

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

**Offered By**

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1 AMEND House Committee Substitute for House Bill No. 2974, Page 4, Section 324.009, Line  
2 96, by inserting after all of said section and line the following:  
3

4 "334.1950. 1. Sections 334.1950 to 334.1986 shall be known and may be cited as the  
5 "Respiratory Care Interstate Compact".

6 2. The purpose of this Compact is to facilitate the interstate Practice of Respiratory  
7 Therapy with the goal of improving public access to Respiratory Therapy services by providing  
8 Respiratory Therapists licensed in a Member State the ability to practice in other Member States.  
9 The Compact preserves the regulatory authority of states to protect public health and safety  
10 through the current system of State licensure.

11 3. This Compact is designed to achieve the following objectives:

12 (1) Increase public access to Respiratory Therapy services by creating a responsible,  
13 streamlined pathway for Licensees to practice in Member States with the goal of improving  
14 outcomes for patients;

15 (2) Enhance States' ability to protect the public's health and safety;

16 (3) Promote the cooperation of Member States in regulating the Practice of Respiratory  
17 Therapy within those Member States;

18 (4) Ease administrative burdens on States by encouraging the cooperation of Member  
19 States in regulating multi-state Respiratory Therapy practice;

20 (5) Support relocating Active Military Members and their spouses; and

21 (6) Promote mobility and address workforce shortages.

22 334.1953. As used in this Compact, unless the context requires otherwise, the following  
23 definitions shall apply:

24 (1) "Active Military Member" means any person with a full-time duty status in the  
25 armed forces of the United States, including members of the National Guard and Reserve.

26 (2) "Adverse Action" means any administrative, civil, equitable, or criminal action  
27 permitted by a State's laws which is imposed by any State authority with regulatory authority  
28 over Respiratory Therapists, such as license denial, censure, revocation, suspension, probation,  
29 monitoring of the Licensee, or restriction on the Licensee's practice, not including participation  
30 in an Alternative Program.

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1           (3) "Alternative Program" means a non-disciplinary monitoring or practice remediation  
2 process applicable to a Respiratory Therapist approved by any State authority with regulatory  
3 authority over Respiratory Therapists. This includes, but is not limited to, programs to which  
4 Licenses with substance abuse or addiction issues are referred in lieu of Adverse Action.

5           (4) "Charter Member States" means those Member States who were the first seven states  
6 to enact the Compact into the laws of their State.

7           (5) "Commission" or "Respiratory Care Interstate Compact Commission" means the  
8 government instrumentality and body politic whose membership consists of all Member States  
9 that have enacted the Compact.

10           (6) "Commissioner" means the individual appointed by a Member State to serve as the  
11 member of the Commission for that Member State.

12           (7) "Compact" means the Respiratory Care Interstate Compact.

13           (8) "Compact Privilege" means the authorization granted by a Remote State to allow a  
14 Licensee from another Member State to practice as a Respiratory Therapist in the Remote State  
15 under the Remote State's laws and Rules. The Practice of Respiratory Therapy occurs in the  
16 Member State where the patient is located at the time of the patient encounter.

17           (9) "Criminal Background Check" means the submission by the Member State of  
18 fingerprints or other biometric-based information on license applicants at the time of initial  
19 licensing for the purpose of obtaining that applicant's criminal history record information, as  
20 defined in 28 C.F.R. § 20.3(d) or successor provision, from the Federal Bureau of Investigation  
21 and the State's criminal history record repository, as defined in 28 C.F.R. § 20.3(f) or successor  
22 provision.

23           (10) "Data System" means the Commission's repository of information about Licensees  
24 as further set forth in section 334.1971.

25           (11) "Domicile" means the jurisdiction which is the Licensee's principal home for legal  
26 purposes.

27           (12) "Encumbered License" means a license that a State's Respiratory Therapy Licensing  
28 Authority has limited in any way.

29           (13) "Executive Committee" means a group of directors elected or appointed to act on  
30 behalf of, and within the powers granted to them by the Commission.

31           (14) "Home State" except as set forth in section 334.1962, means the Member State that  
32 is the Licensee's primary Domicile.

33           (15) "Home State License" means an active license to practice Respiratory Therapy in a  
34 Home State that is not an Encumbered License.

35           (16) "Jurisprudence Requirement" means an assessment of an individual's knowledge of  
36 the State laws and regulations governing the Practice of Respiratory Therapy in such State.

37           (17) "Licensee" means an individual who currently holds an authorization from the State  
38 to practice as a Respiratory Therapist.

1           (18) "Member State" means a State that has enacted the Compact and been admitted to  
2 the Commission in accordance with the provisions herein and Commission Rules.

3           (19) "Model Compact" means the model for the Respiratory Care Interstate Compact on  
4 file with The Council of State Governments or other entity as designated by the Commission.

5           (20) "Remote State" means a Member State where a Licensee is exercising or seeking to  
6 exercise the Compact Privilege.

7           (21) "Respiratory Therapist" or "Respiratory Care Practitioner" means an individual who  
8 holds a credential issued by the National Board for Respiratory Care (or its successor) and holds  
9 a license in a State to practice Respiratory Therapy. For purposes of this Compact, any other  
10 title or status adopted by a State to replace the term "Respiratory Therapist" or "Respiratory Care  
11 Practitioner" shall be deemed synonymous with "Respiratory Therapist" and shall confer the  
12 same rights and responsibilities to the Licensee under the provisions of this Compact at the time  
13 of its enactment.

14           (22) "Respiratory Therapy," "Respiratory Therapy Practice," "Respiratory Care," "the  
15 Practice of Respiratory Care," and "the Practice of Respiratory Therapy" means the care and  
16 services provided by or under the direction and supervision of a Respiratory Therapist or  
17 Respiratory Care Practitioner.

