Interstate Compacts: A Tested Solution to Today’s Policy Issues
What is an Interstate Compact?

➢ A legislatively enacted agreement between states in their sovereign capacity as states

➢ Allows states to respond to national priorities with one voice

➢ Retains collective state sovereignty over issues belonging to states

➢ Simple, versatile, proven, and effective
Common Uses of Interstate Compacts

➢ Boundary Disputes
  ▪ Virginia-Tennessee Boundary Agreement of 1803
  ▪ Arizona-California Boundary Compact of 1963
  ▪ Missouri-Nebraska Compact of 1990
  ▪ Virginia-West Virginia Boundary Compact of 1998

➢ Environmental and Pollution Control
  ▪ Low Level Radioactive Waste Compacts
  ▪ Ohio River Valley Water Sanitation Compact
Common Uses of Interstate Compacts

- Crime Control and Corrections
  - Interstate Compact for Adult Offender Supervision

- Child Welfare
  - Interstate Compact for the Placement of Children

- Manage Shared Natural Resources
  - Use and allocation of interstate rivers and river basins
  - Land use planning

- Insurance
  - Interstate Insurance Product Regulation Compact
Common Uses of Interstate Compacts

- Regional Economic Development and Transportation
  - Port Authority of New York and New Jersey
  - Delaware River Port Authority

- Education
  - Military Children Compact
  - Midwestern Higher Education Compact

- Mutual Aid
  - Emergency Management Assistance Compact
  - Three regional EMACs with Canadian province members
Common Uses of Interstate Compacts

- Occupational Licensure
  - Interstate Medical Licensure Compact
  - Physical Therapist Compact
  - Nurse Licensure Compact, APRN Compact
  - REPLICA
  - PsyPact
Evolving Compact Landscape

➢ Unified approach to shared problems

➢ Threat of a federally mandated solution – unfunded, rigid mandates

➢ Advances in technology – we live in an increasingly mobile world

➢ Distrust of federal government

➢ Fill void left by federal inaction

➢ Proven track record
Compacts between states are authorized under Art. I, Sec. 10, Cl. 3 of the U.S. Constitution:

*No state shall, without the Consent of Congress . . . enter into any Agreement or Compact with another State . . . .”*

Consent is required only if the compact could impair the federalist structure of the United States.

*U.S. Steel Corp. v. Multi-State Tax Comm’n, 434 U.S. 452 (1978).*
Interstate Compacts in History
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“No two or more States shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in Congress assembled . . .”

Articles of Confederation of 1781, art. VI.
Interstate Compacts in History
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“No two or more States shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in Congress assembled . . .”
Articles of Confederation of 1781, art. VI.

“No State shall, without the Consent of Congress . . . enter into any Agreement or Compact with another state. . . .”
U.S. Constitution, art. I, sec. 10, cl. 3.
Hinderlider v. La Plata River & Cherry Ditch Co., 304 U.S. 92 (1938).
Interstate Cooperation Generally

- Non-Compact Administrative Agreements
- Uniform Laws
- Reciprocal Legislation
- Federal Financial Assistance
- CSG, NGA, NCSL ("Big 7")
- Joint Legislative Sessions
- Joint Attorneys General Actions and Settlements
- Original Jurisdiction in the Supreme Court
- Interstate Compacts
Compact v. Non-Compact Agreement

➢ Is this a Compact?
  ➢ *e.g.*, RGGI, EZ-Pass, SBAC, UCRP, FSMTB

➢ Factors to consider
  ➢ Reciprocal obligations
  ➢ Government function or proprietary arrangement
  ➢ “State” action v. agency or agency officials’ actions
  ➢ Authority/Powers Granted
  ➢ Binding
  ➢ Interpret as a statute and as a contract
Compacts v. Uniform Laws

- How uniform do you want or need?
  - Text
  - Interpretation and Application

- Ease of Amendment

- Ease of Withdrawal
Key Benefits of Interstate Compacts

- Effectiveness and efficiency
  - Economies of scale

- Flexibility and autonomy compared to national policy
  - “One size does not fit all”

- Dispute resolution between or among the states

- State and federal partnership

- Cooperative behaviors leading to “win-win” solutions
Recurring Issues with Interstate Compacts

- What is it?
- Continuing need for education
- . . .
- . . .
- . . .
# NCIC’s Proven Development Process

