



State of Wisconsin
2015 - 2016 LEGISLATURE

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 **AN ACT** ~~to renumber and amend~~ 440.03 (11m) (c); **to amend** 20.165 (1) (hg),
 2 440.03 (13) (b) (intro.), 440.03 (13) (d), 440.05 (intro.), 440.08 (2) (c), 440.14 (2),
 3 440.14 (3), 440.15, 448.01 (5), 448.05 (2) (a) (intro.), 448.05 (2) (b) (intro.), 448.07
 4 (1) (a) and 448.07 (2); and **to create** 14.83, 440.03 (11m) (c) 2., 440.08 (2) (e),
 5 448.015 (1dm), 448.04 (1) (ab), 448.05 (2) (f) and subchapter VIII of chapter 448
 6 [precedes 448.980] of the statutes; **relating to:** ratification of the Interstate
 7 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), 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 principal 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 principal 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 disclosures to physicians who have designated or applied to designate this state as their state of principal license or who hold or are applying to hold expedited licenses granted by the Wisconsin Medical Examining Board (MEB). The bill also includes 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 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 of the statutes is created to read:

1 **14.83 Interstate medical licensure compact.** There is created an
2 interstate medical licensure compact commission as specified in s. 448.980. The
3 members of the commission representing this state under s. 448.980 (11) (d) shall be
4 members of the medical examining board and shall be appointed by the chairperson
5 of the medical examining board. The commission has the powers and duties granted
6 and imposed under s. 448.980.

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

8 20.165 (1) (hg) *General program operations; medical examining board;*
9 *interstate medical licensure compact; prescription drug monitoring program.*

10 Biennially, the amounts in the schedule for the licensing, rule-making, and
11 regulatory functions of the medical examining board and the affiliated credentialing
12 boards attached to the medical examining board, except for preparing,
13 administering, and grading examinations; for any costs associated with the
14 interstate medical licensure compact under s. 448.980, including payment of
15 assessments under s. 448.980 (13) (a); and for the pharmacy examining board's
16 operation of the prescription drug monitoring program under s. 450.19. Ninety
17 percent of all moneys received for issuing and renewing credentials under ch. 448
18 shall be credited to this appropriation. All moneys received from the interstate
19 medical licensure compact commission under s. 448.980 shall be credited to this
20 appropriation.

21 **SECTION 3.** 440.03 (11m) (c) of the statutes is renumbered 440.03 (11m) (c)
22 (intro.) and amended to read:

23 440.03 (11m) (c) (intro.) The department of safety and professional services
24 may not disclose a social security number obtained under par. (a) to any person
25 except for the following:

- 1 1. The coordinated licensure information system under s. 441.50 (7); the,
2 3. The department of children and families for purposes of administering s.
3 49.22; and, for,
4 4. For a social security number obtained under par. (a) 1., the department of
5 revenue for the purpose of requesting certifications under s. 73.0301 and
6 administering state taxes and the department of workforce development for the
7 purpose of requesting certifications under s. 108.227.

8 **SECTION 4.** 440.03 (11m) (c) 2. of the statutes is created to read:

9 440.03 (11m) (c) 2. The coordinated licensure information system under s.
10 448.980 (8), if such disclosure is required under the interstate medical licensure
11 compact under s. 448.980.

12 **SECTION 5.** 440.03 (13) (b) (intro.) of the statutes is amended to read:

13 440.03 (13) (b) (intro.) The department may investigate whether an applicant
14 for or holder of any of the following credentials has been charged with or convicted
15 of a crime only pursuant to rules promulgated by the department under this
16 paragraph, including rules that establish the criteria that the department will use
17 to determine whether an investigation under this paragraph is necessary, except as
18 provided in par. (c) and s. 448.980 (5) (b) 3.:

19 **SECTION 6.** 440.03 (13) (d) of the statutes is amended to read:

20 440.03 (13) (d) The department shall charge an applicant any fees, costs, or
21 other expenses incurred in conducting any investigation under this subsection or s.
22 440.26. The department shall charge an applicant seeking licensure through the
23 interstate medical licensure compact under s. 448.980, directly or indirectly, for any
24 expenses incurred in conducting any investigation under s. 448.980 (5) (b) 3.

