

1 **ARTICLE 20**

2 **RELATING TO HEALTHCARE REFORM**

3 SECTION 1. Title 5 of the General Laws entitled "Businesses and Professions" is hereby  
4 amended by adding thereto the following chapter:

5 CHAPTER 37.8

6 THE INTERSTATE MEDICAL LICENSURE COMPACT

7 **5-37.8-1. Short title.** -- This chapter shall be known and may be cited as the "interstate  
8 medical licensure compact act".

9 **5-37.8-2. Purpose.** -- In order to strengthen access to health care, and in recognition of the  
10 advances in the delivery of health care, the member states of the interstate medical licensure  
11 compact have allied in common purpose to develop a comprehensive process that complements the  
12 existing licensing and regulatory authority of state medical boards, provides a streamlined process  
13 that allows physicians to become licensed in multiple states, thereby enhancing the portability of a  
14 medical license and ensuring the safety of patients. The compact creates another pathway for  
15 licensure and does not otherwise change a state's existing medical practice act. The compact also  
16 adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where  
17 the patient is located at the time of the physician-patient encounter, and therefore, requires the  
18 physician to be under the jurisdiction of the state medical board where the patient is located. State  
19 medical boards that participate in the compact retain the jurisdiction to impose an adverse action  
20 against a license to practice medicine in that state issued to a physician through the procedures in  
21 the compact.

22 **5-37.8-3. Definitions.** -- As used in this chapter, the following words and terms shall have  
23 the following meanings:

24 (1) "Bylaws" means those bylaws established by the interstate commission pursuant to §5-  
25 37.8-12 for its governance, or for directing and controlling its actions and conduct.

26 (2) "Commissioner" means the voting representative appointed by each member board  
27 pursuant to § 5-37.8-12.

28 (3) "Conviction" means a finding by a court that an individual is guilty of a criminal offense  
29 through adjudication, or entry of a plea of guilt, nolo contendere, or no contest to the charge by the  
30 offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered  
31 final for purposes of disciplinary action by a member board.

32 (4) "Expedited license" means a full and unrestricted medical license granted by a member  
33 state to an eligible physician through the process set forth in the compact.

34 (5) "Interstate commission" means the interstate commission created pursuant to § 5-

1 37.8-12.

2 (6) "Interstate medical licensure compact" or "compact" means the interstate medical  
3 licensure compact created pursuant to this chapter.

4 (7) "License" means authorization by a state for a physician to engage in the practice of  
5 medicine, which would be unlawful without the authorization.

6 (8) "Medical practice act" means laws and regulations governing the practice of allopathic  
7 and osteopathic medicine within a member state.

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

11 (10) "Member state" means a state that has enacted the compact.

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

15 (12) "Physician" means any person who:

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

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

23 (iii) Successfully completed graduate medical education approved by the Accreditation  
24 Council for Graduate Medical Education or the American Osteopathic Association;

25 (iv) Holds specialty certification or a time-unlimited specialty certificate recognized by the  
26 American Board of Medical Specialties or the American Osteopathic Association's Bureau of  
27 Osteopathic Specialists;

28 (v) Possesses a full and unrestricted license to engage in the practice of medicine issued by  
29 a member board;

30 (vi) Has never been convicted, received adjudication, deferred adjudication, community  
31 supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

32 (vii) Has never held a license authorizing the practice of medicine subjected to discipline  
33 by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to  
34 non-payment of fees related to a license;

1 (viii) Has never had a controlled substance license or permit suspended or revoked by a  
2 state or the United States Drug Enforcement Administration; and

3 (ix) Is not under active investigation by a licensing agency or law enforcement authority in  
4 any state, federal, or foreign jurisdiction.

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

6 (14) "Rule" means a written statement by the interstate commission promulgated pursuant  
7 to § 5-37.8-13 of the compact that is of general applicability, implements, interprets, or prescribes  
8 a policy or provision of the compact, or an organizational, procedural, or practice requirement of  
9 the interstate commission, and has the force and effect of statutory law in a member state, and  
10 includes the amendment, repeal, or suspension of an existing rule.

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

12 (16) "State of principal license" means a member state where a physician holds a license to  
13 practice medicine and which has been designated as such by the physician for purposes of  
14 registration and participation in the compact.

15 **5-37.8-4. Eligibility.**

16 (a) A physician must meet the eligibility requirements as defined in § 5-37.8-3(11) to  
17 receive an expedited license under the terms and provisions of the compact.

18 (b) A physician who does not meet the requirements of § 5-37.8-3(11) may obtain a license  
19 to practice medicine in a member state if the individual complies with all laws and requirements,  
20 other than the compact, relating to the issuance of a license to practice medicine in that state.

21 **5-37.8-5. Designation of state principal license.**

22 (a) A physician shall designate a member state as the state of principal license for purposes  
23 of registration for expedited licensure through the compact if the physician possesses a full and  
24 unrestricted license to practice medicine in that state, and the state is:

25 (1) The state of primary residence for the physician; or

26 (2) The state where at least twenty-five percent (25%) of the practice of medicine occurs;

27 or

28 (3) The location of the physician's employer; or

29 (4) If no state qualifies under §§ 5-37.8-5(a)(1), (2), or (3), the state designated as state of  
30 residence for purpose of federal income tax.

31 (b) A physician may redesignate a member state as state of principal license at any time, as  
32 long as the state meets the requirements in § 5-37.8-5(a).

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

1           **5-37.8-6. Application and issuance of expedited licensure.**

2           (a) A physician seeking licensure through the compact shall file an application for an  
3 expedited license with the member board of the state selected by the physician as the state of  
4 principal license.

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

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

13           (2) The member board within the state selected as the state of principal license shall, in the  
14 course of verifying eligibility, perform a criminal background check of an applicant, including the  
15 use of the results of fingerprint or other biometric data checks compliant with the requirements of  
16 the Federal Bureau of Investigation, with the exception of federal employees who have suitability  
17 determination in accordance with U.S.C.F.R. § 731.202.

18           (3) Appeal on the determination of eligibility shall be made to the member state where the  
19 application was filed and shall be subject to the laws of that state.

20           (c) Upon verification in § 5-37.8-6(b), physicians eligible for an expedited license shall  
21 complete the registration process established by the interstate commission to receive a license in a  
22 member state selected pursuant to § 5-37.8-6(a), including the payment of any applicable fees.

23           (d) After receiving verification of eligibility under § 5-37.8-6(b) and any fees under § 5-  
24 37.8-6(c), a member board shall issue an expedited license to the physician. This license shall  
25 authorize the physician to practice medicine in the issuing state consistent with the medical practice  
26 act and all applicable laws and regulations of the issuing member board and member state.

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

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

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

1 **5-37.8-7. Fees for expedited licensure.**

2 (a) A member state issuing an expedited license authorizing the practice of medicine in that  
3 state may impose a fee for a license issued or renewed through the compact.

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

6 **5-37.8-8. Renewal and continued participation.**

7 (a) A physician seeking to renew an expedited license granted in a member state shall  
8 complete a renewal process with the interstate commission if the physician:

9 (1) Maintains a full and unrestricted license in a state of principal license;

10 (2) Has not been convicted, received adjudication, deferred adjudication, community  
11 supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

12 (3) Has not had a license authorizing the practice of medicine subject to discipline by a  
13 licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to  
14 nonpayment of fees related to a license; and

15 (4) Has not had a controlled substance license or permit suspended or revoked by a state or  
16 the United States Drug Enforcement Administration.

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

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

21 (d) Upon receipt of any renewal fees collected in § 5-37.8-8(c), a member board shall renew  
22 the physician's license.

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

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

27 **5-37.8-9. Coordinated information system.**

28 (a) The interstate commission shall establish a database of all physicians licensed, or who  
29 have applied for licensure, under § 5-37.8-6.

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

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

1 (d) Member boards may report any non-public complaint, disciplinary, or investigatory  
2 information not required by § 5-37.8-6(c) to the interstate commission.

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

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

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

9 **5-37.8-10. Joint investigations.**

10 (a) Licensure and disciplinary records of physicians are deemed investigative.

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

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

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

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

20 **5-37.8-11. Disciplinary actions.**

21 (a) Any disciplinary action taken by any member board against a physician licensed  
22 through the compact shall be deemed unprofessional conduct which may be subject to discipline  
23 by other member boards, in addition to any violation of the medical practice act or regulations in  
24 that state.

