

2015 DRAFTING REQUEST

Bill

Received: 1/7/2015 Received By: mduchek
Wanted: As time permits Same as LRB: -2315
For: Nancy VanderMeer (608) 266-8366 By/Representing: Dustin Truax
May Contact: Drafter: mduchek
Subject: Occupational Reg. - prof lic Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.VanderMeer@legis.wisconsin.gov
Carbon copy (CC) to: michael.gallagher@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Interstate Medical Licensure Compact

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 1/20/2015			_____			
/P1	mduchek 4/14/2015	csicilia 4/15/2015	jmurphy 2/2/2015	_____	mbarman 2/2/2015		State
/P2	mduchek 4/23/2015	csicilia 4/24/2015		_____	lparisi 4/15/2015		State
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Vers. Drafted

Reviewed

Typed

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Submitted
4/24/2015

Jacketed
4/24/2015

Required

FE Sent For:

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2015 DRAFTING REQUEST

Bill

Received: 1/7/2015 Received By: mduchek
Wanted: As time permits Same as LRB:
For: Leah Vukmir (608) 266-2512 By/Representing: ~~Lucas Fuller~~ Dustin Traux
May Contact: Drafter: mduchek
Subject: Occupational Reg. - prof lic Addl. Drafters:
Extra Copies:

Orig. requestor

Submit via email: YES
Requester's email: ~~Sen.Vukmir@legis.wisconsin.gov~~ Rep Vander Maer
Carbon copy (CC) to: michael.gallagher@legis.wisconsin.gov

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/?	mduchek 1/20/2015			_____			
/P1		jdyer 2/2/2015	jmurphy 2/2/2015	_____	mbarman 2/2/2015		State

FE Sent For:

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Example of how a Wisconsin physician would receive a license to practice medicine in Minnesota under the Compact

Assume Wisconsin and Minnesota are members of the Compact.

Assume Wisconsin is the physician's "state of principle license," and the physician wants to receive a license to practice in Minnesota.

First, the physician must fill out an application for expedited license (presumably using a form approved by the Interstate Commission). (Section 5(a))

Second, the physician will send that application to the Wisconsin Medical Examining Board (WI MEB). (Section 5(a))

Third, the WI MEB will evaluate whether the physician meets the criteria for expedited licensure under Section 3(a) and 5(b)ii. If the physician meets that criteria, the WI MEB will send a letter to the Interstate Commission (and presumably the physician) stating so. (Section 5(b)intro)

Fourth, the physician will "register" with the Minnesota Medical Examining Board (MN MEB) and pay fees to the Minnesota MEB. (Section 5(c))

Fifth, the MN MEB after receiving the verification of eligibility letter created by the WI MEB and fees, shall issue an expedited MN license to the physician to practice medicine in MN. (Section 5(d))

At the end of the process, the physician will have a Wisconsin medical license issued by the WI MEB and a Minnesota license issued by the MN MEB.

DRAFT LANGUAGE FOR WI IMPLEMENTATION OF THE FSMB INTERSTATE MEDICAL LICENSURE
COMPACT

BILL _____

SECTION 1. Subchapter VIII of chapter 448 of the statutes includes 448.980 and 448.981 and is created to read:

Chapter 448
Subchapter VIII
INTERSTATE MEDICAL LICENSURE COMPACT

SECTION 2. 448.980 is created to read:

448.980 INTERSTATE MEDICAL LICENSURE COMPACT

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

(2) SECTION 2. DEFINITIONS. In this compact:

- (a) "Bylaws" means those bylaws established by the Interstate Commission pursuant to Section 11 for its governance, or for directing and controlling its actions and conduct.
- (b) "Commissioner" means the voting representative appointed by each member board pursuant to Section 11.
- (c) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board.
- (d) "Expedited License" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the Compact.

- (e) "Interstate Commission" means the interstate commission created pursuant to Section 11.
- (f) "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.
- (g) "Medical Practice Act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.
- (h) "Member Board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians as directed by the state government.
- (i) "Member State" means a state that has enacted the Compact.
- (j) "Practice of Medicine" means the clinical prevention, diagnosis, or treatment of human disease, injury, or condition requiring a physician to obtain and maintain a license in compliance with the Medical Practice Act of a member state.
- (k) "Physician" means any person who:
1. Is a graduate of a medical school accredited by the Liaison Committee on Medical Education, the Commission on Osteopathic College Accreditation, or a medical school listed in the International Medical Education Directory or its equivalent;
 2. Passed each component of the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;
 3. Successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;
 4. Holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;
 5. Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;
 6. Has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;
 7. Has never held a license authorizing the practice of medicine subjected 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;
 8. Has never had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration; and

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

(l) "Offense" means a felony, gross misdemeanor, or crime of moral turpitude.

(m) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section 12 of the Compact 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 statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(n) "State" means any state, commonwealth, district, or territory of the United States.

(o) "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.

(3) SECTION 3. ELIGIBILITY

(a) A physician must meet the eligibility requirements as defined in Section 2(k) to receive an expedited license under the terms and provisions of the Compact.

(b) A physician who does not meet the requirements of Section 2(k) 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.

(4) SECTION 4. 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, or
2. the state where at least 25% of the practice of medicine occurs, or
3. the location of the physician's employer, or
4. if no state qualifies under subsection (1), subsection (2), or subsection (3), the state designated as state of residence for purpose of federal income tax.

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

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

(5) SECTION 5. APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

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

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

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

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

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

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

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

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

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

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

(6) SECTION 6. FEES FOR EXPEDITED LICENSURE

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

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

(7) SECTION 7. RENEWAL AND CONTINUED PARTICIPATION

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

1. Maintains a full and unrestricted license in a state of principal license;
2. Has not been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;
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 subsection (c), 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.

(8) SECTION 8. COORDINATED INFORMATION SYSTEM

(a) The Interstate Commission shall establish a database of all physicians licensed, or who have applied for licensure, under Section 5.

(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 discretionary sharing of information by member boards.

(9) SECTION 9. JOINT INVESTIGATIONS

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

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

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

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

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

(10) SECTION 10. DISCIPLINARY ACTIONS

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

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

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

i. impose the same or lesser sanction(s) against the physician so long as such sanctions are consistent with the Medical Practice Act of that state;

ii. or pursue separate disciplinary action against the physician under its respective Medical Practice Act, regardless of the action taken in other member states.

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

(11) SECTION 11. INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

(a) The member states hereby create the "Interstate Medical Licensure Compact Commission".

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

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

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

1. Allopathic or osteopathic physician appointed to a member board;
2. Executive director, executive secretary, or similar executive of a member board; or
3. Member of the public appointed to a member board.

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

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

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

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

1. Relate solely to the internal personnel practices and procedures of the Interstate Commission;
2. Discuss matters specifically exempted from disclosure by federal statute;
3. Discuss trade secrets, commercial, or financial information that is privileged or confidential;
4. Involve accusing a person of a crime, or formally censuring a person;
5. Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Discuss investigative records compiled for law enforcement purposes; or
7. Specifically relate to the participation in a civil action or other legal proceeding.