18           (23) "Respiratory Therapy Licensing Authority" means the agency, board, or other body  
19 of a State that is responsible for licensing and regulation of Respiratory Therapists.

20           (24) "Rule" means a regulation promulgated by an entity that has the force and effect of  
21 law.

22           (25) "Scope of Practice" means the procedures, actions, and processes a Respiratory  
23 Therapist licensed in a State or practicing under a Compact Privilege in a State is permitted to  
24 undertake in that State and the circumstances under which the Respiratory Therapist is permitted  
25 to undertake those procedures, actions, and processes. Such procedures, actions, and processes,  
26 and the circumstances under which they may be undertaken may be established through means,  
27 including, but not limited to, statute, regulations, case law, and other processes available to the  
28 State Respiratory Therapy Licensing Authority or other government agency.

29           (26) "Significant Investigative Information" means information, records, and documents  
30 received or generated by a State Respiratory Therapy Licensing Authority pursuant to an  
31 investigation for which a determination has been made that there is probable cause to believe  
32 that the Licensee has violated a statute or regulation that is considered more than a minor  
33 infraction for which the State Respiratory Therapy Licensing Authority could pursue Adverse  
34 Action against the Licensee.

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

36           334.1956. 1. In order to participate in this Compact and thereafter continue as a Member  
37 State, a Member State shall:

38           (1) Enact a Compact that is not materially different from the Model Compact;

1           (2) License Respiratory Therapists;

2           (3) Participate in the Commission's Data System;

3           (4) Have a mechanism in place for receiving and investigating complaints against  
4 Licensees and Compact Privilege holders;

5           (5) Notify the Commission, in compliance with the terms of this Compact and  
6 Commission Rules, of any Adverse Action against a Licensee, a Compact Privilege holder, or a  
7 license applicant;

8           (6) Notify the Commission, in compliance with the terms of this Compact and  
9 Commission Rules, of the existence of Significant Investigative Information;

10          (7) Comply with the Rules of the Commission;

11          (8) Grant the Compact Privilege to a holder of an active Home State License and  
12 otherwise meet the applicable requirements of section 334.1959 in a Member State; and

13          (9) Complete a Criminal Background Check for each new Licensee at the time of initial  
14 licensure. Where expressly authorized or permitted by federal law, whether such federal law is  
15 in effect prior to, at, or after the time of a Member State's enactment of this Compact, a Member  
16 State's enactment of this Compact shall hereby authorize the Member State's Respiratory  
17 Therapy Licensing Authority to perform Criminal Background Checks as defined herein. The  
18 absence of such a federal law as described in this subdivision shall not prevent or preclude such  
19 authorization where it may be derived or granted through means other than the enactment of this  
20 Compact.

21          2. Nothing in this Compact prohibits a Member State from charging a fee for granting  
22 and renewing the Compact Privilege.

23          334.1959. 1. To exercise the Compact Privilege under the terms and provisions of the  
24 Compact, the Licensee shall:

25           (1) Hold and maintain an active Home State License as a Respiratory Therapist;

26           (2) Hold and maintain an active credential from the National Board for Respiratory Care  
27 (or its successor) that would qualify them for licensure in the Remote State in which they are  
28 seeking the privilege;

29           (3) Have not had any Adverse Action against a license within the previous two (2) years;

30           (4) Notify the Commission that the Licensee is seeking the Compact Privilege within a  
31 Remote State or States;

32           (5) Pay any applicable fees, including any State and Commission fees and renewal fees,  
33 for the Compact Privilege;

34           (6) Meet any Jurisprudence Requirements established by the Remote State in which the  
35 Licensee is seeking a Compact Privilege;

36           (7) Report to the Commission Adverse Action taken by any non-Member State within  
37 thirty (30) days from the date the Adverse Action is taken;

1           (8) Report to the Commission, when applying for a Compact Privilege, the address of  
2 the Licensee's Domicile and thereafter promptly report to the Commission any change in the  
3 address of the Licensee's Domicile within thirty (30) days of the effective date of the change in  
4 address; and

5           (9) Consent to accept service of process by mail at the Licensee's Domicile on record  
6 with the Commission with respect to any action brought against the Licensee by the Commission  
7 or a Member State, and consent to accept service of a subpoena by mail at the Licensee's  
8 Domicile on record with the Commission with respect to any action brought or investigation  
9 conducted by the Commission or a Member State.

10           2. The Compact Privilege is valid until the expiration date or revocation of the Home  
11 State License unless terminated pursuant to Adverse Action. The Licensee must comply with all  
12 of the requirements of subsection 1 of this section to maintain the Compact Privilege in a  
13 Remote State. If those requirements are met, no Adverse Actions are taken, and the Licensee  
14 has paid any applicable Compact Privilege renewal fees, then the Licensee will maintain the  
15 Licensee's Compact Privilege.

16           3. A Licensee providing Respiratory Therapy in a Remote State under the Compact  
17 Privilege shall function within the Scope of Practice authorized by the Remote State for the type  
18 of Respiratory Therapist license the Licensee holds. Such procedures, actions, processes, and  
19 the circumstances under which they may be undertaken may be established through means,  
20 including, but not limited to, statute, regulations, case law, and other processes available to the  
21 State Respiratory Therapy Licensing Authority or other government agency.

22           4. If a Licensee's Compact Privilege in a Remote State is removed by the Remote State,  
23 the individual shall lose or be ineligible for the Compact privilege in that Remote State until the  
24 Compact Privilege is no longer limited or restricted by that State.