25 (b) If a license granted to a physician by the member board in the state of principal license  
26 is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued  
27 to the physician by member boards shall automatically be placed, without further action necessary  
28 by any member board, on the same status. If the member board in the state of principal license  
29 subsequently reinstates the physician's license, a license issued to the physician by any other  
30 member board shall remain encumbered until that respective member board takes action to reinstate  
31 the license in a manner consistent with the medical practice act of that state.

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

1 (1) impose the same or lesser sanction(s) against the physician so long as such sanctions  
2 are consistent with the medical practice act of that state; or

3 (2) Pursue separate disciplinary action against the physician under its respective medical  
4 practice act, regardless of the action taken in other member states.

5 (d) If a license granted to a physician by a member board is revoked, surrendered or  
6 relinquished in lieu of discipline, or suspended, then any license(s) issued to the physician by any  
7 other member board(s) shall be suspended, automatically and immediately without further action  
8 necessary by the other member board(s), for ninety (90) days upon entry of the order by the  
9 disciplining board, to permit the member board(s) to investigate the basis for the action under the  
10 medical practice act of that state. A member board may terminate the automatic suspension of the  
11 license it issued prior to the completion of the ninety (90) day suspension period in a manner  
12 consistent with the medical practice act of that state.

13 **5-37.8-12. Interstate medical licensure compact commission.**

14 (a) The member states hereby create the "Interstate Medical Licensure Compact  
15 commission".

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

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

22 (d) The interstate commission shall consist of two (2) voting representatives appointed by  
23 each member state who shall serve as commissioners. In states where allopathic and osteopathic  
24 physicians are regulated by separate member boards, or if the licensing and disciplinary authority  
25 is split between multiple member boards within a member state, the member state shall appoint one  
26 representative from each member board. A commissioner shall be a(n):

27 (1) Allopathic or osteopathic physician appointed to a member board;

28 (2) Executive director, executive secretary, or similar executive of a member board; or

29 (3) Member of the public appointed to a member board.

30 (e) The interstate commission shall meet at least once each calendar year. A portion of this  
31 meeting shall be a business meeting to address such matters as may properly come before the  
32 commission, including the election of officers. The chairperson may call additional meetings and  
33 shall call for a meeting upon the request of a majority of the member states.

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

3           (g) Each commissioner participating at a meeting of the interstate commission is entitled  
4 to one vote. A majority of commissioners shall constitute a quorum for the transaction of business,  
5 unless a larger quorum is required by the bylaws of the interstate commission. A commissioner  
6 shall not delegate a vote to another commissioner. In the absence of its commissioner, a member  
7 state may delegate voting authority for a specified meeting to another person from that state who  
8 shall meet the requirements of § 5-37.8-12(d).

9           (h) The interstate commission shall provide public notice of all meetings and all meetings  
10 shall be open to the public. The interstate commission may close a meeting, in full or in portion,  
11 where it determines by a two-thirds (2/3) vote of the commissioners present that an open meeting  
12 would be likely to:

13           (1) Relate solely to the internal personnel practices and procedures of the interstate  
14 commission;

15           (2) Discuss matters specifically exempted from disclosure by federal statute;

16           (3) Discuss trade secrets, commercial, or financial information that is privileged or  
17 confidential;

18           (4) Involve accusing a person of a crime, or formally censuring a person;

19           (5) Discuss information of a personal nature where disclosure would constitute a clearly  
20 unwarranted invasion of personal privacy;

21           (6) Discuss investigative records compiled for law enforcement purposes; or

22           (7) Specifically relate to the participation in a civil action or other legal proceeding.

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

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

28           (k) The interstate commission shall establish an executive committee, which shall include  
29 officers, members, and others as determined by the bylaws. The executive committee shall have  
30 the power to act on behalf of the interstate commission, with the exception of rulemaking, during  
31 periods when the interstate commission is not in session. When acting on behalf of the interstate  
32 commission, the executive committee shall oversee the administration of the compact including  
33 enforcement and compliance with the provisions of the compact, its bylaws and rules, and other  
34 such duties as necessary.



1           (l) The interstate commission may establish other committees for governance and  
2 administration of the compact.

3           **5-37.8-13. Powers and duties of the interstate commission.** -- The interstate commission  
4 shall have the duty and power to:

5           (1) Oversee and maintain the administration of the compact;

6           (2) Promulgate rules which shall be binding to the extent and in the manner provided for  
7 in the compact;

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

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

13           (5) Establish and appoint committees including, but not limited to, an executive committee  
14 as required by § 5-37.8-12, which shall have the power to act on behalf of the interstate commission  
15 in carrying out its powers and duties;

16           (6) Pay, or provide for the payment of the expenses related to the establishment,  
17 organization, and ongoing activities of the interstate commission;

18           (7) Establish and maintain one or more offices;

19           (8) Borrow, accept, hire, or contract for services of personnel;

20           (9) Purchase and maintain insurance and bonds;

21           (10) Employ an executive director who shall have such powers to employ, select or appoint  
22 employees, agents, or consultants, and to determine their qualifications, define their duties, and fix  
23 their compensation;

24           (11) Establish personnel policies and programs relating to conflicts of interest, rates of  
25 compensation, and qualifications of personnel;

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

29           (13) Lease, purchase, accept contributions or donations of, or otherwise to own, hold,  
30 improve or use, any property, real, personal, or mixed;

31           (14) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any  
32 property, real, personal, or mixed;

33           (15) Establish a budget and make expenditures;

1 (16) Adopt a seal and bylaws governing the management and operation of the interstate  
2 commission;

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

7 (18) Coordinate education, training, and public awareness regarding the compact, its  
8 implementation, and its operation;

9 (19) Maintain records in accordance with the bylaws;

10 (20) Seek and obtain trademarks, copyrights, and patents; and

11 (21) Perform such functions as may be necessary or appropriate to achieve the purposes of  
12 the compact.

13 **5-37.8-14. Finance powers.**

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

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

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

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

27 **5-37.8-15. Organization and operation of the interstate commission.**

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

31 (b) The interstate commission shall elect or appoint annually from among its  
32 commissioners a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such  
33 authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's

1 absence or disability, the vice-chairperson, shall preside at all meetings of the interstate  
2 commission.

3 (c) Officers selected in § 5-37.8-15(b) shall serve without remuneration from the interstate  
4 commission.

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

12 (1) The liability of the executive director and employees of the interstate commission or  
13 representatives of the interstate commission, acting within the scope of such person's employment  
14 or duties for acts, errors, or omissions occurring within such person's state, may not exceed the  
15 limits of liability set forth under the constitution and laws of that state for state officials, employees,  
16 and agents. The interstate commission is considered to be an instrumentality of the states for the  
17 purposes of any such action. Nothing in this subsection shall be construed to protect such person  
18 from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and  
19 wanton misconduct of such person.

20 (2) The interstate commission shall defend the executive director, its employees, and  
21 subject to the approval of the attorney general or other appropriate legal counsel of the member  
22 state represented by an interstate commission representative, shall defend such interstate  
23 commission representative in any civil action seeking to impose liability arising out of an actual or  
24 alleged act, error or omission that occurred within the scope of interstate commission employment,  
25 duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within  
26 the scope of interstate commission employment, duties, or responsibilities, provided that the actual  
27 or alleged act, error, or omission did not result from intentional or willful and wanton misconduct  
28 on the part of such person.

29 (3) To the extent not covered by the state involved, member state, or the interstate  
30 commission, the representatives or employees of the interstate commission shall be held harmless  
31 in the amount of a settlement or judgment, including attorneys' fees and costs, obtained against  
32 such persons arising out of an actual or alleged act, error, or omission that occurred within the scope  
33 of interstate commission employment, duties, or responsibilities, or that such persons had a  
34 reasonable basis for believing occurred within the scope of interstate commission employment,

1 duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result  
2 from intentional or willful and wanton misconduct on the part of such persons.

3 **5-37.8-16. Rulemaking functions of the interstate commission.**

4 (a) The interstate commission shall promulgate reasonable rules in order to effectively and  
5 efficiently achieve the purposes of the compact. Notwithstanding the foregoing, in the event the  
6 interstate commission exercises its rulemaking authority in a manner that is beyond the scope of  
7 the purposes of the compact, or the powers granted hereunder, then such an action by the interstate  
8 commission shall be invalid and have no force or effect.

