

SECOND REGULAR SESSION

HOUSE BILL NO. 2644

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BUSH.

5045H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 334, RSMo, by adding thereto thirteen new sections relating to the respiratory care interstate compact.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 334, RSMo, is amended by adding thereto thirteen new sections, to be known as sections 334.1950, 334.1953, 334.1956, 334.1959, 334.1962, 334.1965, 334.1968, 334.1971, 334.1974, 334.1977, 334.1980, 334.1983, and 334.1986, to read as follows:

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

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

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

18 (6) Promote mobility and address workforce shortages.

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

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

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

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

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

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

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

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

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

29 (9) "Criminal Background Check" means the submission by the Member State
30 of fingerprints or other biometric-based information on license applicants at the time of
31 initial licensing for the purpose of obtaining that applicant's criminal history record
32 information, as defined in 28 C.F.R. § 20.3(d) or successor provision, from the Federal

33 Bureau of Investigation and the State's criminal history record repository, as defined in
34 28 C.F.R. § 20.3(f) or successor provision.

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

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

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

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

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

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

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

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

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

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

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

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

68 (22) "Respiratory Therapy," "Respiratory Therapy Practice," "Respiratory
69 Care," "the Practice of Respiratory Care," and "the Practice of Respiratory Therapy"

70 means the care and services provided by or under the direction and supervision of a
71 Respiratory Therapist or Respiratory Care Practitioner.

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

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

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

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

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

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

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

4 (2) License Respiratory Therapists;

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

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

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

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

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

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

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

24 **2. Nothing in this Compact prohibits a Member State from charging a fee for**
25 **granting and renewing the Compact Privilege.**

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

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

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

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

9 **(4) Notify the Commission that the Licensee is seeking the Compact Privilege**
10 **within a Remote State or States;**

11 **(5) Pay any applicable fees, including any State and Commission fees and**
12 **renewal fees, for the Compact Privilege;**

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

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

17 **(8) Report to the Commission, when applying for a Compact Privilege, the**
18 **address of the Licensee's Domicile and thereafter promptly report to the Commission**
19 **any change in the address of the Licensee's Domicile within thirty (30) days of the**
20 **effective date of the change in address; and**

21 **(9) Consent to accept service of process by mail at the Licensee's Domicile on**
22 **record with the Commission with respect to any action brought against the Licensee by**
23 **the Commission or a Member State, and consent to accept service of a subpoena by mail**
24 **at the Licensee's Domicile on record with the Commission with respect to any action**
25 **brought or investigation conducted by the Commission or a Member State.**

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

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

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

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

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

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

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

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

5 **2. An Active Military Member and their spouse shall not be required to pay to**
6 **the Commission for a Compact Privilege any fee that may otherwise be charged by the**
7 **Commission. If a Remote State chooses to charge a fee for a Compact Privilege, it may**
8 **choose to charge a reduced fee or no fee to an Active Military Member and their spouse**
9 **for a Compact Privilege.**

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

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

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

9 **4. A Remote State shall have the authority to:**

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

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

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

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

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

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

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

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

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

39 **5. (1) In addition to the authority granted to a Member State by its respective**
40 **Respiratory Therapy Practice act or other applicable state law, a Member State may**
41 **participate with other Member States in joint investigations of Licensees, provided,**
42 **however, that a Member State receiving such a request has no obligation to respond to**
43 **any subpoena issued regarding an investigation of conduct or practice that was lawful in**
44 **a Member State at the time it was undertaken.**

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

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

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

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

7 **2. (1) Each Member State shall have and be limited to one (1) Commissioner**
8 **selected by that Member State's Respiratory Therapy Licensing Authority.**

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

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

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

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

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

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

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

25 3. The Commission shall have the following powers:

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

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

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

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

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

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

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

39 (8) Purchase and maintain insurance and bonds;

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

42 (10) Conduct an annual financial review;

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

47 (12) Assess and collect fees;

