings shall be open to the public. The Interstate Commission may
6 close a meeting, in full or in portion, when it determines by a two-thirds' vote
7 of the Commissioners present that an open meeting would be likely to:

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

10 (2) discuss matters specifically exempted from disclosure by federal
11 statute;

12 (3) discuss trade secrets or commercial or financial information that is
13 privileged or confidential;

14 (4) involve accusing a person of a crime or formally censuring a person;

15 (5) discuss information of a personal nature when disclosure would
16 constitute a clearly unwarranted invasion of personal privacy;

17 (6) discuss investigative records compiled for law enforcement
18 purposes; or

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

21 (i) The Interstate Commission shall keep minutes that shall fully describe

1 all matters discussed in a meeting and shall provide a full and accurate
2 summary of actions taken, including record of any roll call votes.

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

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

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

17 § 14201. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

18 The Interstate Commission shall have a duty and power to:

19 (1) Oversee and maintain the administration of the Compact;

20 (2) Promulgate rules that shall be binding to the extent and in the
21 manner provided for in the Compact;

1 (3) Issue, upon the request of a member state or member board,
2 advisory opinions concerning the meaning or interpretation of the Compact, its
3 bylaws, rules, and actions;

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

7 (5) Establish and appoint committees including, but not limited to, an
8 executive committee as required by section 1420k of this subchapter, which
9 shall have the power to act on behalf of the Interstate Commission in carrying
10 out its powers and duties;

11 (6) Pay or provide for the payment of the expenses related to the
12 establishment, organization, and ongoing activities of the Interstate
13 Commission;

14 (7) Establish and maintain one or more offices;

15 (8) Borrow, accept, hire, or contract for services of personnel;

16 (9) Purchase and maintain insurance and bonds;

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

20 (11) Establish personnel policies and programs relating to conflicts of
21 interest, rates of compensation, and qualifications of personnel;

1 (12) Accept donations and grants of money, equipment, supplies,
2 materials, and services and to receive, utilize, and dispose of it in a manner
3 consistent with the conflict-of-interest policies established by the Interstate
4 Commission;

5 (13) Lease, purchase, accept contributions or donations of, or otherwise
6 to own, hold, improve or use, any property, real, personal, or mixed;

7 (14) Sell, convey, mortgage, pledge, lease, exchange, abandon, or
8 otherwise dispose of any property, real, personal, or mixed;

9 (15) Establish a budget and make expenditures;

10 (16) Adopt a seal and bylaws governing the management and operation
11 of the Interstate Commission;

12 (17) Report annually to the legislatures and governors of the member
13 states concerning the activities of the Interstate Commission during the
14 preceding year. Such reports shall also include reports of financial audits and
15 any recommendations that may have been adopted by the Interstate
16 Commission;

17 (18) Coordinate education, training, and public awareness regarding the
18 Compact, its implementation, and its operation;

19 (19) Maintain records in accordance with the bylaws;

20 (20) Seek and obtain trademarks, copyrights, and patents; and

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

1 achieve the purposes of the Compact.

2 § 1420m. FINANCE POWERS

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

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

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

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

17 § 1420n. ORGANIZATION AND OPERATION OF THE INTERSTATE

18 COMMISSION

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

1 first Interstate Commission meeting.

2 (b) The Interstate Commission shall elect or appoint annually from among
3 its Commissioners a chairperson, a vice chairperson, and a treasurer, each of
4 whom shall have such authority and duties as may be specified in the bylaws.

5 The chairperson, or in the chairperson's absence or disability, the vice
6 chairperson, shall preside at all meetings of the Interstate Commission.

7 (c) Officers selected in subsection (b) of this section shall serve without
8 remuneration from the Interstate Commission.

9 (d) The officers and employees of the Interstate Commission shall be
10 immune from suit and liability, either personally or in their official capacity,
11 for a claim for damage to or loss of property or personal injury or other civil
12 liability caused or arising out of, or relating to, an actual or alleged act, error,
13 or omission that occurred, or that such person had a reasonable basis for
14 believing occurred, within the scope of Interstate Commission employment,
15 duties, or responsibilities; provided that such person shall not be protected
16 from suit or liability for damage, loss, injury, or liability caused by the
17 intentional or willful and wanton misconduct of such person.

18 (1) The liability of the executive director and employees of the
19 Interstate Commission or representatives of the Interstate Commission, acting
20 within the scope of such person's employment or duties for acts, errors, or
21 omissions occurring within such person's state, may not exceed the limits of

1 liability set forth under the constitution and laws of that state for state officials,
2 employees, and agents. The Interstate Commission is considered to be an
3 instrumentality of the states for the purposes of any such action. Nothing in
4 this subsection shall be construed to protect such person from suit or liability
5 for damage, loss, injury, or liability caused by the intentional or willful and
6 wanton misconduct of such person.

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

18 (3) To the extent not covered by the state involved, member state, or the
19 Interstate Commission, the representatives or employees of the Interstate
20 Commission shall be held harmless in the amount of a settlement or judgment,
21 including attorney's fees and costs, obtained against such persons arising out

1 of an actual or alleged act, error, or omission that occurred within the scope of
2 Interstate Commission employment, duties, or responsibilities, or that such
3 persons had a reasonable basis for believing occurred within the scope of
4 Interstate Commission employment, duties, or responsibilities, provided that
5 the actual or alleged act, error, or omission did not result from intentional or
6 willful and wanton misconduct on the part of such persons.