25           5. If a Home State License is encumbered, the Licensee shall lose the Compact Privilege  
26 in all Remote States until the following occur:

27           (1) The Home State License is no longer encumbered; and

28           (2) Two (2) years have elapsed from the date on which the license is no longer  
29 encumbered due to the Adverse Action.

30           6. Once a Licensee with a restricted or limited license meets the requirements of  
31 subdivisions (1) and (2) of subsection 5 of this section, the Licensee must also meet the  
32 requirements of subsection 1 of this section to obtain a Compact Privilege in a Remote State.

33           334.1962. 1. An Active Military Member, or their spouse, shall designate a Home State  
34 where the individual has a current license in good standing. The individual may retain the Home  
35 State designation during the period the service member is on active duty.

36           2. An Active Military Member and their spouse shall not be required to pay to the  
37 Commission for a Compact Privilege any fee that may otherwise be charged by the Commission.

1 If a Remote State chooses to charge a fee for a Compact Privilege, it may choose to charge a  
2 reduced fee or no fee to an Active Military Member and their spouse for a Compact Privilege.

3 334.1965. 1. A Member State in which a Licensee is licensed shall have authority to  
4 impose Adverse Action against the license issued by that Member State.

5 2. A Member State may take Adverse Action based on Significant Investigative  
6 Information of a Remote State or the Home State, so long as the Member State follows its own  
7 procedures for imposing Adverse Action.

8 3. Nothing in this Compact shall override a Member State's decision that participation in  
9 an Alternative Program may be used in lieu of Adverse Action and that such participation shall  
10 remain non-public if required by the Member State's laws.

11 4. A Remote State shall have the authority to:

12 (1) Take Adverse Actions as set forth herein against a Licensee's Compact Privilege in  
13 that State;

14 (2) Issue subpoenas for both hearings and investigations that require the attendance and  
15 testimony of witnesses, and the production of evidence.

16 (a) Subpoenas may be issued by a Respiratory Therapy Licensing Authority in a  
17 Member State for the attendance and testimony of witnesses and the production of evidence.

18 (b) Subpoenas issued by a Respiratory Therapy Licensing Authority in a Member State  
19 for the attendance and testimony of witnesses shall be enforced in the latter State by any court of  
20 competent jurisdiction in the latter State, according to the practice and procedure of that court  
21 applicable to subpoenas issued in proceedings pending before it.

22 (c) Subpoenas issued by a Respiratory Therapy Licensing Authority in a Member State  
23 for production of evidence from another Member State shall be enforced in the latter State,  
24 according to the practice and procedure of that court applicable to subpoenas issued in the  
25 proceedings pending before it.

26 (d) The issuing authority shall pay any witness fees, travel expenses, mileage, and other  
27 fees required by the service statutes of the State where the witnesses or evidence are located;

28 (3) Unless otherwise prohibited by State law, recover from the Licensee the costs of  
29 investigations and disposition of cases resulting from any Adverse Action taken against that  
30 Licensee;

31 (4) Notwithstanding subdivision (2) of this subsection, a Member State may not issue a  
32 subpoena to gather evidence of conduct in another Member State that is lawful in such other  
33 Member State for the purpose of taking Adverse Action against a Licensee's Compact Privilege  
34 or application for a Compact Privilege in that Member State; and

35 (5) Nothing in this Compact authorizes a Member State to impose discipline against a  
36 Respiratory Therapist's Compact Privilege in that Member State for the individual's otherwise  
37 lawful practice in another State.

1           5. (1) In addition to the authority granted to a Member State by its respective  
2 Respiratory Therapy Practice act or other applicable state law, a Member State may participate  
3 with other Member States in joint investigations of Licensees, provided, however, that a Member  
4 State receiving such a request has no obligation to respond to any subpoena issued regarding an  
5 investigation of conduct or practice that was lawful in a Member State at the time it was  
6 undertaken.

7           (2) Member States shall share any Significant Investigative Information, litigation, or  
8 compliance materials in furtherance of any joint or individual investigation initiated under the  
9 Compact. In sharing such information between Member State Respiratory Therapy Licensing  
10 Authorities, all information obtained shall be kept confidential, except as otherwise mutually  
11 agreed upon by the sharing and receiving Member States.

12           6. Nothing in this Compact may permit a Member State to take any Adverse Action  
13 against a Licensee or holder of a Compact Privilege for conduct or practice that was legal in the  
14 Member State at the time it was undertaken.

15           7. Nothing in this Compact may permit a Member State to take disciplinary action  
16 against a Licensee or holder of a Compact Privilege for conduct or practice that was legal in the  
17 Member State at the time it was undertaken.

18           334.1968. 1. The Compact Member States hereby create and establish a joint  
19 government agency whose membership consists of all Member States that have enacted the  
20 Compact known as the Respiratory Care Interstate Compact Commission. The Commission is  
21 an instrumentality of the Compact Member States acting jointly and not an instrumentality of  
22 any one State. The Commission shall come into existence on or after the effective date of the  
23 Compact, as set forth in section 334.1980.

24           2. (1) Each Member State shall have and be limited to one (1) Commissioner selected  
25 by that Member State's Respiratory Therapy Licensing Authority.

26           (2) The Commissioner shall be an administrator or their designated staff member of the  
27 Member State's Respiratory Therapy Licensing Authority.

28           (3) The Commission shall by Rule or bylaw establish a term of office for Commissioners  
29 and may by Rule or bylaw establish term limits.

30           (4) The Commission may recommend to a Member State the removal or suspension of  
31 any Commissioner from office.

32           (5) A Member State's Respiratory Therapy Licensing Authority shall fill any vacancy of  
33 its Commissioner occurring on the Commission within sixty (60) days of the vacancy.