9 (b) Rules deemed appropriate for the operations of the interstate commission shall be made  
10 pursuant to a rulemaking process that substantially conforms to the "model state administrative  
11 procedure act" of 2010, and subsequent amendments thereto.

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

20 **5-37.8-17. Oversight of the interstate compact.**

21 (a) The executive, legislative, and judicial branches of state government in each member  
22 state shall enforce the compact and shall take all actions necessary and appropriate to effectuate the  
23 compact's purposes and intent. The provisions of the compact and the rules promulgated hereunder  
24 shall have standing as statutory law but shall not override existing state authority to regulate the  
25 practice of medicine.

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

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

33 **5-37.8-18. Enforcement of interstate compact.**

1 (a) The interstate commission, in the reasonable exercise of its discretion, shall enforce the  
2 provisions and rules of the compact.

3 (b) The interstate commission may, by majority vote of the commissioners, initiate legal  
4 action in the United States District Court for the District of Columbia, or, at the discretion of the  
5 interstate commission, in the federal district where the interstate commission has its principal  
6 offices, to enforce compliance with the provisions of the compact, and its promulgated rules and  
7 bylaws, against a member state in default. The relief sought may include both injunctive relief and  
8 damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all  
9 costs of such litigation including reasonable attorney's fees.

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

13 **5-37.8-19. Default procedures.**

14 (a) The grounds for default include, but are not limited to, failure of a member state to  
15 perform such obligations or responsibilities imposed upon it by the compact, or the rules and bylaws  
16 of the interstate commission promulgated under the compact.

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

20 (1) Provide written notice to the defaulting state and other member states, of the nature of  
21 the default, the means of curing the default, and any action taken by the interstate commission. The  
22 interstate commission shall specify the conditions by which the defaulting state must cure its  
23 default; and

24 (2) Provide remedial training and specific technical assistance regarding the default.

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

30 (d) Termination of membership in the compact shall be imposed only after all other means  
31 of securing compliance have been exhausted. Notice of intent to terminate shall be given by the  
32 interstate commission to the governor, the speaker, the senate president and minority leaders of the  
33 defaulting state's legislature, and each of the member states.

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

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

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

10 (h) The defaulting state may appeal the action of the interstate commission by petitioning  
11 the United States District Court for the District of Columbia or the federal district where the  
12 interstate commission has its principal offices. The prevailing party shall be awarded all costs of  
13 such litigation including reasonable attorney's fees.

14 **5-37.8-20. Dispute resolution.**

15 (a) The interstate commission shall attempt, upon the request of a member state, to resolve  
16 disputes which are subject to the compact and which may arise among member states or member  
17 boards.

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

20 **5-37.8-21. Member states, effective date and amendment.**

21 (a) Any state is eligible to become a member state of the compact.

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

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

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

32 **5-37.8-22. Withdrawal.**

1 (a) Once effective, the compact shall continue in force and remain binding upon each and  
2 every member state; provided that a member state may withdraw from the compact by specifically  
3 repealing the statute which enacted the compact into law.

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

8 (c) The withdrawing state shall immediately notify the chairperson of the interstate  
9 commission in writing upon the introduction of legislation repealing the compact in the  
10 withdrawing state.

11 (d) The interstate commission shall notify the other member states of the withdrawing  
12 state's intent to withdraw within sixty (60) days of its receipt of notice provided under § 5-  
13 37.822(c).

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

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

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

23 **5-37.8-23. Dissolution.**

24 (a) The compact shall dissolve effective upon the date of the withdrawal or default of the  
25 member state which reduces the membership in the compact to one member state.

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

29 **5-37.8-24. Severability and construction.**

30 (a) The provisions of the compact shall be severable, and if any phrase, clause, sentence,  
31 or provision is deemed unenforceable, the remaining provisions of the compact shall be  
32 enforceable.

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

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

3 **5-37.8-25. Binding effect of compact and other laws.**

4 (a) Nothing herein prevents the enforcement of any other law of a member state that is not  
5 inconsistent with the compact.

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

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

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

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

15 SECTION 2. Chapter 5-34.3 of the General Laws entitled "Nurse Licensure Compact" is  
16 hereby amended by adding thereto the following sections:

17 **5-34.3-10.1. Rulemaking.**

18 (a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth  
19 in this section and the rules adopted thereunder. Rules and amendments shall become binding as  
20 of the date specified in each rule or amendment and shall have the same force and effect as  
21 provisions of this compact.

22 (b) Rules or amendments to the rules shall be adopted at a regular or special meeting of the  
23 commission.

24 (c) Prior to promulgation and adoption of a final rule or rules by the commission, and at  
25 least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon,  
26 the commission shall file a notice of proposed rulemaking:

27 (1) On the website of the commission; and

28 (2) On the website of each licensing board or the publication in which each state would  
29 otherwise publish proposed rules.

30 (d) The notice of proposed rulemaking shall include:

31 (1) The proposed time, date and location of the meeting in which the rule will be  
32 considered and voted upon;

33 (2) The text of the proposed rule or amendment, and the reason for the proposed rule;

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



1           (4) The manner in which interested persons may submit notice to the commission of their  
2 intention to attend the public hearing and any written comments.

3           (e) Prior to adoption of a proposed rule, the commission shall allow persons to submit  
4 written data, facts, opinions and arguments, which shall be made available to the public.

5           (f) The commission shall grant an opportunity for a public hearing before it adopts a rule  
6 or amendment.

7           (g) The commission shall publish the place, time and date of the scheduled public hearing.

8           (1) Hearings shall be conducted in a manner providing each person who wishes to comment  
9 a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded,  
10 and a copy will be made available upon request.

11           (2) Nothing in this section shall be construed as requiring a separate hearing on each rule.  
12 Rules may be grouped for the convenience of the commission at hearings required by this section.

13           (h) If no one appears at the public hearing, the commission may proceed with promulgation  
14 of the proposed rule.

15           (i) Following the scheduled hearing date, or by the close of business on the scheduled  
16 hearing date if the hearing was not held, the commission shall consider all written and oral  
17 comments received.

18           (j) The commission shall, by majority vote of all administrators, take final action on the  
19 proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking  
20 record and the full text of the rule.

21           (k) Upon determination that an emergency exists, the commission may consider and adopt  
22 an emergency rule without prior notice, opportunity for comment or hearing, provided that the  
23 usual rulemaking procedures provided in this compact and in this section shall be retroactively  
24 applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the  
25 effective date of the rule. For the purposes of this provision, an emergency rule is one that must be  
26 adopted immediately in order to:

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

28           (2) Prevent a loss of commission or party state funds; or

29           (3) Meet a deadline for the promulgation of an administrative rule that is required by federal  
30 law or rule.

31           (l) The commission may direct revisions to a previously adopted rule or amendment for  
32 purposes of correcting typographical errors, errors in format, errors in consistency or grammatical  
33 errors. Public notice of any revisions shall be posted on the website of the commission. The revision  
34 shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision

1 may be challenged only on grounds that the revision results in a material change to a rule. A  
2 challenge shall be made in writing, and delivered to the commission, prior to the end of the notice  
3 period. If no challenge is made, the revision will take effect without further action. If the revision  
4 is challenged, the revision may not take effect without the approval of the commission.

5 **5-34.3-11.1. Oversight, dispute resolution and enforcement.**

6 (a) Oversight.

7 (1) Each party state shall enforce this compact and take all actions necessary and  
8 appropriate to effectuate this compact's purposes and intent.

9 (2) The commission shall be entitled to receive service of process in any proceeding that  
10 may affect the powers, responsibilities or actions of the commission, and shall have standing to  
11 intervene in such a proceeding for all purposes. Failure to provide service of process in such  
12 proceeding to the commission shall render a judgment or order void as to the commission, this  
13 compact or promulgated rules.

14 (b) Default, technical assistance and termination.