25 **SECTION 7.** 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):

4 **SECTION 8.** 440.08 (2) (c) of the statutes is amended to read:

5 440.08 (2) (c) Except as provided in par. (e) and sub. (3), renewal applications
6 shall include the applicable renewal fee as determined by the department under s.
7 440.03 (9) (a) or as specified in par. (b).

8 **SECTION 9.** 440.08 (2) (e) of the statutes is created to read:

9 440.08 (2) (e) A renewal of a compact license, as defined in s. 448.015 (1dm),
10 shall be governed by s. 448.980 (7) and is subject to s. 448.07 (2).

11 **SECTION 10.** 440.14 (2) of the statutes is amended to read:

12 440.14 (2) If a form that the department or a credentialing board requires an
13 individual to complete in order to apply for a credential or credential renewal or to
14 obtain a product or service from the department or the credentialing board requires
15 the individual to provide any of the individual's personal identifiers, the form shall
16 include a place for the individual to declare that the individual's personal identifiers
17 obtained by the department or the credentialing board from the information on the
18 form may not be disclosed on any list that the department or the credentialing board
19 furnishes to another person. This subsection does not apply with respect to an
20 application filed with the medical examining board pursuant to the interstate
21 medical licensure compact under s. 448.980 (5).

22 **SECTION 11.** 440.14 (3) of the statutes is amended to read:

23 440.14 (3) If the department or a credentialing board requires an individual
24 to provide, by telephone or other electronic means, any of the individual's personal
25 identifiers in order to apply for a credential or credential renewal or to obtain a

1 product or service from the department or a credentialing board, the department or
2 the credentialing board shall ask the individual at the time that the individual
3 provides the information if the individual wants to declare that the individual's
4 personal identifiers obtained by telephone or other electronic means may not be
5 disclosed on any list that the department or the credentialing board furnishes to
6 another person. This subsection does not apply with respect to an application filed
7 with the medical examining board pursuant to the interstate medical licensure
8 compact under s. 448.980 (5).

9 **SECTION 12.** 440.15 of the statutes is amended to read:

10 **440.15 No fingerprinting.** Except as provided under ~~s.~~ ss. 440.03 (13) (c) and
11 448.980 (5) (b) 3., the department or a credentialing board may not require that an
12 applicant for a credential or a credential holder be fingerprinted or submit
13 fingerprints in connection with the department's or the credentialing board's
14 credentialing.

15 **SECTION 13.** 448.01 (5) of the statutes is amended to read:

16 448.01 (5) "Physician" means an individual possessing the degree of doctor of
17 medicine or doctor of osteopathy or an equivalent degree as determined by the
18 medical examining board, and holding a license granted by the medical examining
19 board. This subsection does not apply in s. 448.980.

20 **SECTION 14.** 448.015 (1dm) of the statutes is created to read:

21 448.015 (1dm) "Compact license" means an expedited license granted by the
22 board pursuant to the interstate medical licensure compact under s. 448.980.

23 **SECTION 15.** 448.04 (1) (ab) of the statutes is created to read:

24 448.04 (1) (ab) *Compact license.* The board may grant a compact license
25 pursuant to the interstate medical licensure compact under s. 448.980.

1 **SECTION 16.** 448.05 (2) (a) (intro.) of the statutes, as affected by 2013 Wisconsin
2 Act 240, is amended to read:

3 448.05 (2) (a) (intro.) Except as provided in pars. (b) to (e) (f), an applicant for
4 any class of license to practice medicine and surgery must supply evidence
5 satisfactory to the board of all of the following:

6 **SECTION 17.** 448.05 (2) (b) (intro.) of the statutes, as affected by 2013 Wisconsin
7 Act 240, is amended to read:

8 448.05 (2) (b) (intro.) Except as provided in pars. (c) to (e) (f), an applicant for
9 a license to practice medicine and surgery who is a graduate of a foreign medical
10 college must supply evidence satisfactory to the board of all of the following:

11 **SECTION 18.** 448.05 (2) (f) of the statutes is created to read:

12 448.05 (2) (f) The board shall grant a compact license as provided under s.
13 448.980.