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

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

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

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

(12) SECTION 12. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the duty and power to:

- (a) Oversee and maintain the administration of the Compact;
- (b) Promulgate rules which shall be binding to the extent and in the manner provided for in the Compact;
- (c) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the Compact, its bylaws, rules, and actions;
- (d) Enforce compliance with Compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;
- (e) Establish and appoint committees including, but not limited to, an executive committee as required by Section 11, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties;
- (f) Pay, or provide for the payment of the expenses related to the establishment, organization, and ongoing activities of the Interstate Commission;
- (g) Establish and maintain one or more offices;
- (h) Borrow, accept, hire, or contract for services of personnel;
- (i) Purchase and maintain insurance and bonds;
- (j) Employ an executive director who shall have such powers to employ, select or appoint employees, agents, or consultants, and to determine their qualifications, define their duties, and fix their compensation;
- (k) Establish personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
- (l) Accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize, and dispose of it in a manner consistent with the conflict of interest policies established by the Interstate Commission;
- (m) Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed;
- (n) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;
- (o) Establish a budget and make expenditures;
- (p) Adopt a seal and bylaws governing the management and operation of the Interstate Commission;
- (q) Report annually to the legislatures and governors of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the Interstate Commission;

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

(s) Maintain records in accordance with the bylaws;

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

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

(13) SECTION 13. FINANCE POWERS

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

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

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

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

(14) SECTION 14. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

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

(c) Officers selected in subsection (b) shall serve without remuneration from the Interstate Commission.

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

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

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

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

(15) SECTION 15. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

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

(16) SECTION 16. OVERSIGHT OF INTERSTATE COMPACT

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

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

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

(17) SECTION 17. ENFORCEMENT OF INTERSTATE COMPACT

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

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

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

(18) SECTION 18. DEFAULT PROCEDURES

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

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

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

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

(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Compact upon an affirmative vote of a majority of the Commissioners and all rights, privileges, and benefits conferred by the

Compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

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

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

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

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

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

(19) SECTION 19. DISPUTE RESOLUTION

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

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

(20) SECTION 20. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

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

(21) SECTION 21. WITHDRAWAL

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

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

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

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

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

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

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

(22) SECTION 22. DISSOLUTION

(a) The Compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the Compact to one (1) member state.

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

(23) SECTION 23. SEVERABILITY AND CONSTRUCTION

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

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

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

(24) SECTION 24. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

448.02(8)(d)
Add to 448.04?
448.04(1)(c)

Compact.

- (b) All laws in a member state in conflict with the Compact are superseded to the extent of the conflict.
- (c) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.
- (d) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.
- (e) In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

SECTION 3. 448.981 is created to read:

448.981 IMPLEMENTATION OF THE INTERSTATE MEDICAL LICENSURE COMPACT

- (1) Notwithstanding any provision of s.448.980, any information that the Medical Examining Board under Chapter 448, Subchapter II may or shall disclose pursuant to the Compact shall only be information directly regarding a physician that meets all of the following criteria:
 - (a) The information is provided only to a member board with responsibility for authorizing the practice of medicine in the member state or the Interstate Commission.
 - (b) If the information pertains to an investigation or discipline, all identifying information of individuals or entities other than the physician being investigated or disciplined is removed.
 - (c) The information is not confidential under Wisconsin law.
 - (d) The physician either:
 1. Has a current expedited license granted by Wisconsin solely pursuant to the Compact, or
 2. Has a current expedited license granted by another state participating in the Compact, and Wisconsin is currently designated by the physician as the physician's state of principle license pursuant to the Compact.
- (2) A subpoena issued pursuant to s.448.980(9)(c)¹ shall only be enforceable in Wisconsin or against a Wisconsin citizen if all of the following are true:
 - (a) The subpoena is issued by a member board with responsibility for authorizing the practice of

¹ (9) **SECTION 9. JOINT INVESTIGATIONS**

- (a) Licensure and disciplinary records of physicians are deemed investigative.
- (b) In addition to the authority granted to a member board by its respective Medical Practice Act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.
- (c) A subpoena issued by a member state shall be enforceable in other member states.
- (d) Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.
- (e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

medicine in the member state, and

(b) The individual subpoenaed is either of the following:

1. A physician with a current expedited license granted by Wisconsin solely pursuant to the Compact, or
2. A physician with a current expedited license granted by another state participating in the Compact, and for whom Wisconsin is currently designated by the physician as the physician's state of principle license pursuant to the Compact.

(3) In applying s.448.980(9)(e)², the Medical Examining Board under Chapter 448, Subchapter II, may only undertake such investigation of violations of another states' statute authorizing the practice of medicine if:

1. The physician being investigated has a current expedited license that was granted by Wisconsin and the other state solely pursuant to the Compact;
2. The physician being investigated has a current expedited license that was granted by Wisconsin solely pursuant to the Compact and the other state is the physician's currently designated state of principle license; or
3. The physician being investigated has a current expedited license that was granted by the other state solely pursuant to the Compact and Wisconsin is the physician's currently designated state of principle license.

(4) The Medical Examining Board under Chapter 448, Subchapter II, shall by January 1 of each year report to the Joint Finance Committee the number of individuals investigated by the Board solely pursuant to s.448.980(9) (e)² and the expenses incurred by the Board undertaking investigations pursued solely pursuant to s.448.980(9) (e)².

(5) Fees collected by the Medical Examining Board from physicians that have not applied for an expedited license shall not be used to pay Wisconsin's annual assessment pursuant to s. 448.908(13)(a)³ without the approval of the Joint Finance Committee.

² (9) **SECTION 9. JOINT INVESTIGATIONS**

- (a) Licensure and disciplinary records of physicians are deemed investigative.
- (b) In addition to the authority granted to a member board by its respective Medical Practice Act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.
- (c) A subpoena issued by a member state shall be enforceable in other member states.
- (d) Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.
- (e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

³ (13) **SECTION 13. FINANCE POWERS**

- (a) The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.
- (b) The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.
- (c) The Interstate Commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.
- (d) The Interstate Commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the Interstate Commission.



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-1138/P1

MED: a: jm

In 1-20-14
out 2-23-14, MONDAY

JLD

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

4
1
2

Gen

AN ACT ...; relating to: ratification of the interstate medical licensure compact
and making appropriations. ✓

Analysis by the Legislative Reference Bureau

This bill ratifies and enters Wisconsin into the Interstate Medical Licensure Compact (~~compact~~ compact), which provides for, as stated in the compact, "a streamlined process that allows physicians to become licensed in multiple states." Provisions in the compact are to be administered by boards that regulate physicians in the states that are parties to the compact (member boards). ✓ Significant provisions of the compact include:

1. The creation of an Interstate Medical Licensure Compact Commission (commission), which includes two representatives of each member board. ✓ The commission has various powers and duties granted in the compact, including overseeing the administration of the compact, enforcing the compact, adopting bylaws, promulgating binding rules for the compact, employing an executive director and employees, and maintaining records. ✓

2. A process whereby a physician who possesses a license to engage in the practice of medicine issued by a member board and who satisfies other criteria designates a state where the physician is already licensed as his or her state of principle license and applies to the member board in that state for licensure through the compact. After a verification and registration process that includes a background check, the physician may receive an "expedited license" ✓ in other states that are parties to the compact. If a physician's license in his or her state of principle license is revoked or suspended, then all expedited licenses issued by other states are revoked or suspended as well until each is reinstated. ✓

3. The ability for member boards to conduct joint investigations of physicians and the ability of member states to issue subpoenas that are enforceable in other states.✓

4. The creation of a coordinated information system including a database of all physicians who have applied for or received an expedited license. The compact requires, or in other cases allows, for member boards to submit public actions, complaints, or disciplinary information to the commission.✓

The compact provides that it becomes effective upon being enacted into law by seven states✓ and that it may be amended upon enactment of an amendment by all member states. A state may withdraw from the compact by repealing the statute authorizing the compact, but the compact provides that a withdrawal does not take effect until one year after the effective date of that repeal.✓

The compact provides that laws of a member state that are not inconsistent with the compact may be enforced, but that all laws of a member state in conflict with the compact are superseded✓ to the extent of the conflict.