15 (1) If the commission determines that a party state has defaulted in the performance of its  
16 obligations or responsibilities under this compact or the promulgated rules, the commission shall:

17 (i) Provide written notice to the defaulting state and other party states of the nature of the  
18 default, the proposed means of curing the default or any other action to be taken by the commission;  
19 and

20 (ii) Provide remedial training and specific technical assistance regarding the default;

21 (2) If a state in default fails to cure the default, the defaulting state's membership in this  
22 compact may be terminated upon an affirmative vote of a majority of the administrators, and all  
23 rights, privileges and benefits conferred by this compact may be terminated on the effective date  
24 of termination. A cure of the default does not relieve the offending state of obligations or liabilities  
25 incurred during the period of default;

26 (3) Termination of membership in this compact shall be imposed only after all other means  
27 of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given  
28 by the commission to the governor of the defaulting state and to the executive officer of the  
29 defaulting state's licensing board and each of the party states;

30 (4) A state whose membership in this compact has been terminated is responsible for all  
31 assessments, obligations and liabilities incurred through the effective date of termination, including  
32 obligations that extend beyond the effective date of termination;

1 (5) The commission shall not bear any costs related to a state that is found to be in default  
2 or whose membership in this compact has been terminated unless agreed upon in writing between  
3 the commission and the defaulting state;

4 (6) The defaulting state may appeal the action of the commission by petitioning the U.S.  
5 District Court for the District of Columbia or the federal district in which the commission has its  
6 principal offices. The prevailing party shall be awarded all costs of such litigation, including  
7 reasonable attorneys' fees.

8 (c) Dispute Resolution.

9 (1) Upon request by a party state, the commission shall attempt to resolve disputes related  
10 to the compact that arise among party states and between party and non-party states;

11 (2) The commission shall promulgate a rule providing for both mediation and binding  
12 dispute resolution for disputes, as appropriate;

13 (3) In the event the commission cannot resolve disputes among party states arising under  
14 this compact:

15 (i) The party states may submit the issues in dispute to an arbitration panel, which will be  
16 comprised of individuals appointed by the compact administrator in each of the affected party states  
17 and an individual mutually agreed upon by the compact administrators of all the party states  
18 involved in the dispute;

19 (ii) The decision of a majority of the arbitrators shall be final and binding.

20 (d) Enforcement.

21 (1) The commission, in the reasonable exercise of its discretion, shall enforce the  
22 provisions and rules of this compact;

23 (2) By majority vote, the commission may initiate legal action in the U.S. District Court  
24 for the District of Columbia or the federal district in which the commission has its principal offices  
25 against a party state that is in default to enforce compliance with the provisions of this compact and  
26 its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages.  
27 In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of  
28 such litigation, including reasonable attorneys' fees;

29 (3) The remedies herein shall not be the exclusive remedies of the commission. The  
30 commission may pursue any other remedies available under federal or state law.

31 SECTION 3. Sections 5-34.3-3, 5-34.3-4, 5-34.3-5, 5-34.3-6, 5-34.3-8, 5-34.3-9, 5-34.310,  
32 5-34.3-12 and 5-34.3-14 of the General Laws in Chapter 5-34.3 entitled "Nurse Licensure  
33 Compact" are hereby amended to read as follows:

34 **5-34.3-3. Legislative findings.**

- 1 (a) The general assembly finds and declares that:
- 2 (1) The health and safety of the public are affected by the degree of compliance with and
- 3 the effectiveness of enforcement activities related to state nurse licensure laws;
- 4 (2) Violations of nurse licensure and other laws regulating the practice of nursing may
- 5 result in injury or harm to the public;
- 6 (3) The expanded mobility of nurses and the use of advanced communication technologies
- 7 as part of our nation's healthcare delivery system require greater coordination and cooperation
- 8 among states in the areas of nurse licensure and regulations;
- 9 (4) New practice modalities and technology make compliance with individual state nurse
- 10 licensure laws difficult and complex; ~~and~~
- 11 (5) The current system of duplicative licensure for nurses practicing in multiple states is
- 12 cumbersome and redundant to both nurses and states; and
- 13 (6) Uniformity of nurse licensure requirements throughout the states promotes public safety
- 14 and public health benefits.
- 15 (b) The general purposes of this compact are to:
- 16 (1) Facilitate the states' responsibility to protect the public's health and safety;
- 17 (2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and
- 18 regulation;
- 19 (3) Facilitate the exchange of information between party states in the areas of nurse
- 20 regulation, investigation and adverse actions;
- 21 (4) Promote compliance with the laws governing the practice of nursing in each
- 22 jurisdiction; ~~and~~
- 23 (5) Invest all party states with the authority to hold a nurse accountable for meeting all state
- 24 practice laws in the state in which the patient is located at the time care is rendered through the
- 25 mutual recognition of party state licenses; and
- 26 (6) Decrease redundancies in the consideration and issuance of nurse licenses; and
- 27 (7) Provide opportunities for interstate practice by nurses who meet uniform licensure
- 28 requirements.
- 29 **5-34.3-4. Definitions.**
- 30 As used in this chapter:
- 31 (1) "Adverse action" means ~~a home or remote state action.~~ any administrative, civil,
- 32 equitable or criminal action permitted by a state's laws which is imposed by a licensing board or
- 33 other authority against a nurse, including actions against an individual's license or multistate
- 34 licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation

1 on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization  
2 to practice, including issuance of a cease and desist action.

3 (2) "Alternative program" means a voluntary, nondisciplinary monitoring program  
4 approved by a nurse licensing board.

5 (3) "Commission" means the interstate commission of nurse license compact  
6 administrators, the governing body of the nurse licensure compact.

7 ~~(3)~~(4) "Coordinated licensure information system" means an integrated process for  
8 collecting, storing, and sharing information on nurse licensure and enforcement activities related  
9 to nurse licensure laws, which is administered by a nonprofit organization composed of and  
10 controlled by state nurse licensing boards.

11 ~~(4)~~(5) "Current significant investigative information" means investigative information that  
12 a licensing board, after a preliminary inquiry that includes notification and an opportunity for the  
13 nurse to respond if required by state law, has reason to believe is not groundless and, if proved true,  
14 would indicate more than a minor infraction; or investigative information that indicates that the  
15 nurse represents an immediate treat to public health and safety regardless of whether the nurse has  
16 been notified and had an opportunity to respond.

17 (6) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and  
18 unrestricted practice of nursing imposed by a licensing board.

19 ~~(5)~~(7) "Home state" means the party state which is the nurse's primary state of residence.

20 ~~(6)~~(8) "Home state action" means any administrative, civil, equitable or criminal action  
21 permitted by the home state's laws which are imposed on a nurse by the home state's licensing  
22 board or other authority including actions against an individual's license such as: revocation,  
23 suspension, probation or any other action which affects a nurse's authorization to practice.

24 ~~(7)~~(9) "Licensing board" means a party state's regulatory body responsible for issuing nurse  
25 licenses.

26 ~~(8)~~(10) "Multistate licensure ~~privilege~~" means ~~current, official authority from a remote~~  
27 ~~state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational~~  
28 ~~nurse in such party state. All party states have the authority, in accordance with existing state due~~  
29 ~~process law, to take actions against the nurse's privilege such as: revocation, suspension, probation~~  
30 ~~or any other action which affects a nurse's authorization to practice.~~ a license to practice as a  
31 registered nurse (RN) or a licensed practical nurse/vocational nurse (LPN/VN) issued by a home  
32 state licensing board that authorizes the licensed nurse to practice in all party states under a  
33 multistate licensure privilege.

1 (11) "Multistate licensure privilege" means a legal authorization associated with a  
2 multistate license permitting the practice of nursing as either a registered nurse (RN) or licensed  
3 practical nurse/vocational nurse (LPN/VN) in a remote state.

4 ~~(9)~~(12) "Nurse" means a registered nurse or licensed practical/vocational nurse, as those  
5 terms are defined by each party's state practice laws.

6 ~~(10)~~(13) "Party state" means any state that has adopted this compact.

7 ~~(11)~~(14) "Remote state" means a party state, other than the home state, ~~where the patient~~  
8 ~~is located at the time nursing care is provided, or, in the case of the practice of nursing not involving~~  
9 ~~a patient, in such party state where the recipient of nursing practice is located.~~

10 ~~(12)~~(15) "Remote state action" means any administrative, civil, equitable or criminal action  
11 permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing  
12 board or other authority including actions against an individual's multistate licensure privilege to  
13 practice in the remote state, and cease and desist and other injunctive or equitable orders issued by  
14 remote states or the licensing boards thereof.

15 (16) "Single-state license" means a nurse license issued by a party state that authorizes  
16 practice only within the issuing state and does not include a multistate licensure privilege to practice  
17 in any other party state.

18 ~~(13)~~(17) "State" means a state, territory, or possession of the United States, the District of  
19 Columbia.

20 ~~(14)~~(18) "State practice laws" means those individual party's state laws and regulations that  
21 govern the practice of nursing, define the scope of nursing practice, and create the methods and  
22 grounds for imposing discipline. It does not include the initial qualifications for licensure or  
23 requirements necessary to obtain and retain a license, except for qualifications or requirements of  
24 the home state.