14 **SECTION 19.** 448.07 (1) (a) of the statutes is amended to read:

15 448.07 (1) (a) Every person licensed or certified under this subchapter shall
16 register on or before November 1 of each odd-numbered year following issuance of
17 the license or certificate with the board. Registration shall be completed in such
18 manner as the board shall designate and upon forms the board shall provide, except
19 that registration with respect to a compact license shall be governed by the renewal
20 provisions in s. 448.980 (7). The secretary of the board, on or before October 1 of each
21 odd-numbered year, shall mail or cause to be mailed to every person required to
22 register a registration form. The board shall furnish to each person registered under
23 this section a certificate of registration, and the person shall display the registration
24 certificate conspicuously in the office at all times. No person may exercise the rights

1 or privileges conferred by any license or certificate granted by the board unless
2 currently registered as required under this subsection.

3 **SECTION 20.** 448.07 (2) of the statutes is amended to read:

4 448.07 (2) FEES. The Except as otherwise provided in s. 448.980, the fees for
5 examination and licenses granted under this subchapter are specified in s. 440.05,
6 and the renewal fee for such licenses is determined by the department under s.
7 440.03 (9) (a). Compact licenses shall be subject to additional fees and assessments,
8 as established by the department, the board, or the interstate medical licensure
9 compact commission, to cover any costs incurred by the department or the board for
10 this state's participation in the interstate medical licensure compact under s.
11 448.980 and costs incurred by the interstate medical licensure compact commission
12 for its administration of the renewal process for the interstate medical licensure
13 compact under s. 448.980.

14 **SECTION 21.** Subchapter VIII of chapter 448 [precedes 448.980] of the statutes
15 is created to read:

16 **CHAPTER 448**

17 **SUBCHAPTER VIII**

18 **INTERSTATE MEDICAL LICENSURE**

19 **COMPACT**

20 **448.980 Interstate medical licensure compact.** The following compact is
21 hereby ratified and entered into:

22 (1) SECTION 1 – PURPOSE. In order to strengthen access to health care, and in
23 recognition of the advances in the delivery of health care, the member states of the
24 interstate medical licensure compact have allied in common purpose to develop a
25 comprehensive process that complements the existing licensing and regulatory

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

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

13 (a) “Bylaws” means those bylaws established by the interstate commission
14 pursuant to sub. (11) for its governance, or for directing and controlling its actions
15 and conduct.

16 (b) “Commissioner” means the voting representative appointed by each
17 member board pursuant to sub. (11).

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

23 (d) “Expedited license” means a full and unrestricted medical license granted
24 by a member state to an eligible physician through the process set forth in the
25 compact.

1 (e) “Interstate commission” means the interstate commission created pursuant
2 to sub. (11).

3 (f) “License” means authorization by a state for a physician to engage in the
4 practice of medicine, which would be unlawful without the authorization.

5 (g) “Medical practice act” means laws and regulations governing the practice
6 of allopathic and osteopathic medicine within a member state.

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

10 (i) “Member state” means a state that has enacted the compact.

11 (j) “Practice of medicine” means the clinical prevention, diagnosis, or treatment
12 of human disease, injury, or condition requiring a physician to obtain and maintain
13 a license in compliance with the medical practice act of a member state.

14 (k) “Physician” means any person who:

15 1. Is a graduate of a medical school accredited by the Liaison Committee on
16 Medical Education, the Commission on Osteopathic College Accreditation, or a
17 medical school listed in the International Medical Education Directory or its
18 equivalent;

19 2. Passed each component of the United States Medical Licensing Examination
20 (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination
21 (COMLEX–USA) within 3 attempts, or any of its predecessor examinations accepted
22 by a state medical board as an equivalent examination for licensure purposes;

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

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

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

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

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

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

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

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

17 (m) "Rule" means a written statement by the interstate commission
18 promulgated pursuant to sub. (12) that is of general applicability, implements,
19 interprets, or prescribes a policy or provision of the compact, or an organizational,
20 procedural, or practice requirement of the interstate commission, and has the force
21 and effect of statutory law in a member state, and includes the amendment, repeal,
22 or suspension of an existing rule.

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

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

4 (3) SECTION 3 — ELIGIBILITY. (a) A physician must meet the eligibility
5 requirements as defined in sub. (2) (k) to receive an expedited license under the terms
6 and provisions of the compact.

7 (b) A physician who does not meet the requirements of sub. (2) (k) may obtain
8 a license to practice medicine in a member state if the individual complies with all
9 laws and requirements, other than the compact, relating to the issuance of a license
10 to practice medicine in that state.

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

- 15 1. The state of primary residence for the physician; or
16 2. The state where at least 25% of the practice of medicine occurs, or
17 3. The location of the physician’s employer; or
18 4. If no state qualifies under subd. 1., 2., or 3., the state designated as state of
19 residence for purpose of federal income tax.