34           (6) Each Commissioner shall be entitled to one vote on all matters before the  
35 Commission requiring a vote by Commissioners.

36           (7) A Commissioner shall vote in person or by such other means as provided in the  
37 bylaws. The bylaws may provide for Commissioners to meet by telecommunication,  
38 videoconference, or other means of communication.

1           (8) The Commission shall meet at least once during each calendar year. Additional  
2 meetings may be held as set forth in the bylaws.

3           3. The Commission shall have the following powers:

4           (1) Establish and amend the fiscal year of the Commission;

5           (2) Establish and amend bylaws and policies, including but not limited to, a code of  
6 conduct and conflict of interest;

7           (3) Establish and amend Rules, which shall be binding in all Member States;

8           (4) Maintain its financial records in accordance with the bylaws;

9           (5) Meet and take such actions as are consistent with the provisions of this Compact, the  
10 Commission's Rules, and the bylaws;

11           (6) Initiate and conduct legal proceedings or actions in the name of the Commission,  
12 provided that the standing of any Respiratory Therapy Licensing Authority to sue or be sued  
13 under applicable law shall not be affected;

14           (7) Maintain and certify records and information provided to a Member State as the  
15 authenticated business records of the Commission, and designate an agent to do so on the  
16 Commission's behalf;

17           (8) Purchase and maintain insurance and bonds;

18           (9) Accept or contract for services of personnel, including, but not limited to, employees  
19 of a Member State;

20           (10) Conduct an annual financial review;

21           (11) Hire employees, elect or appoint officers, fix compensation, define duties, grant  
22 such individuals appropriate authority to carry out the purposes of the Compact, and establish the  
23 Commission's personnel policies and programs relating to conflicts of interest, qualifications of  
24 personnel, and other related personnel matters;

25           (12) Assess and collect fees;

26           (13) Accept any and all appropriate gifts, donations, grants of money, other sources of  
27 revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the  
28 same, provided that at all times:

29           (a) The Commission shall avoid any appearance of impropriety; and

30           (b) The Commission shall avoid any appearance of conflict of interest;

31           (14) Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or  
32 mixed, or any undivided interest therein;

33           (15) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of  
34 any property real, personal, or mixed;

35           (16) Establish a budget and make expenditures;

36           (17) Borrow money in a fiscally responsible manner;

1           (18) Appoint committees, including standing committees, composed of Commissioners,  
2 State regulators, State legislators or their representatives, and consumer representatives, and such  
3 other interested persons as may be designated in this Compact and the bylaws;

4           (19) Provide and receive information from, and cooperate with, law enforcement  
5 agencies;

6           (20) Establish and elect an Executive Committee, including a chair, vice-chair, secretary,  
7 treasurer, and such other offices as the Commission shall establish by Rule or bylaw;

8           (21) Enter into contracts or arrangements for the management of the affairs of the  
9 Commission;

10           (22) Determine whether a State's adopted language is materially different from the  
11 Model Compact language such that the State would not qualify for participation in the Compact;  
12 and

13           (23) Perform such other functions as may be necessary or appropriate to achieve the  
14 purposes of this Compact.

15           4. (1) The Executive Committee shall have the power to act on behalf of the  
16 Commission according to the terms of this Compact. The powers, duties, and responsibilities of  
17 the Executive Committee shall include:

18           (a) Overseeing the day-to-day activities of the administration of the Compact, including  
19 enforcement and compliance with the provisions of the Compact, its Rules and bylaws, and other  
20 such duties as deemed necessary;

21           (b) Recommending to the Commission changes to the Rules or bylaws, changes to this  
22 Compact legislation, fees charged to Compact Member States, fees charged to Licensees, and  
23 other fees;

24           (c) Ensuring Compact administration services are appropriately provided, including by  
25 contract;

26           (d) Preparing and recommending the budget;

27           (e) Maintaining financial records on behalf of the Commission;

28           (f) Monitoring Compact compliance of Member States and providing compliance reports  
29 to the Commission;

30           (g) Establishing additional committees as necessary;

31           (h) Exercising the powers and duties of the Commission during the interim between  
32 Commission meetings, except for adopting or amending Rules, adopting or amending bylaws,  
33 and exercising any other powers and duties expressly reserved to the Commission by Rule or  
34 bylaw; and

35           (i) Performing other duties as provided in the Rules or bylaws of the Commission.

36           (2) The Executive Committee shall be composed of up to nine (9) members, as further  
37 set forth in the bylaws of the Commission:

1           (a) Seven (7) voting members who are elected by the Commission from the current  
2 membership of the Commission; and

3           (b) Two (2) ex-officio, non-voting members.

4           (3) The Commission may remove any member of the Executive Committee as provided  
5 in the Commission's bylaws.

6           (4) The Executive Committee shall meet at least annually.

7           (a) Executive Committee meetings shall be open to the public, except that the Executive  
8 Committee may meet in a closed, non-public meeting as provided in subdivision (4) of  
9 subsection 6 of this section;

10           (b) The Executive Committee shall give advance notice of its meetings, posted on its  
11 website and as determined to provide notice to persons with an interest in the business of the  
12 Commission; and

13           (c) The Executive Committee may hold a special meeting in accordance with  
14 subdivision (2) of subsection 6 of this section.

15           5. The Commission shall adopt and provide to the Member States an annual report.

16           6. (1) All meetings of the Commission that are not closed pursuant to subdivision (4) of  
17 this subsection shall be open to the public. Notice of public meetings shall be posted on the  
18 Commission's website at least thirty (30) days prior to the public meeting.