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

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

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

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

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

- 57 **(16) Establish a budget and make expenditures;**
58 **(17) Borrow money in a fiscally responsible manner;**
59 **(18) Appoint committees, including standing committees, composed of**
60 **Commissioners, State regulators, State legislators or their representatives, and**
61 **consumer representatives, and such other interested persons as may be designated in**
62 **this Compact and the bylaws;**
63 **(19) Provide and receive information from, and cooperate with, law enforcement**
64 **agencies;**
65 **(20) Establish and elect an Executive Committee, including a chair, vice-chair,**
66 **secretary, treasurer, and such other offices as the Commission shall establish by Rule or**
67 **bylaw;**
68 **(21) Enter into contracts or arrangements for the management of the affairs of**
69 **the Commission;**
70 **(22) Determine whether a State's adopted language is materially different from**
71 **the Model Compact language such that the State would not qualify for participation in**
72 **the Compact; and**
73 **(23) Perform such other functions as may be necessary or appropriate to achieve**
74 **the purposes of this Compact.**
75 **4. (1) The Executive Committee shall have the power to act on behalf of the**
76 **Commission according to the terms of this Compact. The powers, duties, and**
77 **responsibilities of the Executive Committee shall include:**
78 **(a) Overseeing the day-to-day activities of the administration of the Compact,**
79 **including enforcement and compliance with the provisions of the Compact, its Rules and**
80 **bylaws, and other such duties as deemed necessary;**
81 **(b) Recommending to the Commission changes to the Rules or bylaws, changes**
82 **to this Compact legislation, fees charged to Compact Member States, fees charged to**
83 **Licensees, and other fees;**
84 **(c) Ensuring Compact administration services are appropriately provided,**
85 **including by contract;**
86 **(d) Preparing and recommending the budget;**
87 **(e) Maintaining financial records on behalf of the Commission;**
88 **(f) Monitoring Compact compliance of Member States and providing**
89 **compliance reports to the Commission;**
90 **(g) Establishing additional committees as necessary;**
91 **(h) Exercising the powers and duties of the Commission during the interim**
92 **between Commission meetings, except for adopting or amending Rules, adopting or**

93 amending bylaws, and exercising any other powers and duties expressly reserved to the
94 Commission by Rule or bylaw; and

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

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

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

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

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

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

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

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

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

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

115 6. (1) All meetings of the Commission that are not closed pursuant to
116 subdivision (4) of this subsection shall be open to the public. Notice of public meetings
117 shall be posted on the Commission's website at least thirty (30) days prior to the public
118 meeting.

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

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

130 **(4) The Commission or the Executive Committee may convene in a closed, non-**
131 **public meeting for the Commission or Executive Committee to receive or solicit legal**
132 **advice or to discuss:**

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

134 **(b) The employment, compensation, discipline or other matters, practices or**
135 **procedures related to specific employees;**

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

138 **(d) Current, threatened, or reasonably anticipated litigation;**

139 **(e) Negotiation of contracts for the purchase, lease, or sale of goods, services, or**
140 **real estate;**

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

142 **(g) Trade secrets or commercial or financial information that is privileged or**
143 **confidential;**

144 **(h) Information of a personal nature where disclosure would constitute a clearly**
145 **unwarranted invasion of personal privacy;**

146 **(i) Investigative records compiled for law enforcement purposes;**

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

150 **(k) Legal advice;**

151 **(l) Matters specifically exempted from disclosure by federal or Member State**
152 **law; or**

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

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

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

162 **7. (1) The Commission shall pay, or provide for the payment of, the reasonable**
163 **expenses of its establishment, organization, and ongoing activities.**

164 **(2) The Commission may accept any and all appropriate revenue sources as**
165 **provided herein.**

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

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

174 (5) The Commission shall keep accurate accounts of all receipts and
175 disbursements. The receipts and disbursements of the Commission shall be subject
176 to the financial review and accounting procedures established under its bylaws.
177 However, all receipts and disbursements of funds handled by the Commission shall be
178 subject to an annual financial review by a certified or licensed public accountant, and
179 the report of the financial review shall be included in and become part of the annual
180 report of the Commission.

181 8. (1) Nothing herein shall be construed as a limitation on the liability of any
182 Licensee for professional malpractice or misconduct, which shall be governed solely by
183 any other applicable state laws.