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

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

24 (5) SECTION 5 — APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE. (a) A
25 physician seeking licensure through the compact shall file an application for an

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

3 (b) 1. Upon receipt of an application for an expedited license, the member board
4 within the state selected as the state of principal license shall evaluate whether the
5 physician is eligible for expedited licensure and issue a letter of qualification,
6 verifying or denying the physician's eligibility, to the interstate commission.

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

12 3. The member board within the state selected as the state of principal license
13 shall, in the course of verifying eligibility, perform a criminal background check of
14 an applicant, including the use of the results of fingerprint or other biometric data
15 checks compliant with the requirements of the federal bureau of investigation, with
16 the exception of federal employees who have suitability determination in accordance
17 with 5 CFR 731.202.

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

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

24 (d) After receiving verification of eligibility under par. (b) and any fees under
25 par. (c), a member board shall issue an expedited license to the physician. This

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

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

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

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

13 **(6) SECTION 6 — FEES FOR EXPEDITED LICENSURE.** (a) A member state issuing an
14 expedited license authorizing the practice of medicine in that state may impose a fee
15 for a license issued or renewed through the compact.

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

18 **(7) SECTION 7 — RENEWAL AND CONTINUED PARTICIPATION.** (a) A physician seeking
19 to renew an expedited license granted in a member state shall complete a renewal
20 process with the interstate commission if the physician:

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

1 3. Has not had a license authorizing the practice of medicine subject 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; and

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

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

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

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

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

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

17 **(8) SECTION 8 — COORDINATED INFORMATION SYSTEM.** (a) The interstate
18 commission shall establish a database of all physicians licensed, or who have applied
19 for licensure, under sub. (5).

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

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

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

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

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

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

10 **(9) SECTION 9 — JOINT INVESTIGATIONS.** (a) Licensure and disciplinary records
11 of physicians are deemed investigative.

12 (b) In addition to the authority granted to a member board by its respective
13 medical practice act or other applicable state law, a member board may participate
14 with other member boards in joint investigations of physicians licensed by the
15 member boards.

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

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

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

24 **(10) SECTION 10 — DISCIPLINARY ACTIONS.** (a) Any disciplinary action taken by
25 any member board against a physician licensed through the compact shall be deemed

1 unprofessional conduct which may be subject to discipline by other member boards,
2 in addition to any violation of the medical practice act or regulations in that state.

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

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

15 1. Impose the same or lesser sanctions against the physician so long as such
16 sanctions are consistent with the medical practice act of that state; or

17 2. Pursue separate disciplinary action against the physician under its
18 respective medical practice act, regardless of the action taken in other member
19 states.

20 (d) If a license granted to a physician by a member board is revoked,
21 surrendered or relinquished in lieu of discipline, or suspended, then any license
22 issued to the physician by any other member board shall be suspended,
23 automatically and immediately without further action necessary by the other
24 member board, for 90 days upon entry of the order by the disciplining board, to permit
25 the member board to investigate the basis for the action under the medical practice

1 act of that state. A member board may terminate the automatic suspension of the
2 license it issued prior to the completion of the 90 day suspension period in a manner
3 consistent with the medical practice act of that state.

4 (11) SECTION 11 — INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION. (a) The
5 member states hereby create the “Interstate Medical Licensure Compact
6 Commission.”

7 (b) The purpose of the interstate commission is the administration of the
8 interstate medical licensure compact, which is a discretionary state function.

9 (c) The interstate commission shall be a body corporate and joint agency of the
10 member states and shall have all the responsibilities, powers, and duties set forth
11 in the compact, and such additional powers as may be conferred upon it by a
12 subsequent concurrent action of the respective legislatures of the member states in
13 accordance with the terms of the compact.

14 (d) The interstate commission shall consist of 2 voting representatives
15 appointed by each member state who shall serve as commissioners. In states where
16 allopathic and osteopathic physicians are regulated by separate member boards, or
17 if the licensing and disciplinary authority is split between multiple member boards
18 within a member state, the member state shall appoint one representative from each
19 member board. A Commissioner shall be:

20 1. An allopathic or osteopathic physician appointed to a member board;

21 2. An executive director, executive secretary, or similar executive of a member
22 board; or

23 3. A member of the public appointed to a member board.