25 **5-34.3-5. Permitted activities and jurisdiction. General provisions and jurisdiction.**

26 ~~A license to practice registered nursing issued by a home state to a resident in that state~~  
27 ~~will be recognized by each party state as authorizing a multistate licensure privilege to practice as~~  
28 ~~a registered nurse in such party state. A license to practice licensed practical/vocational nursing~~  
29 ~~issued by a home state to a resident in that state will be recognized by each party state as authorizing~~  
30 ~~a multistate licensure privilege to practice as a licensed practical/vocational nurse in such party~~  
31 ~~state. In order to obtain or retain a license, an applicant must meet the home state's qualifications~~  
32 ~~for licensure and license renewal as well as all other applicable state laws.~~

33 ~~Party states may, in accordance with state due process laws, limit or revoke the multistate~~  
34 ~~licensure privilege of any nurse to practice in their state and may take any other actions under their~~

1 ~~applicable state laws necessary to protect the health and safety of their citizens. If a party state takes~~  
2 ~~such action, it shall promptly notify the administrator of the coordinated licensure information~~  
3 ~~system. The administrator of the coordinated licensure information system shall promptly notify~~  
4 ~~the home state of any such actions by remote states.~~

5 ~~Every nurse practicing in a party state must comply with the state practice laws of the state~~  
6 ~~in which the patient is located at the time care is rendered. In addition, the practice of nursing is not~~  
7 ~~limited to patient care, but shall include all nursing practice as defined by the state practice laws of~~  
8 ~~a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing~~  
9 ~~board and courts, as well as the laws, in that party state.~~

10 ~~This compact does not affect additional requirements imposed by states for advanced~~  
11 ~~practice registered nursing. However, a multistate licensure privilege to practice registered nursing~~  
12 ~~granted by a party shall be recognized by other party states as a license to practice registered nursing~~  
13 ~~if one is required by state law as a precondition for qualifying for advanced practice registered~~  
14 ~~nurse authorization.~~

15 ~~Individuals not residing in a party state shall continue to be able to apply for nurse licensure as~~  
16 ~~provided for under the laws of each party state. However, the license granted to these individuals~~  
17 ~~will not be recognized as granting the privilege to practice nursing in any other party~~  
18 ~~state unless explicitly agreed to by that party state.~~

19 (a) A multistate license to practice registered or licensed practical nursing/vocational  
20 nursing issued by a home state to a resident in that state will be recognized by each party state as  
21 authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical nurse/vocational  
22 nurse (LPN/VN), under a multistate licensure privilege, in each party state.

23 (b) A state must implement procedures for considering the criminal history records of  
24 applicants for initial multistate license or licensure by endorsement. Such procedures shall include  
25 the submission of fingerprints or other biometric-based information by applicants for the purpose  
26 of obtaining an applicant's criminal history record information from the Federal Bureau of  
27 Investigation, and the agency responsible for retaining that state's criminal records.

28 (c) Each party state shall require the following for an applicant to obtain or retain a  
29 multistate license in the home state:

30 (1) Meets the home state's qualifications for licensure or renewal of licensure, as well as  
31 all other applicable state laws;

32 (2)(i) Has graduated or is eligible to graduate from a licensing board-approved RN or  
33 LPN/VN prelicensure education program; or

34 (ii) Has graduated from a foreign RN or LPN/VN prelicensure education program that:

- 1           (A) Has been approved by the authorized accrediting body in the applicable country; and
- 2           (B) Has been verified by an independent credentials review agency to be comparable to a
- 3 licensing board-approved prelicensure education program;
- 4           (3) Has, if a graduate of a foreign prelicensure education program not taught in English or
- 5 if English is not the individual's native language, successfully passed an English proficiency
- 6 examination that includes the components of reading, speaking, writing and listening;
- 7           (4) Has successfully passed an NCLEX-RN® or NCLEX-PN® Examination or recognized
- 8 predecessor, as applicable;
- 9           (5) Is eligible for or holds an active, unencumbered license;
- 10          (6) Has submitted, in connection with an application for initial licensure or licensure by
- 11 endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history
- 12 record information from the Federal Bureau of Investigation and the agency responsible for
- 13 retaining that state's criminal records;
- 14          (7) Has not been convicted or found guilty nor entered into an agreed disposition of a felony
- 15 offense under applicable state or federal criminal law;
- 16          (8) Has not been convicted or found guilty nor entered into an agreed disposition of a
- 17 misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;
- 18          (9) Is not currently enrolled in an alternative program;
- 19          (10) Is subject to self-disclosure requirements regarding current participation in an
- 20 alternative program; and
- 21          (11) Has a valid United States Social Security number.
- 22          (d) All party states shall be authorized, in accordance with existing state due process law,
- 23 to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension,
- 24 probation or any other action that affects a nurse's authorization to practice under a multistate
- 25 licensure privilege, including cease and desist actions. If a party state takes such action, it shall
- 26 promptly notify the administrator of the coordinated licensure information system. The
- 27 administrator of the coordinated licensure information system shall promptly notify the home state
- 28 of any such actions by remote states.
- 29          (e) A nurse practicing in a party state must comply with the state practice laws of the state
- 30 in which the client is located at the time service is provided. The practice of nursing is not limited
- 31 to patient care, but shall include all nursing practice as defined by the state practice laws of the
- 32 party state in which the client is located. The practice of nursing in a party state under a multistate
- 33 licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the
- 34 laws of the party state in which the client is located at the time service is provided.



1 (f) Individuals not residing in a party state shall continue to be able to apply for a party  
2 state's single-state license as provided under the laws of each party state. However, the singlestate  
3 license granted to these individuals will not be recognized as granting the privilege to practice  
4 nursing in any other party state. Nothing in this compact shall affect the requirements established  
5 by a party state for the issuance of a single-state license.

6 (g) Any nurse holding a home state multistate license, on the effective date of this compact,  
7 may retain and renew the multistate license issued by the nurse's then-current home state, provided  
8 that:

9 (1) A nurse, who changes primary state of residence after this compact's effective date,  
10 must meet all applicable requirements to obtain a multistate license from a new home state; and

11 (2) A nurse who fails to satisfy the multistate licensure requirements due to a disqualifying  
12 event occurring after this compact's effective date shall be ineligible to retain or renew a multistate  
13 license, and the nurse's multistate license shall be revoked or deactivated in accordance with  
14 applicable rules adopted by the commission.

15 **5-34.3-6. Applications for licensure in a party state.**

16 ~~(a) Upon application for a license, the licensing board in a party state shall ascertain,~~  
17 ~~through the coordinated licensure information system, whether the applicant has ever held, or is the~~  
18 ~~holder of, a license issued by any other state, whether there are any restrictions on the multistate~~  
19 ~~licensure privilege, and whether any other adverse action by any state has been taken against the~~  
20 ~~license.~~

21 ~~(b) A nurse in a party state shall hold licensure in only one party state at a time, issued by~~  
22 ~~the home state.~~

23 ~~(c) A nurse who intends to change primary state of residence may apply for licensure in~~  
24 ~~the new home state in advance of such change. However, new licenses will not be issued by a party~~  
25 ~~state until after a nurse provides evidence of change in primary state of residence satisfactory to the~~  
26 ~~new home state's licensing board.~~

27 ~~(d) When a nurse changes primary state of residence by;~~

28 ~~(1) Moving between two party states, and obtains a license from the new home state, the~~  
29 ~~license from the former home state is no longer valid;~~

30 ~~(2) Moving from a non party state to a party state, and obtains a license from the new~~  
31 ~~home state, the individual state license issued by the non party state is not affected and will remain~~  
32 ~~in full force if so provided by the laws of the non party state;~~

1 ~~(3) Moving from a party state to a non party state, the license issued by the prior home~~  
2 ~~state converts to an individual state license, valid only in the former home state, without the~~  
3 ~~multistate licensure privilege to practice in other party states.~~

4 (a) Upon application for a multistate license, the licensing board in the issuing party state  
5 shall ascertain, through the coordinated licensure information system, whether the applicant has  
6 ever held, or is the holder of, a license issued by any other state, whether there are any  
7 encumbrances on any license or multistate licensure privilege held by the applicant, whether any  
8 adverse action has been taken against any license or multistate licensure privilege held by the  
9 applicant and whether the applicant is currently participating in an alternative program.