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

195 (3) The Commission shall defend any Commissioner, officer, executive director,
196 employee, and agent of the Commission in any civil action seeking to impose liability
197 arising out of any actual or alleged act, error, or omission that occurred within the scope
198 of Commission employment, duties, or responsibilities, or as determined by the
199 Commission that the person against whom the claim is made had a reasonable basis for
200 believing occurred within the scope of Commission employment, duties, or
201 responsibilities; provided that nothing herein shall be construed to prohibit that
202 person from retaining their own counsel at their own expense; and provided further,

203 that the actual or alleged act, error, or omission did not result from that person's
204 intentional or willful or wanton misconduct.

205 (4) The Commission shall indemnify and hold harmless any Commissioner,
206 member, officer, executive director, employee, and agent of the Commission for the
207 amount of any settlement or judgment obtained against that person arising out of any
208 actual or alleged act, error, or omission that occurred within the scope of Commission
209 employment, duties, or responsibilities, or that such person had a reasonable basis for
210 believing occurred within the scope of Commission employment, duties, or
211 responsibilities, provided that the actual or alleged act, error, or omission did not
212 result from the intentional or willful or wanton misconduct of that person.

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

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

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

4 2. Notwithstanding any other provision of State law to the contrary, a Member
5 State shall submit a uniform data set to the Data System as required by the Rules of the
6 Commission, 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
10 holder and information related thereto;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 21 7. Prior to adoption of a proposed Rule by the Commission, and at least thirty
22 (30) days in advance of the meeting at which the Commission will hold a public hearing
23 on the proposed Rule, the Commission shall provide a notice of proposed rulemaking:
24 (1) On the website of the Commission or other publicly accessible platform;
25 (2) To persons who have requested notice of the Commission's notices of
26 proposed rulemaking; and
27 (3) In such other way or ways as the Commission may by Rule specify.
- 28 8. The notice of proposed rulemaking shall include:
29 (1) The time, date, and location of the public hearing at which the Commission
30 will hear public comments on the proposed Rule and, if different, the time, date, and
31 location of the meeting where the Commission will consider and vote on the proposed
32 Rule;
33 (2) If the hearing is held via telecommunication, video conference, or other
34 electronic means, the Commission shall include the mechanism for access to the hearing
35 in the notice of proposed rulemaking;
36 (3) The text of the proposed Rule and the reason therefor;
37 (4) A request for comments on the proposed Rule from any interested person;
38 and
39 (5) The manner in which interested persons may submit written comments.
- 40 9. All hearings will be recorded. A copy of the recording and all written
41 comments and documents received by the Commission in response to the proposed Rule
42 shall be available to the public.
- 43 10. Nothing in this section shall be construed as requiring a separate hearing on
44 each Rule. Rules may be grouped for the convenience of the Commission at hearings
45 required by this section.
- 46 11. The Commission shall, by majority vote of all Commissioners, take final
47 action on the proposed Rule based on the rulemaking record and the full text of the
48 Rule.
- 49 (1) The Commission may adopt changes to the proposed Rule provided the
50 changes are consistent with the original purpose of the proposed Rule.
- 51 (2) The Commission shall provide an explanation of the reasons for substantive
52 changes made to the proposed Rule as well as reasons for substantive changes not made
53 that were recommended by commenters.
- 54 (3) The Commission shall determine a reasonable effective date for the Rule.
55 Except for an emergency as provided in subsection 12 of this section, the effective date
56 of the Rule shall be no sooner than thirty (30) days after issuing the notice that it
57 adopted or amended the Rule.

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

- 65 **(1) Meet an imminent threat to public health, safety, or welfare;**
66 **(2) Prevent a loss of Commission or Member State funds;**
67 **(3) Meet a deadline for the promulgation of a Rule that is established by federal**
68 **law or Rule; or**
69 **(4) Protect public health and safety.**

70 **13. The Commission or an authorized committee of the Commission may direct**
71 **revisions to a previously adopted Rule for purposes of correcting typographical errors,**
72 **errors in format, errors in consistency, or grammatical errors. Public notice of any**
73 **revisions shall be posted on the website of the Commission. The revision shall be subject**
74 **to challenge by any person for a period of thirty (30) days after posting. The revision**
75 **may be challenged only on grounds that the revision results in a material change to a**
76 **Rule. A challenge shall be made in writing and delivered to the Commission prior to the**
77 **end of the notice period. If no challenge is made, the revision will take effect without**
78 **further action. If the revision is challenged, the revision may not take effect without the**
79 **approval of the Commission.**