24 (e) The interstate commission shall meet at least once each calendar year. A
25 portion of this meeting shall be a business meeting to address such matters as may

1 properly come before the commission, including the election of officers. The
2 chairperson may call additional meetings and shall call for a meeting upon the
3 request of a majority of the member states.

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

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

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

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

1 7. Specifically relate to the participation in a civil action or other legal
2 proceeding.

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

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

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

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

19 **(12)** SECTION 12 — POWERS AND DUTIES OF THE INTERSTATE COMMISSION. The
20 interstate commission shall have the duty and power to:

21 (a) Oversee and maintain the administration of the compact;

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

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

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

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

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

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

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

14 (i) Purchase and maintain insurance and bonds;

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

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

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

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

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

3 (o) Establish a budget and make expenditures;

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (c) Officers selected in par. (b) shall serve without remuneration from the
17 interstate commission.

18 (d) 1. The officers and employees of the interstate commission shall be immune
19 from suit and liability, either personally or in their official capacity, for a claim for
20 damage to or loss of property or personal injury or other civil liability caused or
21 arising out of, or relating to, an actual or alleged act, error, or omission that occurred,
22 or that such person had a reasonable basis for believing occurred, within the scope
23 of interstate commission employment, duties, or responsibilities; provided that such
24 person shall not be protected from suit or liability for damage, loss, injury, or liability
25 caused by the intentional or willful and wanton misconduct of such person.

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

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

20 4. To the extent not covered by the state involved, member state, or the
21 interstate commission, the representatives or employees of the interstate
22 commission shall be held harmless in the amount of a settlement or judgment,
23 including attorney fees and costs, obtained against such persons arising out of an
24 actual or alleged act, error, or omission that occurred within the scope of interstate
25 commission employment, duties, or responsibilities, or that such persons had a

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

5 **(15) SECTION 15 – RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION.** (a)
6 The interstate commission shall promulgate reasonable rules in order to effectively
7 and efficiently achieve the purposes of the compact. Notwithstanding the foregoing,
8 in the event the interstate commission exercises its rule-making authority in a
9 manner that is beyond the scope of the purposes of the compact, or the powers
10 granted hereunder, then such an action by the interstate commission shall be invalid
11 and have no force or effect.

12 (b) Rules deemed appropriate for the operations of the interstate commission
13 shall be made pursuant to a rule-making process that substantially conforms to the
14 “Model State Administrative Procedure Act” of 2010, and subsequent amendments
15 thereto.

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

1 **(16) SECTION 16 — OVERSIGHT OF INTERSTATE COMPACT.** (a) The executive,
2 legislative, and judicial branches of state government in each member state shall
3 enforce the compact and shall take all actions necessary and appropriate to
4 effectuate the compact's purposes and intent. The provisions of the compact and the
5 rules promulgated hereunder shall have standing as statutory law but shall not
6 override existing state authority to regulate the practice of medicine.

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

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

16 **(17) SECTION 17 — ENFORCEMENT OF INTERSTATE COMPACT.** (a) The interstate
17 commission, in the reasonable exercise of its discretion, shall enforce the provisions
18 and rules of the compact.

19 (b) The interstate commission may, by majority vote of the commissioners,
20 initiate legal action in the United States District Court for the District of Columbia,
21 or, at the discretion of the interstate commission, in the federal district where the
22 interstate commission has its principal offices, to enforce compliance with the
23 provisions of the compact, and its promulgated rules and bylaws, against a member
24 state in default. The relief sought may include both injunctive relief and damages.

1 In the event judicial enforcement is necessary, the prevailing party shall be awarded
2 all costs of such litigation including reasonable attorney fees.

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

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

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

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

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

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

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

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

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

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

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

22 **(19) SECTION 19 — DISPUTE RESOLUTION.** (a) The interstate commission shall
23 attempt, upon the request of a member state, to resolve disputes which are subject
24 to the compact and which may arise among member states or member boards.

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

3 **(20) SECTION 20 — MEMBER STATES, EFFECTIVE DATE AND AMENDMENT.** (a) Any state
4 is eligible to become a member state of the compact.

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

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

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

15 **(21) SECTION 21 — WITHDRAWAL.** (a) Once effective, the compact shall continue
16 in force and remain binding upon each and every member state; provided that a
17 member state may withdraw from the compact by specifically repealing the statute
18 which enacted the compact into law.