19           (2) Notwithstanding subdivision (1) of this subsection, the Commission may convene an  
20 emergency public meeting by providing at least twenty-four (24) hours prior notice on the  
21 Commission's website, and any other means as provided in the Commission's Rules, for any of  
22 the reasons it may dispense with notice of proposed rulemaking under subsection 7 of section  
23 334.1974. The Commission's legal counsel shall certify that one of the reasons justifying an  
24 emergency public meeting has been met.

25           (3) Notice of all Commission meetings shall provide the time, date, and location of the  
26 meeting, and if the meeting is to be held or accessible via telecommunication, video conference,  
27 or other electronic means, the notice shall include the mechanism for access to the meeting.

28           (4) The Commission or the Executive Committee may convene in a closed, non-public  
29 meeting for the Commission or Executive Committee to receive or solicit legal advice or to  
30 discuss:

31           (a) Non-compliance of a Member State with its obligations under the Compact;

32           (b) The employment, compensation, discipline or other matters, practices or procedures  
33 related to specific employees;

34           (c) Current or threatened discipline of a Licensee or Compact Privilege holder by the  
35 Commission or by a Member State's Respiratory Therapy Licensing Authority;

36           (d) Current, threatened, or reasonably anticipated litigation;

37           (e) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real  
38 estate;

1 (f) Accusing any person of a crime or formally censuring any person;

2 (g) Trade secrets or commercial or financial information that is privileged or  
3 confidential;

4 (h) Information of a personal nature where disclosure would constitute a clearly  
5 unwarranted invasion of personal privacy;

6 (i) Investigative records compiled for law enforcement purposes;

7 (j) Information related to any investigative reports prepared by or on behalf of or for use  
8 of the Commission or other committee charged with responsibility of investigation or  
9 determination of compliance issues pursuant to the Compact;

10 (k) Legal advice;

11 (l) Matters specifically exempted from disclosure by federal or Member State law; or

12 (m) Other matters as promulgated by the Commission by Rule.

13 (5) If a meeting, or portion of a meeting, is closed, the presiding officer shall state that  
14 the meeting will be closed and reference each relevant exempting provision, and such reference  
15 shall be recorded in the minutes.

16 (6) The Commission shall keep minutes in accordance with Commission Rules and  
17 bylaws. All documents considered in connection with an action shall be identified in such  
18 minutes. All minutes and documents of a closed meeting shall remain under seal, subject to  
19 release only by a majority vote of the Commission or order of a court of competent jurisdiction.

20 7. (1) The Commission shall pay, or provide for the payment of, the reasonable expenses  
21 of its establishment, organization, and ongoing activities.

22 (2) The Commission may accept any and all appropriate revenue sources as provided  
23 herein.

24 (3) The Commission may levy on and collect an annual assessment from each Member  
25 State and impose fees on Licensees of Member States to whom it grants a Compact Privilege to  
26 cover the cost of the operations and activities of the Commission and its staff. The aggregate  
27 annual assessment amount for Member States, if any, shall be allocated based upon a formula  
28 that the Commission shall promulgate by Rule.

29 (4) The Commission shall not incur obligations of any kind prior to securing the funds or  
30 a loan adequate to meet the same; nor shall the Commission pledge the credit of any of the  
31 Member States, except by and with the authority of the Member State.

32 (5) The Commission shall keep accurate accounts of all receipts and disbursements. The  
33 receipts and disbursements of the Commission shall be subject to the financial review and  
34 accounting procedures established under its bylaws. However, all receipts and disbursements of  
35 funds handled by the Commission shall be subject to an annual financial review by a certified or  
36 licensed public accountant, and the report of the financial review shall be included in and  
37 become part of the annual report of the Commission.

1           8. (1) Nothing herein shall be construed as a limitation on the liability of any Licensee  
2 for professional malpractice or misconduct, which shall be governed solely by any other  
3 applicable state laws.

4           (2) The Member States, Commissioners, officers, executive directors, employees, and  
5 agents of the Commission shall be immune from suit and liability, both personally and in their  
6 official capacity, for any claim for damage to or loss of property or personal injury or other civil  
7 liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or  
8 that the person against whom the claim is made had a reasonable basis for believing occurred  
9 within the scope of Commission employment, duties or responsibilities; provided that nothing in  
10 this subdivision shall be construed to protect any such person from suit or liability for any  
11 damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that  
12 person. The procurement of insurance of any type by the Commission shall not in any way  
13 compromise or limit the immunity granted hereunder.

14           (3) The Commission shall defend any Commissioner, officer, executive director,  
15 employee, and agent of the Commission in any civil action seeking to impose liability arising out  
16 of any actual or alleged act, error, or omission that occurred within the scope of Commission  
17 employment, duties, or responsibilities, or as determined by the Commission that the person  
18 against whom the claim is made had a reasonable basis for believing occurred within the scope  
19 of Commission employment, duties, or responsibilities; provided that nothing herein shall be  
20 construed to prohibit that person from retaining their own counsel at their own expense; and  
21 provided further, that the actual or alleged act, error, or omission did not result from that person's  
22 intentional or willful or wanton misconduct.

23           (4) The Commission shall indemnify and hold harmless any Commissioner, member,  
24 officer, executive director, employee, and agent of the Commission for the amount of any  
25 settlement or judgment obtained against that person arising out of any actual or alleged act, error,  
26 or omission that occurred within the scope of Commission employment, duties, or  
27 responsibilities, or that such person had a reasonable basis for believing occurred within the  
28 scope of Commission employment, duties, or responsibilities, provided that the actual or alleged  
29 act, error, or omission did not result from the intentional or willful or wanton misconduct of that  
30 person.