In addition to enacting the compact, the bill provides all of the following:

1. Numerous limitations on the sharing of information under the compact about physicians, including limiting to disclosures to physicians who have designated this state as their state of principle license or who hold expedited licenses granted by the Wisconsin Medical Examining Board (MEB).✓ The bill includes similar limitations with respect to the enforceability of subpoenas under the compact and investigations of other states' medical practice laws.

2. A requirement that the Wisconsin MEB✓ report annually to the Joint Committee on Finance (JCF) about investigations of physicians under the compact.

3. That payment of this state's assessments under the commission✓ is from licensure fees paid by physicians who have applied for licensure through the compact.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 14.83^X of the statutes is created to read:

2 14.83 Interstate medical licensure compact.✓ There is created an
3 interstate medical licensure compact commission as specified in s. 448.980.✓ The
4 members of the commission representing this state under s. 448.980 (11) (d)✓ shall be
5 members of the medical examining board and shall be appointed by the chairperson

1 of the medical examining board. The commission has the powers and duties granted
2 and imposed under s. 448.980.✓

****NOTE: It is our standard practice when doing a compact to create one of these provisions in ch. 14. I provided that the chairperson of the MEB would choose the members of the MEB to sit on the commission. Let me know if you want something different.

3 **SECTION 2.** 20.165 (1) (hg) of the statutes is amended to read:

4 20.165 (1) (hg) *General program operations; medical examining board;*
5 *interstate medical licensure compact; prescription drug monitoring program.*
6 Biennially, the amounts in the schedule for the licensing, rule-making, and
7 regulatory functions of the medical examining board and the affiliated credentialing
8 boards attached to the medical examining board, except for preparing,
9 administering, and grading examinations; for the payment of assessments for the
10 interstate medical licensure compact under s. 448.980 (13) (a); and for the pharmacy
11 examining board's operation of the prescription drug monitoring program under s.
12 450.19. Ninety percent of all moneys received for issuing and renewing credentials
13 under ch. 448 shall be credited to this appropriation. All moneys received from the
14 interstate medical licensure compact commission under s. 448.980 shall be credited
15 to this appropriation.✓

History: 1971 c. 125; 1973 c. 90, 156, 333; 1975 c. 39; 1977 c. 29, 400, 418; 1979 c. 34; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20; 1983 a. 27; 1985 a. 29; 1989 a. 31, 307; 1991 a. 167, 269, 315; 1993 a. 16, 102, 490; 1995 a. 27, 461; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2007 a. 20; 2009 a. 28, 111; 2011 a. 32 ss. 447 to 476, 478, 480 to 484, 486 to 488, 494 to 495; 2011 a. 146; 2013 a. 20, 358.

****NOTE: According to section 7 (c) of the compact, the commission collects renewal fees and distributes them to the board, so I provided that all of those fees would be credited to the MEB's appropriation. OK? In addition, I allowed for the payment of the assessments from this appropriation. Let me know if we should have a backup source of funding for the assessments or if you want 10% of the fees to go straight to the general fund as is the case with other credential fees. *10 percent*

16 **SECTION 3.** 440.03 (11m) (c) of the statutes is amended to read:

17 440.03 (11m) (c) The department of safety and professional services may not
18 disclose a social security number obtained under par. (a) to any person except the
19 coordinated licensure information system systems under ~~s.~~ ^{ss.} 441.50 (7) and 448.980

1 (8); the department of children and families for purposes of administering s. 49.22;
 2 and, for a social security number obtained under par. (a) 1., the department of
 3 revenue for the purpose of requesting certifications under s. 73.0301 and
 4 administering state taxes and the department of workforce development for the
 5 purpose of requesting certifications under s. 108.227.

History: 1977 c. 418 ss. 24, 792; 1979 c. 34, 221, 337; 1981 c. 94; 1985 a. 29, 340; 1989 a. 31, 340; 1991 a. 39; 1993 a. 16, 102, 107, 443, 445, 490, 491; 1995 a. 27 ss. 6472g, 6472j, 9126 (19); 1995 a. 233; 1997 a. 27, 75, 79; 1997 a. 191 ss. 312, 313, 318; 1997 a. 231, 237; 1997 a. 261 ss. 1 to 4, 7, 10, 13; 1997 a. 311; 1999 a. 9, 32; 2001 a. 16, 66, 80; 2003 a. 151; 2005 a. 25; 2007 a. 20 ss. 3449 to 3462, 9121 (6) (a); 2007 a. 153, 189; 2009 a. 28, 130, 276, 282, 355; 2011 a. 32, 146, 160, 190, 255; 2013 a. 20, 36, 124, 244, 288, 358; s. 35.17 correction in sub. (14) (a) 1. b.

****NOTE: I amended this provision because it was amended for the Nurse Licensure Compact. If you think this change isn't necessary, I can take this out.

6 SECTION 4. 440.03 (13) (b) (intro.) of the statutes is amended to read:

7 440.03 (13) (b) (intro.) The department may investigate whether an applicant
 8 for or holder of any of the following credentials has been charged with or convicted
 9 of a crime only pursuant to rules promulgated by the department under this
 10 paragraph, including rules that establish the criteria that the department will use
 11 to determine whether an investigation under this paragraph is necessary, except as
 12 provided in par. (c) and s. 448.980 (5) (b) ³⁰2: ✓

History: 1977 c. 418 ss. 24, 792; 1979 c. 34, 221, 337; 1981 c. 94; 1985 a. 29, 340; 1989 a. 31, 340; 1991 a. 39; 1993 a. 16, 102, 107, 443, 445, 490, 491; 1995 a. 27 ss. 6472g, 6472j, 9126 (19); 1995 a. 233; 1997 a. 27, 75, 79; 1997 a. 191 ss. 312, 313, 318; 1997 a. 231, 237; 1997 a. 261 ss. 1 to 4, 7, 10, 13; 1997 a. 311; 1999 a. 9, 32; 2001 a. 16, 66, 80; 2003 a. 151; 2005 a. 25; 2007 a. 20 ss. 3449 to 3462, 9121 (6) (a); 2007 a. 153, 189; 2009 a. 28, 130, 276, 282, 355; 2011 a. 32, 146, 160, 190, 255; 2013 a. 20, 36, 124, 244, 288, 358; s. 35.17 correction in sub. (14) (a) 1. b.

13 SECTION 5. 440.03 (13) (d) of the statutes is amended to read:

14 440.03 (13) (d) The department shall charge an applicant any fees, costs, or
 15 other expenses incurred in conducting any investigation under this subsection or s.
 16 440.26 or ^es. 448.980 (5) (b) ³2: ✓

NO STRIKE
 Plain

History: 1977 c. 418 ss. 24, 792; 1979 c. 34, 221, 337; 1981 c. 94; 1985 a. 29, 340; 1989 a. 31, 340; 1991 a. 39; 1993 a. 16, 102, 107, 443, 445, 490, 491; 1995 a. 27 ss. 6472g, 6472j, 9126 (19); 1995 a. 233; 1997 a. 27, 75, 79; 1997 a. 191 ss. 312, 313, 318; 1997 a. 231, 237; 1997 a. 261 ss. 1 to 4, 7, 10, 13; 1997 a. 311; 1999 a. 9, 32; 2001 a. 16, 66, 80; 2003 a. 151; 2005 a. 25; 2007 a. 20 ss. 3449 to 3462, 9121 (6) (a); 2007 a. 153, 189; 2009 a. 28, 130, 276, 282, 355; 2011 a. 32, 146, 160, 190, 255; 2013 a. 20, 36, 124, 244, 288, 358; s. 35.17 correction in sub. (14) (a) 1. b.

****NOTE: This allows DSPS to charge for background investigations. Is this OK and if so will this be sufficient to cover the costs of the board in making determinations?