80 **14. (1) No Member State's rulemaking process or procedural requirements shall**
81 **apply to the Commission.**

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

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

2 **334.1977. 1. (1) The executive and judicial branches of State government in**
3 **each Member State shall enforce this Compact and take all actions necessary and**
4 **appropriate to implement the Compact.**

5 **(2) Venue is proper and judicial proceedings by or against the Commission shall**
6 **be brought solely and exclusively in a court of competent jurisdiction where the**
7 **principal office of the Commission is located. The Commission may waive venue and**

7 jurisdictional defenses to the extent it adopts or consents to participate in alternative
8 dispute resolution proceedings. Nothing herein shall affect or limit the selection or
9 propriety of venue in any action against a Licensee for professional malpractice,
10 misconduct or any such similar matter.

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

16 2. (1) If the Commission determines that a Member State has defaulted in the
17 performance of its obligations or responsibilities under this Compact or the
18 promulgated Rules, the Commission shall provide written notice to the defaulting
19 State. The notice of default shall describe the default, the proposed means of curing the
20 default, and any other action that the Commission may take, and shall offer training
21 and specific technical assistance regarding the default.

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

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

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

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

39 6. Upon the termination of a State's membership from this Compact, that State
40 shall immediately provide notice to all Licensees and Compact Privilege holders (of
41 which the Commission has a record) within that State of such termination. The
42 terminated State shall continue to recognize all licenses granted pursuant to this

43 Compact for a minimum of one hundred eighty (180) days after the date of said notice of
44 termination.

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

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

52 9. (1) Upon request by a Member State, the Commission shall attempt to resolve
53 disputes related to the Compact that arise among Member States and between Member
54 and non-Member States.

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

57 10. (1) By majority vote, as may be further provided by Rule, the Commission
58 may initiate legal action against a Member State in default in the United States District
59 Court for the District of Columbia or the federal district where the Commission has its
60 principal offices to enforce compliance with the provisions of the Compact and its
61 promulgated Rules. A Member State by enactment of this Compact consents to venue
62 and jurisdiction in such court for the purposes set forth herein. The relief sought may
63 include both injunctive relief and damages. In the event judicial enforcement is
64 necessary, the prevailing party shall be awarded all costs of such litigation, including
65 reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of
66 the Commission. The Commission may pursue any other remedies available under
67 federal or the defaulting Member State's law.

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

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

334.1980. 1. The Compact shall come into effect on the date on which the
2 Compact 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
4 and review the enactment of each of the first seven Member States ("Charter Member

5 States") to determine if the statute enacted by each such Charter Member State is
6 materially different than the Model Compact.

7 (a) A Charter Member State whose enactment is found to be materially different
8 from the Model Compact shall be entitled to the default process set forth in section
9 334.1977.

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

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

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

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

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

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

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

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

42 withdrawing State shall continue to recognize all licenses granted pursuant to this
43 Compact for a minimum of one hundred eighty (180) days after the date of such notice
44 of withdrawal.

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

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

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

6 2. The provisions of this Compact shall be severable, and if any phrase, clause,
7 sentence or provision of this Compact is held by a court of competent jurisdiction to be
8 contrary to the constitution of any Member State, a State seeking participation in the
9 Compact, or of the United States, or the applicability thereof to any government,
10 agency, person or circumstance is held to be unconstitutional by a court of competent
11 jurisdiction, the validity of the remainder of this Compact and the applicability thereof
12 to any other government, agency, person or circumstance shall not be affected thereby.

13 3. Notwithstanding subsection 2 of this section, the Commission may deny a
14 State's participation in the Compact or, in accordance with the requirements of section
15 334.1977, terminate a Member State's participation in the Compact, if it determines that
16 a constitutional requirement of a Member State is a material departure from the
17 Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of
18 any Member State, the Compact shall remain in full force and effect as to the remaining
19 Member States and in full force and effect as to the Member State affected as to all
20 severable matters.

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

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

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

8 **4. Other than as expressly set forth herein, nothing in this Compact will impact**
9 **initial licensure.**

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