31           (5) Nothing in this Compact shall be interpreted to waive or otherwise abrogate a  
32 Member State's state action immunity or state action affirmative defense with respect to antitrust  
33 claims under the Sherman Act, Clayton Act, or any other State or federal antitrust or  
34 anticompetitive law or regulation.

35           (6) Nothing in this Compact shall be construed to be a waiver of sovereign immunity by  
36 the Member States or by the Commission.

1           334.1971. 1. The Commission shall provide for the development, maintenance,  
2 operation, and utilization of a coordinated database and reporting system containing licensure,  
3 Adverse Action, and the presence of Significant Investigative Information.

4           2. Notwithstanding any other provision of State law to the contrary, a Member State  
5 shall submit a uniform data set to the Data System as required by the Rules of the Commission,  
6 including but not limited to:

7           (1) Identifying information;

8           (2) Licensure data;

9           (3) Adverse Actions against a Licensee, license applicant, or Compact Privilege holder  
10 and information related thereto;

11           (4) Non-confidential information related to Alternative Program participation, the  
12 beginning and ending dates of such participation, and other information related to such  
13 participation not made confidential under Member State law;

14           (5) Any denial of application for licensure, and the reason or reasons for such denial;

15           (6) The presence of current Significant Investigative Information; and

16           (7) Other information that may facilitate the administration of this Compact or the  
17 protection of the public, as determined by the Rules of the Commission.

18           3. No Member State shall submit any information which constitutes criminal history  
19 record information, as defined by applicable federal law, to the Data System established  
20 hereunder.

21           4. The records and information provided to a Member State pursuant to this Compact or  
22 through the Data System, when certified by the Commission or an agent thereof, shall constitute  
23 the authenticated business records of the Commission, and shall be entitled to any associated  
24 hearsay exception in any relevant judicial, quasi-judicial or administrative proceedings in a  
25 Member State.

26           5. Significant Investigative Information pertaining to a Licensee in any Member State  
27 will only be available to other Member States.

28           6. It is the responsibility of the Member States to report any Adverse Action against a  
29 Licensee and to monitor the database to determine whether Adverse Action has been taken  
30 against a Licensee. Adverse Action information pertaining to a Licensee in any Member State  
31 will be available to any other Member State.

32           7. Member States contributing information to the Data System may designate  
33 information that may not be shared with the public without the express permission of the  
34 contributing State.

35           8. Any information submitted to the Data System that is subsequently expunged pursuant  
36 to federal law or the laws of the Member State contributing the information shall be removed  
37 from the Data System.

1           334.1974. 1. The Commission shall promulgate reasonable Rules in order to effectively  
2 and efficiently implement and administer the purposes and provisions of the Compact. A Rule  
3 shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the  
4 Rule is invalid because the Commission exercised its rulemaking authority in a manner that is  
5 beyond the scope and purposes of the Compact, or the powers granted hereunder, or based upon  
6 another applicable standard of review.

7           2. For purposes of the Compact, the Rules of the Commission shall have the force of law  
8 in each Member State.

9           3. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth  
10 in this section and the Rules adopted thereunder. Rules shall become binding as of the date  
11 specified in each Rule.

12           4. If a majority of the legislatures of the Member States rejects a Rule or portion of a  
13 Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact  
14 within four (4) years of the date of adoption of the Rule, then such Rule shall have no further  
15 force and effect in any Member State.

16           5. Rules shall be adopted at a regular or special meeting of the Commission.

17           6. Prior to adoption of a proposed Rule, the Commission shall hold a public hearing and  
18 allow persons to provide oral and written comments, data, facts, opinions, and arguments.

19           7. Prior to adoption of a proposed Rule by the Commission, and at least thirty (30) days  
20 in advance of the meeting at which the Commission will hold a public hearing on the proposed  
21 Rule, the Commission shall provide a notice of proposed rulemaking:

22           (1) On the website of the Commission or other publicly accessible platform;

23           (2) To persons who have requested notice of the Commission's notices of proposed  
24 rulemaking; and

25           (3) In such other way or ways as the Commission may by Rule specify.

26           8. The notice of proposed rulemaking shall include:

27           (1) The time, date, and location of the public hearing at which the Commission will hear  
28 public comments on the proposed Rule and, if different, the time, date, and location of the  
29 meeting where the Commission will consider and vote on the proposed Rule;

30           (2) If the hearing is held via telecommunication, video conference, or other electronic  
31 means, the Commission shall include the mechanism for access to the hearing in the notice of  
32 proposed rulemaking;

33           (3) The text of the proposed Rule and the reason therefor;

34           (4) A request for comments on the proposed Rule from any interested person; and

35           (5) The manner in which interested persons may submit written comments.

36           9. All hearings will be recorded. A copy of the recording and all written comments and  
37 documents received by the Commission in response to the proposed Rule shall be available to  
38 the public.

1           10. Nothing in this section shall be construed as requiring a separate hearing on each  
2 Rule. Rules may be grouped for the convenience of the Commission at hearings required by this  
3 section.

4           11. The Commission shall, by majority vote of all Commissioners, take final action on  
5 the proposed Rule based on the rulemaking record and the full text of the Rule.

6           (1) The Commission may adopt changes to the proposed Rule provided the changes are  
7 consistent with the original purpose of the proposed Rule.

8           (2) The Commission shall provide an explanation of the reasons for substantive changes  
9 made to the proposed Rule as well as reasons for substantive changes not made that were  
10 recommended by commenters.

11           (3) The Commission shall determine a reasonable effective date for the Rule. Except for  
12 an emergency as provided in subsection 12 of this section, the effective date of the Rule shall be  
13 no sooner than thirty (30) days after issuing the notice that it adopted or amended the Rule.