17 SECTION 6. 440.05 (intro.) of the statutes is amended to read:

1 **440.05 Standard fees.** (intro.) The following standard fees apply to all initial
2 credentials, except as provided in ss. 440.51, 444.03, 444.11, 446.02 (2) (c), 447.04 (2)
3 (c) 2., 448.07 (2), 449.17 (1m) (d), and 449.18 (2) (d):

History: 1977 c. 29, 418; 1979 c. 34; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1983 a. 27; 1985 a. 29; 1987 a. 264, 265, 329, 399, 403; 1989 a. 31, 229, 307, 316, 336, 340, 341, 359; 1991 a. 39, 269, 278, 315; 1993 a. 16; 1995 a. 27; 1997 a. 27, 96; 1999 a. 9; 2001 a. 16; 2003 a. 150, 270, 285, 327; 2005 a. 25, 297; 2007 a. 20; 2011 a. 209; 2013 a. 20.

4 **SECTION 7.** 440.08 (2) (d) of the statutes is created to read:

5 440.08 (2) (d) A renewal of an expedited license, as defined in s. 448.980 (2) (d),
6 shall be governed by s. 448.980 (7).

7 **SECTION 8.** 440.14 (5) (b) of the statutes is amended to read:

8 440.14 (5) (b) Paragraph (a) does not apply to a list that the department or a
9 credentialing board furnishes to another state agency, a law enforcement agency or
10 a federal governmental agency. In addition, par. (a) does not apply to a list that the
11 department or the board of nursing furnishes to the coordinated licensure
12 information system under s. 441.50 (7) and does not apply to a list that the
13 department or the medical examining board furnishes to the coordination licensure
14 information system under s. 448.980 (8). A state agency that receives a list from the
15 department or a credentialing board containing a personal identifier of any
16 individual who has made a declaration under sub. (2), (3) or (4) may not disclose the
17 personal identifier to any person other than a state agency, a law enforcement agency
18 or a federal governmental agency.

History: 1999 a. 88; 2001 a. 66; 2009 a. 388.

19 **SECTION 9.** 440.15 of the statutes is amended to read:

20 **440.15 No fingerprinting.** Except as provided under s. ss. 440.03 (13) (c) and
21 448.980 (5) (b) (2), ³ the department or a credentialing board may not require that an
22 applicant for a credential or a credential holder be fingerprinted or submit

1 fingerprints in connection with the department's or the credentialing board's
2 credentialing.

History: 2011 a. 255.

****NOTE: Because the compact explicitly requires fingerprinting, I added a cross-reference here as an exception.

3 SECTION 10. 448.01 (5) of the statutes is amended to read:

4 448.01 (5) "Physician" means an individual possessing the degree of doctor of
5 medicine or doctor of osteopathy or an equivalent degree as determined by the
6 medical examining board, and holding a license granted by the medical examining
7 board. This subsection does not apply in s. 448.980. ✓

History: 1975 c. 383, 421; 1977 c. 418 ss. 845, 846, 929 (41); 1985 a. 146; 1987 a. 399; 1989 a. 229; 1993 a. 105, 107; 1995 a. 448; 1997 a. 67, 175 ss. 16 to 26, 40, 41; 1999 a. 32, 180.

8 SECTION 11. 448.015 (1j) of the statutes is created to read:

9 448.015 (1j) "Expedited license" has the meaning given in s. 448.980 (2) (d). ✓

10 SECTION 12. 448.04 (1) (ab) of the statutes is created to read:

11 448.04 (1) (ab) *Compact license*. ✓ The board may grant an expedited license
12 pursuant to the interstate medical licensure compact under s. 448.980. ✓

13 SECTION 13. 448.05 (2) (a) (intro.) of the statutes is amended to read: ✓

14 448.05 (2) (a) (intro.) Except as provided in pars. (b) to (e) (f), ✓ an applicant for
15 any class of license to practice medicine and surgery must supply evidence
16 satisfactory to the board of all of the following:

History: 1975 c. 383, 421; 1979 c. 221; 1981 c. 380; 1981 c. 391 s. 211; 1987 a. 399; 1989 a. 229; 1991 a. 180; 1993 a. 105, 107; 1995 a. 27 s. 9126 (19); 1995 a. 171, 172, 245; 1997 a. 27, 67, 175; 1999 a. 180; 2001 a. 89; 2007 a. 20 s. 9121 (6) (a); 2011 a. 160; 2013 a. 240.

17 SECTION 14. 448.05 (2) (b) (intro.) of the statutes is amended to read: ✓

18 448.05 (2) (b) (intro.) Except as provided in pars. (c) to (e) (f), ✓ an applicant for
19 a license to practice medicine and surgery who is a graduate of a foreign medical
20 college must supply evidence satisfactory to the board of all of the following:

History: 1975 c. 383, 421; 1979 c. 221; 1981 c. 380; 1981 c. 391 s. 211; 1987 a. 399; 1989 a. 229; 1991 a. 180; 1993 a. 105, 107; 1995 a. 27 s. 9126 (19); 1995 a. 171, 172, 245; 1997 a. 27, 67, 175; 1999 a. 180; 2001 a. 89; 2007 a. 20 s. 9121 (6) (a); 2011 a. 160; 2013 a. 240.

21 SECTION 15. 448.05 (2) (f) of the statutes is created to read:

as affected by 2013 Wisconsin Act 240,

1 448.05 (2) (f) The board shall grant an expedited license as provided under s.
2 448.980. ✓

 ****NOTE: As I understand it, when our MEB would grant an expedited license, the applicant would not have to provide the board with all of the things required for normal licensees because the applicant would have completed the registration process with the Commission. So I simply provided that the WI MEB must grant expedited licenses in accordance with the compact and added this as an exception under s. 448.05 (2) (a) and (b). ✓ Let me know if you think more need be said here.

3 **SECTION 16.** 448.07 (1) (a) of the statutes is amended to read:

4 448.07 (1) (a) Every person licensed or certified under this subchapter shall
5 register on or before November 1 of each odd-numbered year following issuance of
6 the license or certificate with the board in such manner as the board shall designate
7 and upon forms the board shall provide, except that registration with respect to an
8 expedited license shall be governed by the renewal provisions in s. 448.980 (7). ✓ The
9 secretary of the board, on or before October 1 of each odd-numbered year, shall mail
10 or cause to be mailed to every person required to register a registration form. The
11 board shall furnish to each person registered under this section a certificate of
12 registration, and the person shall display the registration certificate conspicuously
13 in the office at all times. No person may exercise the rights or privileges conferred
14 by any license or certificate granted by the board unless currently registered as
15 required under this subsection.

History: 1975 c. 383, 421; 1977 c. 29, 131, 418; 1979 c. 162; 1987 a. 27, 264, 399; 1991 a. 39; 1995 a. 245; 1997 a. 175; 1999 a. 180; 2001 a. 89; 2007 a. 20; 2013 a. 240.

 ****NOTE: This is the section in our law that governs renewal of a license under ch.

448. Unlike most other credentials, however, it refers to "registration" instead of
"renewal." ✓

16 **SECTION 17.** 448.07 (2) of the statutes is amended to read:

17 448.07 (2) **FEEES.** The Except as otherwise provided in s. 448.980, ✓ the fees for
18 examination and licenses granted under this subchapter are specified in s. 440.05,
19 and the renewal fee for such licenses is determined by the department under s.

1 440.03 (9) (a). No fee is required for an expedited license if fees for expedited licenses
2 are paid to the interstate commission for medical licensure under s. 448.980. ✓

History: 1975 c. 383, 421; 1977 c. 29, 131, 418; 1979 c. 162; 1987 a. 27, 264, 399; 1991 a. 39; 1995 a. 245; 1997 a. 175; 1999 a. 180; 2001 a. 89; 2007 a. 20; 2013 a. 240.
***NOTE: As I am not sure how fees will work under the compact exactly, I modified this provision so it should work either way.