<table>
<thead>
<tr>
<th>Phase I Development</th>
<th>Phase II Education and Enactment</th>
<th>Phase III Transition and Operation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ADVISORY GROUP</strong></td>
<td>• Develop legislative resource kit</td>
<td>• Enactment threshold met</td>
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<tr>
<td>▪ Approx. 20 state officials, stakeholders &amp; issue experts</td>
<td>• Develop informational internet site with state-by-state tracking and support documents</td>
<td>• Notify states</td>
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<tr>
<td>▪ Examines issues, current policy, best practices, and alternate structures</td>
<td>• Convene “National Briefing” to educate legislators and key state officials</td>
<td>• Appoint Interim Executive Board</td>
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<td>▪ Establishes recommendations for the content of the compact</td>
<td><strong>EDUCATION</strong></td>
<td>• Establish interim committees</td>
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<tr>
<td><strong>DRAFTING TEAM</strong></td>
<td><strong>STATE SUPPORT</strong></td>
<td>• Convene first compact commission meeting</td>
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<td>▪ 5 to 8 state officials, stakeholders, and issue experts</td>
<td>• Develop network of “champions”</td>
<td>• Develop information systems</td>
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<tr>
<td>▪ Crafts compact based on recommendations</td>
<td>• Provide on-site technical support and assistance</td>
<td><strong>OPERATION</strong></td>
</tr>
<tr>
<td>▪ Circulates draft compact to states and stakeholders for comment</td>
<td>• Provide informational testimony to legislative committees</td>
<td>• On-going state control and governance</td>
</tr>
<tr>
<td><strong>FINAL PRODUCT</strong></td>
<td><strong>STATE ENACTMENTS</strong></td>
<td>• Staff support</td>
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<tr>
<td>▪ Drafting team considers comments and incorporates into compact</td>
<td>• Track and support state enactments</td>
<td>• Annual assessment/ funding</td>
</tr>
<tr>
<td>▪ Final product sent to advisory group</td>
<td>• Prepare for transition and implementation</td>
<td>• Annual business meeting</td>
</tr>
<tr>
<td>▪ Released to states for consideration</td>
<td>• Provide support as requested</td>
<td>• Maintain and oversee information system, enhance and upgrade</td>
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**STATE ENACTMENTS**
- Track and support state enactments
- Prepare for transition and implementation
- Provide support as requested
Typical Governance Structure

➢ Sub-federal, supra-state government entity with voting representatives from each member state

➢ Committees, including an executive committee responsible for making day-to-day decisions

➢ Authority to hire staff responsible for implementing the policies and procedures established by the commission

➢ Commissions serve the member states and are tasked with acting on their behalf and not on the behalf or particular groups or organizations
Sampling of National Compacts

- Emergency Management Assistance Compact
- Military Children Compact Commission (MIC3)
- Interstate Compact for Adult Offender Supervision (ICAOS)
- Interstate Compact for Juveniles (ICJ)
- Drivers License Compact
- Interstate Compact for the Placement of Children (ICPC)*
Medical Licensure Compacts

- Enhanced Nurse Licensure Compact (eNLC) – 31 states (25)
- APRN – 3 states (10)
- EMS Licensure Compact (REPLICA) – 16 states (10)
- Medical Licensure Compact – 27 states (20)
- Physical Therapists Compact – 21 states (10)
- PsyPact – 7 states (7)*
Why License Reciprocity (Healthcare*)

- Mobile society (patients and practitioners)
- Support spouses of relocating military families
- Increase access to health care services, especially in rural areas
- Enhance the states’ ability to protect the public’s health and safety
- Enhance the exchange of licensure, investigatory, and disciplinary information between member states
- Technological advancements
- Rising populations – seniors and veterans
- Practical advancement for current and future generations

* Why license reciprocity for your profession?
Advantages of Occupational Licensure Compacts

➢ Agreement on uniform licensure requirements; uniform statutory authority and regulations

➢ A data system adequate to allow electronic processing of interstate licensure and streamlined sharing of data and information

➢ FBI Fingerprint Based Criminal Background Checks

➢ Streamlined disciplinary matters

➢ National office and staff to interface with external stakeholders and national organizations and coordinate with other interstate compacts
Advantages of Occupational Licensure Compacts

Compacts are a state-based approach to multi-state licensure that uses a vehicle for interstate collaboration that is provided for in the U. S. Constitution:

- State licensure processes remain in place
- Licensees voluntarily become part of a compact
- State practice acts are not impacted
Myth: Interstate compacts are a takeover of state policy
States negotiate compact policies and can avoid “takeovers”. Compacts preserve state prerogatives and minimize or obviate federal intervention.
Myth: Interstate compacts are owned or controlled by outside organizations
Compacts: Myths v. Reality

**Reality:** Compacts are governed by statutorily created governance structures as determined by the member states through the terms of the compact.

Compacts are an instrument of interstate cooperation governed by representatives appointed by the member states and represent the member state.
Myth: Compact commission rules and bylaws thwart state sovereignty
Compacts: Myths v. Reality

**Reality:** Rules written by a compact commission apply only to the specific compact procedures implementing the interstate extension of member state authority across state lines.