14           12. Upon determination that an emergency exists, the Commission may consider and  
15 adopt an emergency Rule with twenty-four (24) hours' notice, and with opportunity to comment,  
16 provided that the usual rulemaking procedures provided in the Compact and in this section shall  
17 be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety  
18 (90) days after the effective date of the Rule. For the purposes of this provision, an emergency  
19 Rule is one that must be adopted immediately in order to:

20           (1) Meet an imminent threat to public health, safety, or welfare;

21           (2) Prevent a loss of Commission or Member State funds;

22           (3) Meet a deadline for the promulgation of a Rule that is established by federal law or  
23 Rule; or

24           (4) Protect public health and safety.

25           13. The Commission or an authorized committee of the Commission may direct  
26 revisions to a previously adopted Rule for purposes of correcting typographical errors, errors in  
27 format, errors in consistency, or grammatical errors. Public notice of any revisions shall be  
28 posted on the website of the Commission. The revision shall be subject to challenge by any  
29 person for a period of thirty (30) days after posting. The revision may be challenged only on  
30 grounds that the revision results in a material change to a Rule. A challenge shall be made in  
31 writing and delivered to the Commission prior to the end of the notice period. If no challenge is  
32 made, the revision will take effect without further action. If the revision is challenged, the  
33 revision may not take effect without the approval of the Commission.

34           14. (1) No Member State's rulemaking process or procedural requirements shall apply to  
35 the Commission.

36           (2) The Commission shall have no authority over any Member State's rulemaking  
37 process or procedural requirements that do not pertain to the Compact.

1           15. Nothing in this Compact, nor any Rule or regulation of the Commission, shall be  
2 construed to limit, restrict, or in any way reduce the ability of a Member State to enact and  
3 enforce laws, regulations, or other Rules related to the Practice of Respiratory Therapy in that  
4 State, where those laws, regulations, or other Rules are not inconsistent with the provisions of  
5 this Compact.

6           334.1977. 1. (1) The executive and judicial branches of State government in each  
7 Member State shall enforce this Compact and take all actions necessary and appropriate to  
8 implement the Compact.

9           (2) Venue is proper and judicial proceedings by or against the Commission shall be  
10 brought solely and exclusively in a court of competent jurisdiction where the principal office of  
11 the Commission is located. The Commission may waive venue and jurisdictional defenses to the  
12 extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing  
13 herein shall affect or limit the selection or propriety of venue in any action against a Licensee for  
14 professional malpractice, misconduct or any such similar matter.

15           (3) The Commission shall be entitled to receive service of process in any proceeding  
16 regarding the enforcement or interpretation of the Compact and shall have standing to intervene  
17 in such a proceeding for all purposes. Failure to provide the Commission service of process  
18 shall render a judgment or order void as to the Commission, this Compact, or promulgated  
19 Rules.

20           2. (1) If the Commission determines that a Member State has defaulted in the  
21 performance of its obligations or responsibilities under this Compact or the promulgated Rules,  
22 the Commission shall provide written notice to the defaulting State. The notice of default shall  
23 describe the default, the proposed means of curing the default, and any other action that the  
24 Commission may take, and shall offer training and specific technical assistance regarding the  
25 default.

26           (2) The Commission shall provide a copy of the notice of default to the other Member  
27 States.

28           3. If a State in default fails to cure the default, the defaulting State may be terminated  
29 from the Compact upon an affirmative vote of a majority of the Commissioners of the Member  
30 States, and all rights, privileges and benefits conferred on that State by this Compact may be  
31 terminated on the effective date of termination. A cure of the default does not relieve the  
32 offending State of obligations or liabilities incurred during the period of default.

33           4. Termination of membership in the Compact shall be imposed only after all other  
34 means of securing compliance have been exhausted. Notice of intent to suspend or terminate  
35 shall be given by the Commission to the governor, the majority and minority leaders of the  
36 defaulting State's legislature, the defaulting State's Respiratory Therapy Licensing Authority and  
37 each of the Member States' Respiratory Therapy Licensing Authorities.

1           5. A State that has been terminated is responsible for all assessments, obligations, and  
2 liabilities incurred through the effective date of termination, including obligations that extend  
3 beyond the effective date of termination, if necessary.

4           6. Upon the termination of a State's membership from this Compact, that State shall  
5 immediately provide notice to all Licensees and Compact Privilege holders (of which the  
6 Commission has a record) within that State of such termination. The terminated State shall  
7 continue to recognize all licenses granted pursuant to this Compact for a minimum of one  
8 hundred eighty (180) days after the date of said notice of termination.

9           7. The Commission shall not bear any costs related to a State that is found to be in  
10 default or that has been terminated from the Compact, unless agreed upon in writing between the  
11 Commission and the defaulting State.

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

16           9. (1) Upon request by a Member State, the Commission shall attempt to resolve  
17 disputes related to the Compact that arise among Member States and between Member and non-  
18 Member States.

19           (2) The Commission shall promulgate a Rule providing for both mediation and binding  
20 dispute resolution for disputes, as appropriate.

21           10. (1) By majority vote, as may be further provided by Rule, the Commission may  
22 initiate legal action against a Member State in default in the United States District Court for the  
23 District of Columbia or the federal district where the Commission has its principal offices to  
24 enforce compliance with the provisions of the Compact and its promulgated Rules. A Member  
25 State by enactment of this Compact consents to venue and jurisdiction in such court for the  
26 purposes set forth herein. The relief sought may include both injunctive relief and damages. In  
27 the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of  
28 such litigation, including reasonable attorney's fees. The remedies herein shall not be the  
29 exclusive remedies of the Commission. The Commission may pursue any other remedies  
30 available under federal or the defaulting Member State's law.