3 SECTION 18. Subchapter VIII of chapter 448 [precedes 448.980] ✓ of the statutes
4 is created to read:

5 CHAPTER 448

6 SUBCHAPTER VIII

7 INTERSTATE MEDICAL LICENSURE COMPACT ✓

8 **448.980 Interstate ~~Medical Licensure Compact~~.** ✓ The following compact
9 is hereby ratified and entered into:

10 (1) SECTION 1 - PURPOSE. ✓ In order to strengthen access to health care, and in
11 recognition of the advances in the delivery of health care, the member states of the
12 interstate medical licensure compact ✓ have allied in common purpose to develop a
13 comprehensive process that complements the existing licensing and regulatory
14 authority of state medical boards, provides a streamlined process that allows
15 physicians to become licensed in multiple states, thereby enhancing the portability
16 of a medical license and ensuring the safety of patients. The ~~Compact~~ ✓ creates
17 another pathway for licensure and does not otherwise change a state's existing
18 medical practice act. The compact also adopts the prevailing standard for licensure
19 and affirms that the practice of medicine occurs where the patient is located at the
20 time of the physician-patient encounter, and therefore, requires the physician to be
21 under the jurisdiction of the state medical board where the patient is located. ✓ State
22 medical boards that participate in the compact retain the jurisdiction to impose an

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

3 (2) SECTION 2 - DEFINITIONS. In this compact:

4 (a) "Bylaws" means those bylaws established by the interstate commission
5 pursuant to sub. (11) for its governance, or for directing and controlling its actions
6 and conduct.

7 (b) "Commissioner" means the voting representative appointed by each
8 member board pursuant to sub. (11).

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

14 (d) "Expedited license" means a full and unrestricted medical license granted
15 by a member state to an eligible physician through the process set forth in the
16 compact.

17 (e) "Interstate commission" means the interstate commission created pursuant
18 to sub. (11).

19 (f) "License" means authorization by a state for a physician to engage in the
20 practice of medicine, which would be unlawful without the authorization.

21 (g) "Medical practice act" means laws and regulations governing the practice
22 of allopathic and osteopathic medicine within a member state.

23 (h) "Member board" means a state agency in a member state that acts in the
24 sovereign interests of the state by protecting the public through licensure,
25 regulation, and education of physicians as directed by the state government.

1 (i) "Member state" means a state that has enacted the compact.✓

2 (j) "Practice of Medicine" means the clinical prevention, diagnosis, or treatment
3 of human disease, injury, or condition requiring a physician to obtain and maintain
4 a license in compliance with the medical practice act of a member state.

5 (k) "Physician" means any person who:✓

6 1. Is a graduate of a medical school accredited by the Liaison Committee on
7 Medical Education, the Commission on Osteopathic College Accreditation,✓ or a
8 medical school listed in the International Medical Education Directory✓ or its
9 equivalent;✓

10 2. Passed each component of the United States Medical Licensing Examination
11 (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination
12 (COMLEX-USA) within three²³ attempts, or any of its predecessor examinations
13 accepted by a state medical board as an equivalent examination for licensure
14 purposes;

15 3. Successfully completed graduate medical education approved by the
16 Accreditation Council for Graduate Medical Education✓ or the American Osteopathic
17 Association;✓

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

21 5. Possesses a full and unrestricted license to engage in the practice of medicine
22 issued by a member board;✓

23 6. Has never been convicted, received adjudication, deferred adjudication,
24 community supervision, or deferred disposition for any offense by a court of
25 appropriate jurisdiction;✓

1 7. Has never held a license authorizing the practice of medicine subjected to
2 discipline by a licensing agency in any state, federal, or foreign jurisdiction,
3 excluding any action related to non-payment of fees related to a license; ✓

4 8. Has never had a controlled substance license or permit suspended or revoked
5 by a state or the united states drug enforcement administration; and ✓

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

8 (L) “Offense” means a felony, gross misdemeanor, or crime of moral turpitude. ✓

9 (m) “Rule” means a written statement by the interstate commission
10 promulgated pursuant to sub. (12) ✓ that is of general applicability, implements,
11 interprets, or prescribes a policy or provision of the compact, or an organizational,
12 procedural, or practice requirement of the interstate commission, and has the force
13 and effect of statutory law in a member state, and includes the amendment, repeal,
14 or suspension of an existing rule. ✓

15 (n) “State” means any state, commonwealth, district, or territory of the United
16 States. ✓

17 (o) “State of principal license” means a member state where a physician holds
18 a license to practice medicine and which has been designated as such by the
19 physician for purposes of registration and participation in the compact. ✓

20 (3) SECTION 3 - ELIGIBILITY. (a) A physician must meet the eligibility
21 requirements as defined in sub. (2) (k) ✓ to receive an expedited license under the terms
22 and provisions of the compact.

23 (b) A physician who does not meet the requirements of sub. (2) (k) ✓ may obtain
24 a license to practice medicine in a member state if the individual complies with all

1 laws and requirements, other than the compact, relating to the issuance of a license
2 to practice medicine in that state.

3 (4) SECTION 4 - DESIGNATION OF STATE OF PRINCIPAL LICENSE. (a) A physician shall
4 designate a member state as the state of principal license for purposes of registration
5 for expedited licensure through the compact if the physician possesses a full and
6 unrestricted license to practice medicine in that state, and the state is:

7 1. The state of primary residence for the physician, or

8 2. The state where at least 25% of the practice of medicine occurs, or

9 3. The location of the physician's employer, or

10 4. If no state qualifies under subd. 1., 2., or 3., the state designated as state of
11 residence for purpose of federal income tax.

12 (b) A physician may redesignate a member state as state of principal license
13 at any time, as long as the state meets the requirements in par. (a).

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

16 (5) SECTION 5 - APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE. (a) A
17 physician seeking licensure through the compact shall file an application for an
18 expedited license with the member board of the state selected by the physician as the
19 state of principal license.

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

24 Static qualifications, which include verification of medical education,
25 graduate medical education, results of any medical or licensing examination, and

1 other qualifications as determined by the interstate commission through rule, shall
2 not be subject to additional primary source verification where already primary
3 source verified by the state of principal license.✓

4 3
A. The member board within the state selected as the state of principal license
5 shall, in the course of verifying eligibility, perform a criminal background check of
6 an applicant, including the use of the results of fingerprint or other biometric data
7 checks compliant with the requirements of the ✓ federal bureau of investigation, with
8 the exception of federal employees who have suitability determination in accordance
9 with 5 CFR 731.202.

10 4
A. Appeal on the determination of eligibility shall be made to the member state
11 where the application was filed and shall be subject to the law of that state.

12 (c) Upon verification in par. (b),✓ physicians eligible for an expedited license
13 shall complete the registration process established by the interstate commission to
14 receive a license in a member state selected pursuant to par. (a),✓ including the
15 payment of any applicable fees.

16 (d) After receiving verification of eligibility under par. (b)✓ and any fees under
17 par. (c),✓ a member board shall issue an expedited license to the physician. This
18 license shall authorize the physician to practice medicine in the issuing state
19 consistent with the medical practice act and all applicable laws and regulations of
20 the issuing member board and member state.✓

****NOTE: This provision cross-references back to pars. (b) and (c)✓ and uses the phrase “a member board.” I am not sure if “a member board” refers to any member board or specifically to the board in the state of principal license (or both?). The cross-references to pars. (b) and (c) suggest this is still talking about the board in the state of principal license, but if that is the case, then what is the function of the expedited license? Wouldn't the idea be to receive an expedited license in a state other than the state of principal license, so that the physician can practice there as well?