10 (b) A nurse may hold a multistate license, issued by the home state, in only one party state  
11 at a time.

12 (c) If a nurse changes primary state of residence by moving between two (2) party states,  
13 the nurse must apply for licensure in the new home state, and the multistate license issued by the  
14 prior home state will be deactivated in accordance with applicable rules adopted by the commission.

15 (1) The nurse may apply for licensure in advance of a change in primary state of residence.

16 (2) A multistate license shall not be issued by the new home state until the nurse provides  
17 satisfactory evidence of a change in primary state of residence to the new home state and satisfies  
18 all applicable requirements to obtain a multistate license from the new home state.

19 (d) If a nurse changes primary state of residence by moving from a party state to a nonparty  
20 state, the multistate license issued by the prior home state will convert to a single-state license,  
21 valid only in the former home state.

22 **5-34.3-8. Additional authorities invested in party state nurse licensing boards.**

23 (a) Notwithstanding any other powers conferred by state law, party state nurse licensing  
24 boards shall have the authority to:

25 ~~(1) If otherwise, permitted by state law, recover from the affected nurse the costs of~~  
26 ~~investigations and disposition of cases resulting from any adverse action taken against that nurse;~~

27 ~~(2) Issue subpoenas for both hearings and investigations which require the attendance and~~  
28 ~~testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing~~  
29 ~~board in a party state for the attendance and testimony of witnesses, and/or the production of~~  
30 ~~evidence from another party state, shall be enforced in the latter state by any court of competent~~  
31 ~~jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in~~  
32 ~~proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses,~~  
33 ~~mileage and other fees required by the service statutes of the state where the witnesses and/or~~  
34 ~~evidence are located.~~

1 ~~(3) Issue cease and desist orders to limit or revoke a nurse's authority to practice in their~~  
2 ~~state;~~

3 ~~(4) Promulgate uniform rules and regulations as provided for in subsection 5-34.3-10(c).~~

4 (1) Take adverse action against a nurse's multistate licensure privilege to practice within  
5 that party state.

6 (i) Only the home state shall have the power to take adverse action against a nurse's license  
7 issued by the home state.

8 (ii) For purposes of taking adverse action, the home state licensing board shall give the  
9 same priority and effect to reported conduct received from a remote state as it would if such conduct  
10 had occurred within the home state. In so doing, the home state shall apply its own state laws to  
11 determine appropriate action.

12 (2) Issue cease and desist orders or impose an encumbrance on a nurse's authority to  
13 practice within that party state.

14 (3) Complete any pending investigations of a nurse who changes primary state of residence  
15 during the course of such investigations. The licensing board shall also have the authority to take  
16 appropriate action(s) and shall promptly report the conclusions of such investigations to the  
17 administrator of the coordinated licensure information system. The administrator of the coordinated  
18 licensure information system shall promptly notify the new home state of any such actions.

19 (4) Issue subpoenas for both hearings and investigations that require the attendance and  
20 testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a licensing  
21 board in a party state for the attendance and testimony of witnesses or the production of evidence  
22 from another party state shall be enforced in the latter state by any court of competent jurisdiction,  
23 according to the practice and procedure of that court applicable to subpoenas issued in proceedings  
24 pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and  
25 other fees required by the service statutes of the state in which the witnesses or evidence are located.

26 (5) Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-  
27 based information to the Federal Bureau of Investigation for criminal background checks, receive  
28 the results of the Federal Bureau of Investigation record search on criminal background checks and  
29 use the results in making licensure decisions.

30 (6) If otherwise permitted by state law, recover from the affected nurse the costs of  
31 investigations and disposition of cases resulting from any adverse action taken against that nurse.

32 (7) Take adverse action based on the factual findings of the remote state, provided that the  
33 licensing board follows its own procedures for taking such adverse action.

1 (b) If adverse action is taken by the home state against a nurse's multistate license, the  
2 nurse's multistate licensure privilege to practice in all other party states shall be deactivated until  
3 all encumbrances have been removed from the multistate license. All home state disciplinary orders  
4 that impose adverse action against a nurse's multistate license shall include a statement that the  
5 nurse's multistate licensure privilege is deactivated in all party states during the pendency of the  
6 order.

7 (c) Nothing in this compact shall override a party state's decision that participation in an  
8 alternative program may be used in lieu of adverse action. The home state licensing board shall  
9 deactivate the multistate licensure privilege under the multistate license of any nurse for the  
10 duration of the nurse's participation in an alternative program.

11 ~~5-34.3-9. Coordinated licensure information system~~ **Coordinated licensure**  
12 **information system and exchange of information.**

13 (a) All party states shall participate in a ~~cooperative effort to create a~~ coordinated ~~data base~~  
14 licensure information system of all licensed registered nurses (RNs) and licensed practical  
15 nurses/vocational nurses (LPNs/VNs). This system will include information on the licensure and  
16 disciplinary history of each nurse, as ~~contributed~~ submitted by party states, to assist in the  
17 coordination of nurse licensure and enforcement efforts.

18 (b) ~~Notwithstanding any other provision of law, all party states' licensing boards shall~~  
19 ~~promptly report adverse actions, actions against multistate licensure privileges, any current~~  
20 ~~significant investigative information yet to result in adverse action, denials of applications, and the~~  
21 ~~reasons for such denials, to the coordinated licensure information system.~~ The commission, in  
22 consultation with the administrator of the coordinated licensure information system, shall formulate  
23 necessary and proper procedures for the identification, collection and exchange of information  
24 under this compact.

25 (c) All licensing boards shall promptly report to the coordinated licensure information  
26 system any adverse action, any current significant investigative information, denials of applications  
27 (with the reasons for such denials) and nurse participation in alternative programs known to the  
28 licensing board regardless of whether such participation is deemed nonpublic or confidential under  
29 state law.

30 ~~(e)~~(d) Current significant investigative information and participation in nonpublic or  
31 confidential alternative programs shall be transmitted through the coordinated licensure  
32 information system only to party state licensing boards.

33 ~~(d)~~(e) Notwithstanding any other provision of law, all party states' licensing boards  
34 contributing information to the coordinated licensure information system may designate

1 information that may not be shared with non-party states or disclosed to other entities or individuals  
2 without the express permission of the contributing state.

3 ~~(e)(f)~~ Any personally identifiable information obtained from the coordinated licensure  
4 information system by a party state's licensing board shall ~~from the coordinated licensure~~  
5 ~~information system may~~ not be shared with non-party states or disclosed to other entities or  
6 individuals except to the extent permitted by the laws of the party state contributing the information.

7 ~~(f)(g)~~ Any information contributed to the coordinated licensure information system that is  
8 subsequently required to be expunged by the laws of the party state contributing that information,  
9 shall also be expunged from the coordinated licensure information system.

10 ~~(g) The compact administrators, acting jointly with each other and in consultation with the~~  
11 ~~administrator of the coordinated licensure information system, shall formulate necessary and proper~~  
12 ~~procedures for the identification, collection and exchange of information under this compact.~~

13 (h) The compact administrator of each party state shall furnish a uniform data set to the  
14 compact administrator of each other party state, which shall include, at a minimum:

15 (1) Identifying information;

16 (2) Licensure data;

17 (3) Information related to alternative program participation; and

18 (4) Other information that may facilitate the administration of this compact, as  
19 determined by commission rules.

20 (i) The compact administrator of a party state shall provide all investigative documents and  
21 information requested by another party state.

22 **5-34.3-10. Compact administration and interchange of information** Establishment of  
23 the interstate commission of nurse licensure compact administrators.

24 ~~(a) The head of the nurse licensing board, or his/her designee, of each party state shall be~~  
25 ~~the administrator of this compact for his/her state.~~

26 ~~(b) The compact administrator of each party shall furnish to the compact administrator of~~  
27 ~~each other party state any information and documents including, but not limited to, a uniform data~~  
28 ~~set of investigations, identifying information, licensure data, and disclosable alternative program~~  
29 ~~participation information to facilitate the administration of this compact.~~

30 ~~(c) Compact administrators shall have the authority to develop uniform rules to facilitate~~  
31 ~~and coordinate implementation of this compact. These uniform rules shall be adopted by party~~  
32 ~~states, under the authority invested under § 5-34.3-8(4).~~

33 (a) The party states hereby create and establish a joint public entity known as the interstate  
34 commission of nurse licensure compact administrators (the "commission").

1           (1) The commission is an instrumentality of the party states.