7 § 1420o. RULEMAKING FUNCTIONS OF THE INTERSTATE

8 COMMISSION

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

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

19 (c) Not later than 30 days after a rule is promulgated, any person may file a
20 petition for judicial review of the rule in the U.S. District Court for the District
21 of Columbia or the federal district where the Interstate Commission has its

1 principal offices, provided that the filing of such a petition shall not stay or
2 otherwise prevent the rule from becoming effective unless the court finds that
3 the petitioner has a substantial likelihood of success. The court shall give
4 deference to the actions of the Interstate Commission consistent with
5 applicable law and shall not find the rule to be unlawful if the rule represents a
6 reasonable exercise of the authority granted to the Interstate Commission.

7 § 1420p. OVERSIGHT OF INTERSTATE COMPACT

8 (a) The executive, legislative, and judicial branches of state government in
9 each member state shall enforce the Compact and shall take all actions
10 necessary and appropriate to effectuate the Compact's purposes and intent.
11 The provisions of the Compact and the rules promulgated hereunder shall have
12 standing as statutory law but shall not override existing state authority to
13 regulate the practice of medicine.

14 (b) All courts shall take judicial notice of the Compact and the rules in any
15 judicial or administrative proceeding in a member state pertaining to the
16 subject matter of the Compact that may affect the powers, responsibilities, or
17 actions of the Interstate Commission.

18 (c) The Interstate Commission shall be entitled to receive all service of
19 process in any such proceeding, and shall have standing to intervene in the
20 proceeding for all purposes. Failure to provide service of process to the
21 Interstate Commission shall render a judgment or order void as to the

1 Interstate Commission, the Compact, or promulgated rules.

2 § 1420q. ENFORCEMENT OF INTERSTATE COMPACT

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

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

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

17 § 1420r. DEFAULT PROCEDURES

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

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

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

8 (2) Provide remedial training and specific technical assistance regarding
9 the default.

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

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

21 (e) The Interstate Commission shall establish rules and procedures to

1 address licenses and physicians that are materially impacted by the termination
2 of a member state or the withdrawal of a member state.

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

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

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

16 § 1420s. DISPUTE RESOLUTION

17 (a) The Interstate Commission shall attempt, upon the request of a member
18 state, to resolve disputes that are subject to the Compact and that may arise
19 among member states or member boards.

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

1 § 1420t. MEMBER STATES; EFFECTIVE DATE AND AMENDMENT

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

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

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

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

14 § 1420u. WITHDRAWAL

15 (a) Once effective, the Compact shall continue in force and remain binding
16 upon each and every member state; provided that a member state may
17 withdraw from the Compact by specifically repealing the statute that enacted
18 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 year after the effective
21 date of such statute and until written notice of the withdrawal has been given

1 by the withdrawing state to the governor of each other member state.

2 (c) The withdrawing state shall immediately notify the chairperson of the
3 Interstate Commission in writing upon the introduction of legislation repealing
4 the Compact in the withdrawing state.

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

8 (e) The withdrawing state is responsible for all dues, obligations, and
9 liabilities incurred through the effective date of withdrawal, including
10 obligations, the performance of which extends beyond the effective date of
11 withdrawal.

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

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

19 § 1420v. DISSOLUTION

20 (a) The Compact shall dissolve effective on the date of the withdrawal or
21 default of the member state that reduces the membership in the Compact to

1 one member state.

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

6 § 1420w. SEVERABILITY AND CONSTRUCTION

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

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

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

14 § 1420x. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

21 (d) All agreements between the Interstate Commission and the member

1 states are binding in accordance with their terms.

2 (e) In the event any provision of the Compact exceeds the constitutional
3 limits imposed on the legislature of any member state, such provision shall be
4 ineffective to the extent of the conflict with the constitutional provision in
5 question in that member state.

6 Sec. 2. EFFECTIVE DATE

7 This act shall take effect on January 1, 2019.

Sec. 2. 3 V.S.A. § 123(j)(1) is amended to read:

(j)(1) The Office may inquire into the criminal background histories of applicants for licensure and for biennial license renewal for the following professions:

(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter 59 28;

(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59; and

(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; and

(D) osteopathic physicians licensed under 26 V.S.A. chapter 33.

Sec. 3. 26 V.S.A. § 1404 is added to read:

§ 1404. APPLICANT FOR EXPEDITED LICENSURE; FINGERPRINT DATA

(a) An applicant for expedited licensure pursuant to section 1420e of this chapter shall submit a full set of fingerprints to the Board for the purpose of obtaining State and federal criminal background checks pursuant to subdivision 1420e(b)(2) of this chapter. The Department of Public Safety may exchange fingerprint data with the Federal Bureau of Investigation.

(b) Communications between the Board and the Interstate Medical Licensure Compact Commission regarding verification of physician eligibility for licensure under the Interstate Medical Licensure Compact shall not include any information received from the Federal Bureau of Investigation related to

State and federal criminal background checks performed for the purposes of subdivision 1420e(b)(2) of this chapter.

Sec. 3a. 26 V.S.A. § 1401a(d) is added to read:

(d) If at any time an assessment is imposed on the State for its membership in the Interstate Medical Licensure Compact Commission pursuant to section 1420m of this title, the Board and the Board of Osteopathic Physicians and Surgeons shall assume responsibility for paying the assessment from their respective special funds in proportional amounts based on their numbers of licensees for professions eligible for licensure through the Compact.

Sec. 3b. 26 V.S.A. § 1794 is amended to read:

§ 1794. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

* * *

(b) If at any time an assessment is imposed on the State for its membership in the Interstate Medical Licensure Compact Commission pursuant to section 1420m of this title, the Board and the Board of Medical Practice shall assume responsibility for paying the assessment from their respective special funds in proportional amounts based on their numbers of licensees for professions eligible for licensure through the Compact.

Sec. 4. EFFECTIVE DATE

This act shall take effect on January 1, 2020.