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

4 (f) An expedited license obtained through the compact shall be terminated if a
5 physician fails to maintain a license in the state of principal licensure for a
6 non-disciplinary reason, without redesignation of a new state of principal licensure. ✓

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

10 (6) SECTION 6 - FEES FOR EXPEDITED LICENSURE. (a) A member state issuing an
11 expedited license authorizing the practice of medicine in that state may impose a fee
12 for a license issued or renewed through the compact. ✓

13 (b) The interstate commission is authorized to develop rules regarding fees for
14 expedited licenses. ✓

15 (7) SECTION 7 - RENEWAL AND CONTINUED PARTICIPATION. (a) A physician seeking
16 to renew an expedited license granted in a member state shall complete a renewal
17 process with the interstate commission if the physician: ✓

18 1. Maintains a full and unrestricted license in a state of principal license; ✓
19 2. Has not been convicted, received adjudication, deferred adjudication,
20 community supervision, or deferred disposition for any offense by a court of
21 appropriate jurisdiction; ✓

22 3. Has not had a license authorizing the practice of medicine subject to
23 discipline by a licensing agency in any state, federal, or foreign jurisdiction,
24 excluding any action related to non-payment of fees related to a license; ✓ and

1 4. Has not had a controlled substance license or permit suspended or revoked
2 by a state or the united states drug enforcement administration.✓

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

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

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

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

12 (f) The interstate commission is authorized to develop rules to address renewal
13 of licenses obtained through the compact.✓

14 **(8) SECTION 8 - COORDINATED INFORMATION SYSTEM.** (a) The interstate
15 commission shall establish a database of all physicians licensed, or who have applied
16 for licensure, under sub. (5).✓

17 (b) Notwithstanding any other provision of law, member boards shall report to
18 the interstate commission any public action or complaints against a licensed
19 physician who has applied or received an expedited license through the compact.✓

20 (c) Member boards shall report disciplinary or investigatory information
21 determined as necessary and proper by rule of the interstate commission.✓

22 (d) Member boards may report any non-public complaint, disciplinary, or
23 investigatory information not required by par. (c)✓ to the interstate commission.

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

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

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

6 (9) SECTION 9 - JOINT INVESTIGATIONS. (a) Licensure and disciplinary records of
7 physicians are deemed investigative.

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

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

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

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

20 (10) SECTION 10 - DISCIPLINARY ACTIONS. (a) Any disciplinary action taken by
21 any member board against a physician licensed through the compact shall be deemed
22 unprofessional conduct which may be subject to discipline by other member boards,
23 in addition to any violation of the medical practice act or regulations in that state. ✓

24 (b) If a license granted to a physician by the member board in the state of
25 principal license is revoked, surrendered or relinquished in lieu of discipline, or

1 suspended, then all licenses issued to the physician by member boards shall
2 automatically be placed, without further action necessary by any member board, on
3 the same status. If the member board in the state of principal license subsequently
4 reinstates the physician's license, a licensed^e issued to the physician by any other
5 member board shall remain encumbered until that respective member board takes
6 action to reinstate the license in a manner consistent with the medical practice act
7 of that state.

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

11 1. Impose the same or lesser sanction^s⁵ against the physician so long as such
12 sanctions are consistent with the medical practice act of that state; or

13 2. Pursue separate disciplinary action against the physician under its
14 respective medical practice act, regardless of the action taken in other member
15 states.

16 (d) If a license granted to a physician by a member board is revoked,
17 surrendered or relinquished in lieu of discipline, or suspended, then any license^s^e
18 issued to the physician by any other member board^s^e shall be suspended,
19 automatically and immediately without further action necessary by the other
20 member board^s^e, for ninety ~~90~~ days upon entry of the order by the disciplining
21 board, to permit the member board^s^e to investigate the basis for the action under the
22 medical practice act of that state. A member board may terminate the automatic
23 suspension of the license it issued prior to the completion of the ninety ~~90~~ day
24 suspension period in a manner consistent with the medical practice act of that state.

1

(11) SECTION 11 - INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION. (a) The

2

member states hereby create the "Interstate Medical Licensure Compact

3

Commission." ✓

4

(b) The purpose of the interstate commission ✓ is the administration of the

5

~~Interstate Medical Licensure Compact~~, which is a discretionary state function.

6

(c) The interstate commission shall be a body corporate and joint agency of the

7

member states and shall have all the responsibilities, powers, and duties set forth

8

in the compact, and such additional powers as may be conferred upon it by a

9

subsequent concurrent action of the respective legislatures of the member states in

10

accordance with the terms of the compact. ✓

11

(d) The interstate commission shall consist of ²two voting representatives

12

appointed by each member state who shall serve as commissioners. In states where

13

allopathic and osteopathic ✓ physicians are regulated by separate member boards, or

14

if the licensing and disciplinary authority is split between multiple member boards

15

within a member state, the member state shall appoint one representative from each

16

member board. A Commissioner shall be a(n):

17

1. ^AAllopathic or osteopathic physician appointed to a member board;

18

2. ^EExecutive director, executive secretary, or similar executive of a member

19

board; or

20

3. ^MMember of the public appointed to a member board.

21

(e) The interstate commission shall meet at least once each calendar year. ✓ A

22

portion of this meeting shall be a business meeting to address such matters as may

23

properly come before the commission, including the election of officers. The

24

chairperson may call additional meetings and shall call for a meeting upon the

25

request of a majority of the member states.

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

3 (g) Each commissioner participating at a meeting of the interstate commission
4 is entitled to one vote.✓ A majority of commissioners shall constitute a quorum for the
5 transaction of business, unless a larger quorum is required by the bylaws of the
6 interstate commission. A commissioner shall not delegate a vote to another
7 commissioner. In the absence of its commissioner, a member state may delegate
8 voting authority for a specified meeting to another person from that state who shall
9 meet the requirements of par. (d).✓

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

- 14 1. Relate solely to the internal personnel practices and procedures of the
15 interstate commission;✓
- 16 2. Discuss matters specifically exempted from disclosure by federal statute;✓
- 17 3. Discuss trade secrets, commercial, or financial information that is privileged
18 or confidential;✓
- 19 4. Involve accusing a person of a crime, or formally censuring a person;✓
- 20 5. Discuss information of a personal nature where disclosure would constitute
21 a clearly unwarranted invasion of personal privacy;✓
- 22 6. Discuss investigative records compiled for law enforcement purposes; or✓
- 23 7. Specifically relate to the participation in a civil action or other legal
24 proceeding.✓

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

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

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

15 (L) The Interstate commission may establish other committees for governance
16 and administration of the compact.