2           (2) Venue is proper, and judicial proceedings by or against the commission shall be brought  
3 solely and exclusively, in a court of competent jurisdiction where the principal office of the  
4 commission is located. The commission may waive venue and jurisdictional defenses to the extent  
5 it adopts or consents to participate in alternative dispute resolution proceedings.

6           (3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

7           (b) Membership, voting and meetings:

8           (1) Each party state shall have and be limited to one administrator. The head of the state  
9 licensing board or designee shall be the administrator of this compact for each party state. Any  
10 administrator may be removed or suspended from office as provided by the law of the state from  
11 which the administrator is appointed. Any vacancy occurring in the commission shall be filled in  
12 accordance with the laws of the party state in which the vacancy exists.

13           (2) Each administrator shall be entitled to one vote with regard to the promulgation of rules  
14 and creation of bylaws and shall otherwise have an opportunity to participate in the business and  
15 affairs of the commission. An administrator shall vote in person or by such other means as provided  
16 in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone  
17 or other means of communication.

18           (3) The commission shall meet at least once during each calendar year. Additional meetings  
19 shall be held as set forth in the bylaws or rules of the commission.

20           (4) All meetings shall be open to the public, and public notice of meetings shall be given  
21 in the same manner as required under the rulemaking provisions in § 5-34.3-10.1.

22           (5) The commission may convene in a closed, nonpublic meeting if the commission must  
23 discuss:

24           (i) Noncompliance of a party state with its obligations under this compact;

25           (ii) The employment, compensation, discipline or other personnel matters, practices or  
26 procedures related to specific employees or other matters related to the commission's internal  
27 personnel practices and procedures;

28           (iii) Current, threatened or reasonably anticipated litigation;

29           (iv) Negotiation of contracts for the purchase or sale of goods, services or real estate;

30           (v) Accusing any person of a crime or formally censuring any person;

31           (vi) Disclosure of trade secrets or commercial or financial information that is privileged or  
32 confidential;

33           (vii) Disclosure of information of a personal nature where disclosure would constitute a  
34 clearly unwarranted invasion of personal privacy;

1           (viii) Disclosure of investigatory records compiled for law enforcement purposes;  
2           (ix) Disclosure of information related to any reports prepared by or on behalf of the  
3 commission for the purpose of investigation of compliance with this compact; or  
4           (x) Matters specifically exempted from disclosure by federal or state statute.  
5           (6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
6 commission's legal counsel or designee shall certify that the meeting may be closed and shall  
7 reference each relevant exempting provision. The commission shall keep minutes that fully and  
8 clearly describe all matters discussed in a meeting and shall provide a full and accurate summary  
9 of actions taken, and the reasons therefor, including a description of the views expressed. All  
10 documents considered in connection with an action shall be identified in such minutes. All minutes  
11 and documents of a closed meeting shall remain under seal, subject to release by a majority vote of  
12 the commission or order of a court of competent jurisdiction.  
13           (c) The commission shall, by a majority vote of the administrators, prescribe bylaws or  
14 rules to govern its conduct as may be necessary or appropriate to carry out the purposes and  
15 exercise the powers of this compact, including, but not limited to:  
16           (1) Establishing the fiscal year of the commission;  
17           (2) Providing reasonable standards and procedures:  
18           (i) For the establishment and meetings of other committees; and  
19           (ii) Governing any general or specific delegation of any authority or function of the  
20 commission;  
21           (3) Providing reasonable procedures for calling and conducting meetings of the  
22 commission, ensuring reasonable advance notice of all meetings and providing an opportunity for  
23 attendance of such meetings by interested parties, with enumerated exceptions designed to protect  
24 the public's interest, the privacy of individuals, and proprietary information, including trade secrets.  
25 The commission may meet in closed session only after a majority of the administrators vote to close  
26 a meeting in whole or in part. As soon as practicable, the commission must make public a copy of  
27 the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;  
28           (4) Establishing the titles, duties and authority and reasonable procedures for the election  
29 of the officers of the commission;  
30           (5) Providing reasonable standards and procedures for the establishment of the personnel  
31 policies and programs of the commission. Notwithstanding any civil service or other similar laws  
32 of any party state, the bylaws shall exclusively govern the personnel policies and programs of the  
33 commission; and

1 (6) Providing a mechanism for winding up the operations of the commission and the  
2 equitable disposition of any surplus funds that may exist after the termination of this compact after  
3 the payment or reserving of all of its debts and obligations;

4 (d) The commission shall publish its bylaws and rules, and any amendments thereto, in a  
5 convenient form on the website of the commission.

6 (e) The commission shall maintain its financial records in accordance with the bylaws.

7 (f) The commission shall meet and take such actions as are consistent with the provisions  
8 of this compact and the bylaws.

9 (g) The commission shall have the following powers:

10 (1) To promulgate uniform rules to facilitate and coordinate implementation and  
11 administration of this compact. The rules shall have the force and effect of law and shall be binding  
12 in all party states;

13 (2) To bring and prosecute legal proceedings or actions in the name of the commission,  
14 provided that the standing of any licensing board to sue or be sued under applicable law shall not  
15 be affected;

16 (3) To purchase and maintain insurance and bonds;

17 (4) To borrow, accept or contract for services of personnel, including, but not limited to,  
18 employees of a party state or nonprofit organizations;

19 (5) To cooperate with other organizations that administer state compacts related to the  
20 regulation of nursing, including, but not limited to, sharing administrative or staff expenses, office  
21 space or other resources;

22 (6) To hire employees, elect or appoint officers, fix compensation, define duties, grant such  
23 individuals appropriate authority to carry out the purposes of this compact, and to establish the  
24 commission's personnel policies and programs relating to conflicts of interest, qualifications of  
25 personnel and other related personnel matters;

26 (7) To accept any and all appropriate donations, grants and gifts of money, equipment,  
27 supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all  
28 times the commission shall avoid any appearance of impropriety or conflict of interest;

29 (8) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold,  
30 improve or use, any property, whether real, personal or mixed; provided that at all times the  
31 commission shall avoid any appearance of impropriety;

32 (9) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of  
33 any property, whether real, personal or mixed;

34 (10) To establish a budget and make expenditures;



- 1           (11) To borrow money;
- 2           (12) To appoint committees, including advisory committees comprised of administrators,  
3 state nursing regulators, state legislators or their representatives, and consumer representatives, and  
4 other such interested persons;
- 5           (13) To provide and receive information from, and to cooperate with, law enforcement  
6 agencies;
- 7           (14) To adopt and use an official seal; and
- 8           (15) To perform such other functions as may be necessary or appropriate to achieve the  
9 purposes of this compact consistent with the state regulation of nurse licensure and practice.
- 10          (h) Financing of the commission:
- 11           (1) The commission shall pay, or provide for the payment of, the reasonable expenses of  
12 its establishment, organization and ongoing activities;
- 13           (2) The commission may also levy on and collect an annual assessment from each party  
14 state to cover the cost of its operations, activities and staff in its annual budget as approved each  
15 year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to  
16 be determined by the commission, which shall promulgate a rule that is binding upon all party  
17 states;
- 18           (3) The commission shall not incur obligations of any kind prior to securing the funds  
19 adequate to meet the same; nor shall the commission pledge the credit of any of the party states,  
20 except by, and with the authority of, such party state;
- 21           (4) The commission shall keep accurate accounts of all receipts and disbursements. The  
22 receipts and disbursements of the commission shall be subject to the audit and accounting  
23 procedures established under its bylaws. However, all receipts and disbursements of funds handled  
24 by the commission shall be audited yearly by a certified or licensed public accountant, and the  
25 report of the audit shall be included in and become part of the annual report of the commission.
- 26          (i) Qualified immunity, defense and indemnification:
- 27           (1) The administrators, officers, executive director, employees and representatives of the  
28 commission shall be immune from suit and liability, either personally or in their official capacity,  
29 for any claim for damage to or loss of property or personal injury or other civil liability caused by  
30 or arising out of any actual or alleged act, error or omission that occurred, or that the person against  
31 whom the claim is made had a reasonable basis for believing occurred, within the scope of  
32 commission employment, duties or responsibilities; provided that nothing in this paragraph shall  
33 be construed to protect any such person from suit or liability for any damage, loss, injury or liability  
34 caused by the intentional, willful or wanton misconduct of that person;

1           (2) The commission shall defend any administrator, officer, executive director, employee  
2 or representative of the commission in any civil action seeking to impose liability arising out of  
3 any actual or alleged act, error or omission that occurred within the scope of commission  
4 employment, duties or responsibilities, or that the person against whom the claim is made had a  
5 reasonable basis for believing occurred within the scope of commission employment, duties or  
6 responsibilities; provided that nothing herein shall be construed to prohibit that person from  
7 retaining their own counsel; and provided further that the actual or alleged act, error or omission  
8 did not result from that person’s intentional, willful or wanton misconduct;

9           (3) The commission shall indemnify and hold harmless any administrator, officer,  
10 executive director, employee or representative of the commission for the amount of any settlement  
11 or judgment obtained against that person arising out of any actual or alleged act, error or omission  
12 that occurred within the scope of commission employment, duties or responsibilities, or that such  
13 person had a reasonable basis for believing occurred within the scope of commission employment,  
14 duties or responsibilities, provided that the actual or alleged act, error or omission did not result  
15 from the intentional, willful or wanton misconduct of that person.

