Interstate Compacts

History and Current Uses
What Is An Interstate Compact?

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

➢ Simple, versatile and proven tool

➢ Effective means of cooperatively addressing common problems

➢ Allows states to respond to national priorities with one voice

➢ Retains collective state sovereignty over issues belonging to states
Primary Uses of Interstate Compacts

Used to resolve 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
Common Uses of Interstate Compacts

Used to manage a wide variety of state issues and often creates multistate administrative agencies

➢ 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

➢ Environmental and Pollution Control
  ▪ Low Level Radioactive Waste Compacts
Common Uses of Interstate Compacts

Used to manage a wide variety of state concerns and often create multistate administrative agencies

➢ Regional Economic Development and Transportation
  ▪ Port Authority of New York and New Jersey

➢ Education
  ▪ Military Children’s Compact Commission
  ▪ Midwestern Higher Education Compact

➢ Tax
  ▪ Multistate Tax Compact

➢ Mutual Aid
  ▪ Emergency Management Assistance Compact
Common Uses of Interstate Compacts

Used to manage a wide variety of state concerns and often create multistate administrative agencies

➢ Occupational Licensure
  ▪ Interstate Medical Licensure Compact
  ▪ Physical Therapist Compact
  ▪ Nurse Licensure Compact
  ▪ REPLICA

➢ Insurance
  ▪ Interstate Insurance Product Regulation Compact
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 Compact with another State …”

Consent isn’t required unless the compact infringes on the federal supremacy.

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. 1, sec. 10, cl. 3.
Interstate Compacts in History

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

➢ What is a Compact? RGGI, EZ-Pass, SBAC
  ➢ “State” action v. agency or agency officials’ actions
  ➢ Authority/Powers Granted
  ➢ Binding
  ➢ Interpretation
Compacts v. Uniform Laws

➢ How Uniform Do You Want?
   ➢ Text
   ➢ Interpretation and Application
   ➢ Withdrawal
Compacts Today

- Approximately 215 active compacts
- Precedence for international participation
- On average states are members of about 25 compacts
- Port Authority of NY & NJ (1922) signaled a new era in regulatory compacts by creating a new bi-state agency
Interstate Compacts – Key Benefits

1. Effectiveness and efficiency
   – Economies of scale

2. Flexibility and autonomy compared to national policy
   – “One size does not fit all”

3. Dispute resolution between or among the states

4. State and federal partnership

5. Cooperative behaviors leading to “win-win” solutions
## NCIC’s Proven Development Process

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<tr>
<th>Phase I: Development</th>
<th>Phase II: Education and Enactment</th>
<th>Phase III: Transition and Operation</th>
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<tr>
<td><strong>ADVISORY GROUP</strong></td>
<td><strong>EDUCATION</strong></td>
<td><strong>TRANSITION</strong></td>
</tr>
<tr>
<td>➢ Composed of approx. 20 state officials, stakeholders and issue experts</td>
<td>➢ Develop comprehensive legislative resource kit</td>
<td>➢ Enactment threshold met</td>
</tr>
<tr>
<td>➢ Examines issues, current policy, best practices and alternate structures</td>
<td>➢ Develop informational internet site with state-by-state tracking and support documents</td>
<td>➢ State notification</td>
</tr>
<tr>
<td>➢ Establishes recommendations for the content of an interstate compact</td>
<td>➢ Convene “National Briefing” to educate legislators and key state officials</td>
<td>➢ Interim Executive Board appointed</td>
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<tr>
<td><strong>DRAFTING TEAM</strong></td>
<td><strong>STATE SUPPORT</strong></td>
<td><strong>OPERATION</strong></td>
</tr>
<tr>
<td>➢ Composed of 5 to 8 state officials, stakeholders, and issue experts</td>
<td>➢ Develop network of “champions”</td>
<td>➢ Ongoing state control and governance</td>
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<tr>
<td>➢ Crafts compact based on recommendations, if possible</td>
<td>➢ Provide on-site technical support and assistance</td>
<td>➢ Staff support</td>
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<tr>
<td>➢ Circulates draft compact to states and stakeholder groups for comment</td>
<td>➢ Provide informational testimony to legislative committees</td>
<td>➢ Annual assessment, if necessary</td>
</tr>
<tr>
<td><strong>FINAL PRODUCT</strong></td>
<td><strong>STATE ENACTMENTS</strong></td>
<td>➢ Annual business meeting</td>
</tr>
<tr>
<td>➢ Drafting team considers comments and incorporates into compact</td>
<td>➢ Track and support state enactments</td>
<td>➢ Information system oversight (maintenance, security, training, etc.)</td>
</tr>
<tr>
<td>➢ Final product sent to advisory group</td>
<td>➢ Prepare for transition and implementation</td>
<td>➢ Long-term enhancements / up-grades</td>
</tr>
<tr>
<td>➢ Released to states for consideration</td>
<td>➢ Provide requested support, as needed</td>
<td></td>
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Interstate Compact Commission

- Forms when the threshold of states enact compact legislation
- Is typically a governmental entity
- Supra-state, sub-federal nature
- May hire staff and determine physical presence
Interstate Compacts: Typical Governance Structure

- The commission is comprised of voting representatives from each member state and is responsible for key decisions with respect to the compact.

- The commission can form committees, including an executive committee that is responsible for making day-to-day decisions.

- Compact commissions are frequently granted the authority to hire staff, which is 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.
National Compacts

➢ Emergency Management Assistance Compact (EMAC)
➢ 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

- Nurse Licensure Compact – 25 states
- Enhanced Nurse Licensure Compact (eNLC) – 26 states (25)
- EMS Licensure Compact (REPLICA) – 12 states (10)
- Interstate Medical Licensure Compact (IMLC) – 22 states (7)
- Physical Therapists Compact – 14 states (10)
- PsyPact – 3 states (7)
Advantages of Occupational Licensure Compacts

1. Agreement on Uniform Licensure Requirements

2. A data system adequate to allow electronic processing of interstate licensure

3. Disciplinary issues related to interstate licensure

4. FBI Fingerprint Based Criminal Background Checks

5. Compact governance issues:
   I. Legal status of interstate compact governing agency
   II. Rulemaking and other authority
Occupational Licensure Compacts – Operational Benefits

➢ National data & information sharing systems
➢ Uniform compact language and rules
➢ Proven governance structures
➢ National interface with external stakeholders & national organizations
➢ Coordination with other interstate compacts
➢ National office and staff (if necessary)
Why Healthcare License Reciprocity

➢ 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
Why Healthcare License Reciprocity

- 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
Health Licensure Reciprocity: Why Interstate 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

➢ Licenses voluntarily become part of a compact

➢ State practice acts are not impacted
Myth: Interstate compacts are a takeover of state policy
Compacts: Myths v. Reality

**Reality:** Compacts *are not* a takeover of state policy **AND** may serve as a way to preserve state prerogatives and minimize / preempt federal intervention.
Myth: Interstate compacts are owned or controlled by an outside organization
Compacts: Myths v. Reality

**Reality:** Compacts *are not* owned or controlled by any organization and are governed by statutorily created governing “infrastructure” as determined by the *member states* through the terms of the compact.

Compacts are an instrument of interstate cooperation governed by appointed representatives of the adopting states. *Compact commission members are appointed by and represent the member state.*
Myth: Commission rules and bylaws thwart state sovereignty
**Reality:** Rules written by the compact commission apply only to the specific compact procedures implementing the interstate extension of member state authority across state lines.
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