17 (12) SECTION 12 - POWERS AND DUTIES OF THE INTERSTATE COMMISSION. The
18 interstate commission shall have the duty and power to:

19 (a) Oversee and maintain the administration of the compact;✓

20 (b) Promulgate rules which shall be binding to the extent and in the manner
21 provided for in the compact;✓

22 (c) Issue, upon the request of a member state or member board, advisory
23 opinions concerning the meaning or interpretation of the compact, its bylaws, rules,
24 and actions;✓

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

4 (e) Establish and appoint committees including, but not limited to, an executive
5 committee as required by sub. (11), ✓ which shall have the power to act on behalf of the
6 interstate commission in carrying out its powers and duties;

7 (f) Pay, or provide for the payment of the expenses related to the establishment,
8 organization, and ongoing activities of the interstate commission; ✓

9 (g) Establish and maintain one or more offices; ✓

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

11 (i) Purchase and maintain insurance and bonds; ✓

12 (j) Employ an executive director who shall have such powers to employ, select
13 or appoint employees, agents, or consultants, and to determine their qualifications,
14 define their duties, and fix their compensation; ✓

15 (k) Establish personnel policies and programs relating to conflicts of interest,
16 rates of compensation, and qualifications of personnel; ✓

17 (L) Accept donations and grants of money, equipment, supplies, materials and
18 services, and to receive, utilize, and dispose of it in a manner consistent with the
19 conflict of interest policies established by the interstate commission; ✓

20 (m) Lease, purchase, accept contributions or donations of, or otherwise to own,
21 hold, improve or use, any property, real, personal, or mixed; ✓

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

24 (o) Establish a budget and make expenditures;

1 (p) Adopt a seal and bylaws governing the management and operation of the
2 interstate commission; ✓

3 (q) Report annually to the legislatures and governors of the member states
4 concerning the activities of the interstate commission during the preceding year.
5 Such reports shall also include reports of financial audits and any recommendations
6 that may have been adopted by the interstate commission; ✓

7 (r) Coordinate education, training, and public awareness regarding the
8 compact, its implementation, and its operation; ✓

9 (s) Maintain records in accordance with the bylaws; ✓

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

11 (u) Perform such functions as may be necessary or appropriate to achieve the
12 purposes of the compact. ✓

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

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

22 (c) The interstate commission shall not pledge the credit of any of the member
23 states, except by, and with the authority of, the member state. ✓

1 (d) The interstate commission shall be subject to a yearly financial audit
2 conducted by a certified or licensed public accountant and the report of the audit
3 shall be included in the annual report of the interstate commission.✓

4 (14) SECTION 14 - ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.

5 (a) The interstate commission shall, by a majority of commissioners present and
6 voting, adopt bylaws to govern its conduct as may be necessary or appropriate to
7 carry out the purposes of the compact within twelve (12) months of the first interstate
8 commission meeting.

9 (b) The interstate commission shall elect or appoint annually from among its
10 commissioners a chairperson, a vice-chairperson, and a treasurer, each of whom
11 shall have such authority and duties as may be specified in the bylaws. The
12 chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall
13 preside at all meetings of the interstate commission.✓

14 (c) Officers selected in par. (b)✓ shall serve without remuneration from the
15 interstate commission.

16 (d) ✓ The officers and employees of the interstate commission shall be immune
17 from suit and liability, either personally or in their official capacity, for a claim for
18 damage to or loss of property or personal injury or other civil liability caused or
19 arising out of, or relating to, an actual or alleged act, error, or omission that occurred,
20 or that such person had a reasonable basis for believing occurred, within the scope
21 of interstate commission employment, duties, or responsibilities; provided that such
22 person shall not be protected from suit or liability for damage, loss, injury, or liability
23 caused by the intentional or willful and wanton misconduct of such person.

24 ✓ The liability of the executive director and employees of the interstate
25 commission or representatives of the interstate commission, acting within the scope

1 of such person's employment or duties for acts, errors, or omissions occurring within
2 such person's state, may not exceed the limits of liability set forth under the
3 constitution and laws of that state for state officials, employees, and agents. ✓ The
4 interstate commission is considered to be an instrumentality of the states for the
5 purposes of any such action. Nothing in this paragraph shall be construed to protect
6 such person from suit or liability for damage, loss, injury, or liability caused by the
7 intentional or willful and wanton misconduct of such person.

8 ^{5 3} ~~2~~. The interstate commission shall defend the executive director, its employees,
9 and subject to the approval of the attorney general or other appropriate legal counsel
10 of the member state represented by an interstate commission representative, shall
11 defend such interstate commission representative in any civil action seeking to
12 impose liability arising out of an actual or alleged act, error or omission that occurred
13 within the scope of interstate commission employment, duties or responsibilities, or
14 that the defendant had a reasonable basis for believing occurred within the scope of
15 interstate commission employment, duties, or responsibilities, provided that the
16 actual or alleged act, error, or omission did not result from intentional or willful and
17 wanton misconduct on the part of such person. ✓

18 ⁴ ~~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 ^{fe} fees and costs, obtained against such persons arising out of an
22 actual or alleged act, error, or omission that occurred within the scope of interstate
23 commission employment, duties, or responsibilities, or that such persons had a
24 reasonable basis for believing occurred within the scope of interstate commission
25 employment, duties, or responsibilities, provided that the actual or alleged act, error,

1 or omission did not result from intentional or willful and wanton misconduct on the
2 part of such persons.

3 (15) SECTION 15 - RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION. (a) The
4 interstate commission shall promulgate reasonable rules in order to effectively and
5 efficiently achieve the purposes of the compact. Notwithstanding the foregoing, in
6 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
9 have 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
16 the District of Columbia or the federal district where the interstate commission has
17 its principal offices, provided that the filing of such a petition shall not stay or
18 otherwise prevent the rule from becoming effective unless the court finds that the
19 petitioner has a substantial likelihood of success. The court shall give deference to
20 the actions of the interstate commission consistent with applicable law and shall not
21 find the rule to be unlawful if the rule represents a reasonable exercise of the
22 authority granted to the interstate commission.

23 (16) SECTION 16 - 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

1 effectuate the compact's purposes and intent. The provisions of the compact and the
2 rules promulgated hereunder shall have standing as statutory law but shall not
3 override existing state authority to regulate the practice of medicine.✓

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

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

13 (17) SECTION 17 - ENFORCEMENT OF INTERSTATE COMPACT. (a) The interstate
14 commission, in the reasonable exercise of its discretion, shall enforce the provisions
15 and rules of the compact.

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

1 (c) The remedies herein shall not be the exclusive remedies of the interstate
2 commission. The interstate commission may avail itself of any other remedies
3 available under state law or the regulation of a profession. ✓

4 (18) SECTION 18 - smDEFAULT PROCEDURES. (a) The grounds for default include, but
5 are not limited to, failure of a member state to perform such obligations or
6 responsibilities imposed upon it by the compact, or the rules and bylaws of the
7 interstate commission promulgated under the compact. ✓

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

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

15 2. Provide remedial training and specific technical assistance regarding the
16 default. ✓

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

23 (d) Termination of membership in the compact shall be imposed only after all
24 other means of securing compliance have been exhausted. Notice of intent to
25 terminate shall be given by the interstate commission to the governor, the majority

1 and minority leaders of the defaulting state's legislature, and each of the member
2 states. ✓

3 (e) The interstate commission shall establish rules and procedures to address
4 licenses and physicians that are materially impacted by the termination of a member
5 state, or the withdrawal of a member state. ✓

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

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

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

19 (19) SECTION 19 - DISPUTE RESOLUTION. (a) The interstate commission shall
20 attempt, upon the request of a member state, to resolve disputes which are subject
21 to the compact and which may arise among member states or member boards. ✓

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

24 (20) SECTION 20 - MEMBER STATES, EFFECTIVE DATE AND AMENDMENT. (a) Any state
25 is eligible to become a member state of the compact. ✓

1 (b) The compact shall become effective and binding upon legislative enactment
2 of the compact into law by no less than seven (7) states. Thereafter, it shall become
3 effective and binding on a state upon enactment of the compact into law by that state.