31           (2) A Member State may initiate legal action against the Commission in the U.S. District  
32 Court for the District of Columbia or the federal district where the Commission has its principal  
33 offices to enforce compliance with the provisions of the Compact and its promulgated Rules.  
34 The relief sought may include both injunctive relief and damages. In the event judicial  
35 enforcement is necessary, the prevailing party shall be awarded all costs of such litigation,  
36 including reasonable attorney's fees.

37           (3) No person other than a Member State shall enforce this Compact against the  
38 Commission.

1           334.1980. 1. The Compact shall come into effect on the date on which the Compact  
2 statute is enacted into law in the seventh Member State ("Effective Date").

3           (1) On or after the Effective Date of the Compact, the Commission shall convene and  
4 review the enactment of each of the first seven Member States ("Charter Member States") to  
5 determine if the statute enacted by each such Charter Member State is materially different than  
6 the Model Compact.

7           (a) A Charter Member State whose enactment is found to be materially different from  
8 the Model Compact shall be entitled to the default process set forth in section 334.1977.

9           (b) If any Member State is later found to be in default, or is terminated or withdraws  
10 from the Compact, the Commission shall remain in existence and the Compact shall remain in  
11 effect even if the number of Member States should be less than seven.

12           (2) Member States enacting the Compact subsequent to the seven initial Charter Member  
13 States shall be subject to the process set forth herein and Commission Rule to determine if their  
14 enactments are materially different from the Model Compact and whether they qualify for  
15 participation in the Compact.

16           (3) All actions taken for the benefit of the Commission or in furtherance of the purposes  
17 of the administration of the Compact prior to the effective date of the Compact or the  
18 Commission coming into existence shall be considered to be actions of the Commission unless  
19 specifically repudiated by the Commission. The Commission shall own and have all rights to  
20 any intellectual property developed on behalf or in furtherance of the Commission by individuals  
21 or entities involved in organizing or establishing the Commission, as may be further set forth in  
22 Rules of the Commission.

23           (4) Any State that joins the Compact subsequent to the Commission's initial adoption of  
24 the Rules and bylaws shall be subject to the Rules and bylaws as they exist on the date on which  
25 the Compact becomes law in that State. Any Rule that has been previously adopted by the  
26 Commission shall have the full force and effect of law on the date the Compact becomes law in  
27 that State.

28           2. Any Member State may withdraw from this Compact by enacting a statute repealing  
29 the same.

30           (1) A Member State's withdrawal shall not take effect until one hundred eighty (180)  
31 days after enactment of the repealing statute.

32           (2) Withdrawal shall not affect the continuing requirement of the withdrawing State's  
33 Respiratory Therapy Licensing Authority to comply with the investigative and Adverse Action  
34 reporting requirements of this Compact prior to the effective date of withdrawal.

35           (3) Upon the enactment of a statute withdrawing from this Compact, a State shall  
36 immediately provide notice of such withdrawal to all Licensees and Compact Privilege holders  
37 (of which the Commission has a record) within that State. Notwithstanding any subsequent  
38 statutory enactment to the contrary, such withdrawing State shall continue to recognize all

1 licenses granted pursuant to this Compact for a minimum of one hundred eighty (180) days after  
 2 the date of such notice of withdrawal.

3 3. Nothing contained in this Compact shall be construed to invalidate or prevent any  
 4 licensure agreement or other cooperative arrangement between a Member State and a non-  
 5 Member State that does not conflict with the provisions of this Compact.

6 4. This Compact may be amended by the Member States. No amendment to this  
 7 Compact shall become effective and binding upon any Member State until it is enacted into the  
 8 laws of all Member States.

9 334.1983. 1. This Compact and the Commission's rulemaking authority shall be  
 10 liberally construed so as to effectuate the purposes and the implementation and administration of  
 11 the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of  
 12 Rules shall not be construed to limit the Commission's rulemaking authority solely for those  
 13 purposes.

14 2. The provisions of this Compact shall be severable, and if any phrase, clause, sentence  
 15 or provision of this Compact is held by a court of competent jurisdiction to be contrary to the  
 16 constitution of any Member State, a State seeking participation in the Compact, or of the United  
 17 States, or the applicability thereof to any government, agency, person or circumstance is held to  
 18 be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this  
 19 Compact and the applicability thereof to any other government, agency, person or circumstance  
 20 shall not be affected thereby.

21 3. Notwithstanding subsection 2 of this section, the Commission may deny a State's  
 22 participation in the Compact or, in accordance with the requirements of section 334.1977,  
 23 terminate a Member State's participation in the Compact, if it determines that a constitutional  
 24 requirement of a Member State is a material departure from the Compact. Otherwise, if this  
 25 Compact shall be held to be contrary to the constitution of any Member State, the Compact shall  
 26 remain in full force and effect as to the remaining Member States and in full force and effect as  
 27 to the Member State affected as to all severable matters.

28 334.1986. 1. Nothing herein shall prevent or inhibit the enforcement of any other law of  
 29 a Member State that is not inconsistent with the Compact.

30 2. Any laws, statutes, regulations, or other legal requirements in a Member State in  
 31 conflict with the Compact are superseded to the extent of the conflict, including any  
 32 subsequently enacted State laws.

33 3. All permissible agreements between the Commission and the Member States are  
 34 binding in accordance with their terms.

35 4. Other than as expressly set forth herein, nothing in this Compact will impact initial  
 36 licensure."; and

37  
 38 Further amend said bill by amending the title, enacting clause, and intersectional references

1 accordingly.