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

23 (c) The withdrawing state shall immediately notify the chairperson of the
24 interstate commission in writing upon the introduction of legislation repealing the
25 compact in the withdrawing state.

1 (d) The interstate commission shall notify the other member states of the
2 withdrawing state's intent to withdraw within 60 days of its receipt of notice
3 provided under par. (c).

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

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

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

14 **(22) SECTION 22 — DISSOLUTION.** (a) The compact shall dissolve effective upon
15 the date of the withdrawal or default of the member state which reduces the
16 membership in the compact to one member state.

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

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

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

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

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

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

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

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

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

16 **448.981 Implementation of the interstate medical licensure compact.**

17 (1) In this section:

18 (a) “Board” means the medical examining board.

19 (b) “Compact” means the interstate medical licensure compact entered into
20 under s. 448.980.

21 (c) “Expedited license” has the meaning given in s. 448.980 (2) (d).

22 (d) “Interstate commission” has the meaning given in s. 448.980 (2) (e).

23 (e) “Member board” has the meaning given in s. 448.980 (2) (h).

24 (f) “Member state” has the meaning given in s. 448.980 (2) (i).

25 (g) “State of principal license” has the meaning given in s. 448.980 (2) (o).

1 (2) Notwithstanding s. 448.980 and any rules promulgated by the interstate
2 commission under s. 448.980, the board may only disclose information about an
3 individual pursuant to the compact if the information meets all of the following
4 criteria:

5 (a) Any of the following applies:

6 1. The individual has a current expedited license granted by the board
7 pursuant to the compact.

8 2. The individual has a current expedited license granted by another member
9 state or is applying to receive an expedited license in another member state, and
10 Wisconsin is currently designated as his or her state of principal license.

11 3. The individual is requesting to designate Wisconsin as his or her state of
12 principal license pursuant to the compact.

13 4. The individual is applying to receive an expedited license to practice in
14 Wisconsin pursuant to the compact.

15 (b) The information is provided only to a member board with responsibility for
16 authorizing the practice of medicine in the member state or to the interstate
17 commission.

18 (c) If the information pertains to an investigation or discipline, all identifying
19 information of individuals or entities other than the individual being investigated
20 or disciplined is removed.

21 (d) The information is not confidential under the laws of this state.

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

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

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

2 1. A physician with a current expedited license granted by the board pursuant
3 to the compact.

4 2. A physician with a current expedited license granted by another member
5 state, and Wisconsin is currently designated as the physician's state of principal
6 license.

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

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

13 2. The physician being investigated has a current expedited license that was
14 granted by the board pursuant to the compact and the other state is the physician's
15 currently designated state of principal license.

16 3. The physician being investigated has a current expedited license that was
17 granted by the other state pursuant to the compact and Wisconsin is the physician's
18 currently designated state of principal license.

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

23 (6) The payment of assessments for the interstate medical licensure compact
24 under s. 448.980 (13) (a) shall be made from the appropriation account under s.
25 20.165 (1) (hg) using the licensure fees paid by physicians licensed under the

1 compact. No fees from physicians that have not applied for licensure through the
2 compact shall be used to pay Wisconsin's annual assessment pursuant to s. 448.980
3 (13) (a) without the approval of the joint committee on finance.

4 (END)

Barman, Mike

From: LRB.Legal
To: Rep.VanderMeer
Subject: Draft review: LRB -1138/1 Topic: Interstate Medical Licensure Compact
Attachments: 15-1138/1

State of Wisconsin - Legislative Reference Bureau
One East Main Street - Suite 200 - Madison

The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent. If you have any questions concerning the draft or would like to have it redrafted, please contact Michael Duchek, Legislative Attorney, at (608) 266-0130, at michael.duchek@legis.wisconsin.gov, or at One East Main Street, Suite 200.

We will jacket this draft for the Assembly.



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If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will submit a request to DOA when the draft is introduced. You may obtain a fiscal estimate on the draft prior to introduction by contacting our program assistants at LRB.Legal@legis.wisconsin.gov or at (608) 266-3561. If you requested a fiscal estimate on an earlier version of this draft and would like to obtain a fiscal estimate on the current version before it is introduced, you will need to request a revised fiscal estimate from our program assistants.

Please call our program assistants at (608) 266-3561 if you have any questions regarding this email.