4 (c) The governors of non-member states, or their designees, shall be invited to
5 participate in the activities of the interstate commission on a non-voting basis prior
6 to adoption of the compact by all states. ✓

7 (d) The interstate commission may propose amendments to the compact for
8 enactment by the member states. No amendment shall become effective and binding
9 upon the interstate commission and the member states unless and until it is enacted
10 into law by unanimous consent of the member states. ✓

11 (21) SECTION 21 - WITHDRAWAL. (a) Once effective, the compact shall continue
12 in force and remain binding upon each and every member state; provided that a
13 member state may withdraw from the compact by specifically repealing the statute
14 which enacted the compact into law. ✓

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

19 (c) The withdrawing state shall immediately notify the chairperson of the
20 interstate commission in writing upon the introduction of legislation repealing the
21 compact in the withdrawing state. ✓

22 (d) The interstate commission shall notify the other member states of the
23 withdrawing state's intent to withdraw within sixty (60) days of its receipt of notice
24 provided under par. (c). ✓

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

4 (f) Reinstatement following withdrawal of a member state shall occur upon the
5 withdrawing state reenacting the compact or upon such later date as determined by
6 the interstate commission. ✓

7 (g) The interstate commission is authorized to develop rules to address the
8 impact of the withdrawal of a member state on licenses granted in other member
9 states to physicians who designated the withdrawing member state as the state of
10 principal license. ✓

11 **(22)** SECTION 22 - DISSOLUTION. (a) The compact shall dissolve effective upon
12 the date of the withdrawal or default of the member state which reduces the
13 membership in the compact to one (1) member state.

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

18 **(23)** SECTION 23 - SEVERABILITY AND CONSTRUCTION. (a) The provisions of the
19 compact shall be severable, and if any phrase, clause, sentence, or provision is
20 deemed unenforceable, the remaining provisions of the compact shall be enforceable.

21 (b) The provisions of the compact shall be liberally construed to effectuate its
22 purposes. ✓

23 (c) Nothing in the compact shall be construed to prohibit the applicability of
24 other interstate compacts to which the states are members. ✓

1

(24) SECTION 24 - BINDING EFFECT OF COMPACT AND OTHER LAWS. (a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact. ✓

2

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

3

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

4

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

5

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

6

7

8

9

448.981 Implementation of the ~~Interstate Medical Licensure Compact~~.

10

(1) In this section: ✓

11

(a) "Board" means the medical examining board. ✓

12

(b) "Compact" means the interstate medical licensure compact entered into under s. 448.980. ✓

13

(c) "Expedited license" has the meaning given in s. 448.980 (2) (d). ✓

14

(d) "Interstate commission" has the meaning given in s. 448.980 (2) (e). ✓

15

(e) "Member board" has the meaning given in s. 448.980 (2) (h). ✓

16

(f) "Member state" has the meaning given in s. 448.980 (2) (i). ✓

17

(g) "State of principal license" has the meaning given in s. 448.980 (2) (o). ✓

1 (2) The board may only disclose information about a physician pursuant to the
2 compact if the information directly relates to a physician and meets all of the
3 following criteria:✓

 ****NOTE: I rephrased this a bit, which I tried to do without changing the meaning.
OK? Also, I eliminated the language “Notwithstanding any provision of s. 448.980”
because this would suggest that we are essentially trying to supersede the compact on our
own. Section 24 of the compact addresses laws of a member state and provides that any
state law that is not in conflict with the compact may be enforced, but that any law that
is in conflict is superseded. Therefore, we cannot “notwithstanding” the compact. If the
intent is to override a provision of the compact, then I’m not sure we can do that without
being in default.✓

4 (a) The information is provided only to a member board with responsibility for
5 authorizing the practice of medicine in the member state or to the interstate
6 commission.✓

7 (b) If the information pertains to an investigation or discipline, all identifying
8 information of individuals or entities other than the physician being investigated or
9 disciplined is removed.✓

10 (c) The information is not confidential under the laws of this state.✓

11 (d) The physician has any of the following:✓

12 1. A current expedited license granted by the board solely pursuant to the
13 compact.✓

 ****NOTE: I said “granted by the board” (the Wisconsin MEB) here instead. OK?

 ****NOTE: I am not sure what is meant by “solely” pursuant to the compact here,
since the concept of an “expedited license” exists only in the compact.

14 2. A current expedited license granted by another member state, and the
15 physician has, at that time, designated this state as the physician’s state of principal
16 license.✓

17 (2) A subpoena issued pursuant to s. 448.980 (9) (c) ✓ shall only be enforceable
18 in this state or against a citizen of this state if all of the following apply:

1 (a) The subpoena is issued by a member board with responsibility for
2 authorizing the practice of medicine in the member state. ✓

3 (b) The individual being subpoenaed is one of the following: ✓

4 1. A physician with a current expedited license granted by the board solely
5 pursuant to the compact. ✓

****NOTE: See my notes above.

6 2. A physician with a current expedited license granted by another member
7 state, and the physician has, at that time, designated this state as the physician's
8 state of principal license. ✓

9 (3) In applying s. 448.980 (9) (e), ✓ the board may only undertake such
10 investigation of violations of another state's statute authorizing the practice of
11 medicine if one of the following applies: ✓

12 1. The physician being investigated has a current expedited license that was
13 granted by the board and a current expedited license that was granted by the other
14 state solely pursuant to the compact. ✓

15 2. The physician being investigated has a current expedited license that was
16 granted by this state solely pursuant to the compact and the other state is the
17 physician's currently designated state of principal license. ✓

18 3. The physician being investigated has a current expedited license that was
19 granted by the other state solely pursuant to the compact and this state is the
20 physician's currently designated state of principal license. ✓

21 (4) The board shall, by January 1 of each year, report to the members of the joint
22 committee on finance the number of individuals investigated by the board solely
23 pursuant to s. 448.980 (9) (e) ✓ and the expenses incurred by the board undertaking
24 investigations pursued solely pursuant to s. 448.980 (9) (e). ✓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1138/P1dn

MED:A:jm

Date

Jld

In doing a draft for this compact, I tried to go through [✓]subchapter I of chapter 440 (the laws that apply to most credentials) and [✓]subchapter II of chapter 448 (the Wisconsin Medical Practice Act) and identify significant provisions that appeared to definitely or potentially be in conflict with a provision in the compact and address those provisions in order to avoid any question about whether the compact or our law controls. I would encourage you to do the same and see if there are any additional provisions that should be addressed. Specifically, note the following:

1. Because I'm not entirely clear how the fees will work for compact licenses (see Section 6 of the compact, which simply allows the commission to develop rules regarding fees), it may be worthwhile to look at the provisions in those subchapters regarding fees. It was my understanding that fees with respect to initial compact licenses would be collected similarly to regular licenses (fee amounts are determined every ² years by DSPS) and would be paid directly to DSPS, but that renewals and renewal fees would be done through the commission. However, upon reading the compact again, it may be the case that the initial fees are paid to the commission as well. There was also the question of whether the MEB should be able to charge for its services (see SECTIONS 5 and 17 of the draft) [✓]when someone applies for expedited licensure. Once the process regarding initial fees is verified, I can modify the draft to include whatever changes are needed.

I also tried to find provisions that had been amended to account for the Nurse Licensure Compact and do likewise here to the extent there are similarities.

2. You may want to specifically review s. 448.02, [✓]which governs professional discipline against physicians. Let me know if you think anything should be amended to account for the compact. Specifically, I would note that under ss. [✓]440.205 and 448.02 (8) (d), [✓]administrative warnings are confidential. Do we need an exception so that the contents of administrative warnings may be shared with the commission or another board?

3. The compact requires that physicians complete CE requirements in states where they have licenses, but does not specify who will verify that. [✓]I am guessing this may be addressed in the commission's rules or in some other way, but let me know if you think we need to address that in the bill given that renewal of a compact license will apparently be through the commission and not through each separate MEB. [✓]

4. I included an effective date of April 1, 2015, only because it is less than ^{e three} 3 months away and the provisions in Act 240 take effect on that date. Is that OK, or is it possible this might pass much sooner than that? If it could pass sooner, a few other changes may be needed.

Michael Duchek
Legislative Attorney
(608) 266-0130
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1138/P1dn
MED:jld:jm

February 2, 2015

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