16           **5-34.3-12. ~~Entry into force, withdrawal and amendment~~ Effective date, withdrawal**  
17 **and amendment.**

18           ~~(a) This compact shall enter into force and become effective as to any state when it has~~  
19 ~~been enacted into the laws of that state. Any party state may withdraw from this compact by~~  
20 ~~enacting a statute repealing the same, but no such withdrawal shall take effect until six (6) months~~  
21 ~~after the withdrawing state has given notice of the withdrawal to the executive heads of all other~~  
22 ~~party states.~~

23           ~~(b) No withdrawal shall affect the validity or applicability by the licensing boards of states~~  
24 ~~remaining party to the compact of any report of adverse action occurring prior to the~~  
25 ~~withdrawal.~~

26           ~~(c) Nothing contained in this compact shall be construed to invalidate or prevent any nurse~~  
27 ~~licensure agreement or other cooperative arrangement between a party state and a non party state~~  
28 ~~that is made in accordance with the other provisions of this compact.~~

29           ~~(d) This compact may be amended by the party states. No amendment to this compact shall~~  
30 ~~become effective and binding upon the party states unless and until it is enacted into the laws of all~~  
31 ~~party states.~~

32           (a) This compact shall become effective upon passage. All party states to this compact, that  
33 also were parties to the prior nurse licensure compact, superseded by this compact, ("prior

1 compact"), shall be deemed to have withdrawn from said prior compact within six (6) months after  
2 the effective date of this compact.

3 (b) Each party state to this compact shall continue to recognize a nurse's multistate  
4 licensure privilege to practice in that party state issued under the prior compact until such party  
5 state has withdrawn from the prior compact.

6 (c) Any party state may withdraw from this compact by enacting a statute repealing the  
7 same. A party state's withdrawal shall not take effect until six (6) months after enactment of the  
8 repealing statute.

9 (d) A party state's withdrawal or termination shall not affect the continuing requirement of  
10 the withdrawing or terminated state's licensing board to report adverse actions and significant  
11 investigations occurring prior to the effective date of such withdrawal or termination.

12 (e) Nothing contained in this compact shall be construed to invalidate or prevent any nurse  
13 licensure agreement or other cooperative arrangement between a party state and a non-party state  
14 that is made in accordance with the other provisions of this compact.

15 (f) This compact may be amended by the party states. No amendment to this compact shall  
16 become effective and binding upon the party states unless and until it is enacted into the laws of all  
17 party states.

18 (g) Representatives of non-party states to this compact shall be invited to participate in the  
19 activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all  
20 states.

21 **5-34.3-14. Construction and severability.**

22 (a) This compact shall be liberally construed so as to effectuate the purposes thereof. The  
23 provisions of this compact shall be severable and if any phrase, clause, sentence or provision of  
24 this compact is declared to be contrary to the constitution of any party state or of the United States  
25 or the applicability thereof to any government, agency, person or circumstance is held invalid, the  
26 validity of the remainder of this compact and the applicability thereof to any government, agency,  
27 person or circumstance shall not be affected thereby. If this compact shall be held contrary to the  
28 constitution of any state party thereto, the compact shall remain in full force and effect as to the  
29 remaining party states and in full force and effect as to the party state affected as to all severable  
30 matters.

31 ~~(b) In the event party states find a need for settling disputes arising under this compact:~~

32 ~~(1) The party states may submit the issues in dispute to an arbitration panel which will be~~  
33 ~~comprised of an individual appointed by the compact administrator in the home state; an individual~~

1 ~~appointed by the compact administrator in the remote state(s) involved; and an individual mutually~~  
2 ~~agreed upon by the compact administrators of all the party states involved in the dispute.~~

3 ~~(2) The decision of a majority of the arbitrators shall be final and binding.~~

4 SECTION 4. Sections 5-34.3-7 and 5-34.3-11 of the General Laws in Chapter 5-34.3  
5 entitled "Nurse Licensure Compact" are hereby repealed.

6 **5-34.3-7. Adverse actions.**

7 ~~In addition to the provisions described in § 5-34.3-5, the following provisions apply:~~

8 ~~(1) The licensing board of a remote state shall promptly report to the administrator of the~~  
9 ~~coordinated licensure information system any remote state actions including the factual and legal~~  
10 ~~basis for such action, if known. The licensing board of a remote state shall also promptly report any~~  
11 ~~significant current investigative information yet to result in a remote state action. The administrator~~  
12 ~~of the coordinated licensure information system shall promptly notify the home state of any such~~  
13 ~~reports.~~

14 ~~(2) The licensing board of a party state shall have the authority to complete any pending~~  
15 ~~investigations for a nurse who changes primary state of residence during the course of such~~  
16 ~~investigations. It shall also have the authority to take appropriate action(s), and shall promptly~~  
17 ~~report the conclusions of such investigations to the administrator of the coordinated licensure~~  
18 ~~information system. The administrator of the coordinated licensure information system shall~~  
19 ~~promptly notify the new home state of any such actions.~~

20 ~~(3) A remote state may take adverse action affecting the multistate licensure privilege to~~  
21 ~~practice within that party state. However, only the home state shall have the power to impose~~  
22 ~~adverse action against the license issued by the home state.~~

23 ~~(4) For purposes of imposing adverse action, the licensing board of the home state shall~~  
24 ~~give the same priority and effect to reported conduct received from a remote state as it would if~~  
25 ~~such conduct had occurred within the home state. In so doing, it shall apply its own state laws to~~  
26 ~~determine appropriate action.~~

27 ~~(5) The home state may take adverse action based on the factual findings of the remote~~  
28 ~~state, so long as each state follows its own procedures for imposing such adverse action.~~

29 ~~(6) Nothing in this compact shall override a party state's decision that participation in an~~  
30 ~~alternative program may be used in lieu of licensure action and that such participation shall remain~~  
31 ~~non-public if required by the party state's laws. Party states must require nurses who enter any~~  
32 ~~alternative programs to agree not to practice in any other party state during the term of the~~  
33 ~~alternative program without prior authorization from such other party state.~~

34 **5-34.3-11. Immunity.**

1 ~~No party state or the officers or employees or agents of a party state's nurse licensing board~~  
2 ~~who acts in accordance with the provisions of this compact shall be liable on account of any act or~~  
3 ~~omission in good faith while engaged in the performance of their duties under this compact. Good~~  
4 ~~faith in this article shall not include willful misconduct, gross negligence, or recklessness.~~

5 SECTION 5. Title 5 of the General Laws entitled "Business and Professions" is hereby  
6 amended by adding thereto the following chapter:

7 CHAPTER 44.1

8 PSYCHOLOGY INTERJURISDICTIONAL COMPACT

9 5-44.1-1. Short title. – This chapter shall be known and may be cited as the psychology  
10 interjurisdictional compact act.

11 5.44-.1-2. Purpose.

12 WHEREAS, states license psychologists, in order to protect the public through verification  
13 of education, training and experience and ensure accountability for professional practice; and

14 WHEREAS, this compact is intended to regulate the day to day practice of telepsychology  
15 (i.e. the provision of psychological services using telecommunication technologies) by  
16 psychologists across state boundaries in the performance of their psychological practice as assigned  
17 by an appropriate authority; and

18 WHEREAS, this compact is intended to regulate the temporary in-person, face-to-face  
19 practice of psychology by psychologists across state boundaries for 30 days within a calendar year  
20 in the performance of their psychological practice as assigned by an appropriate authority;

21 WHEREAS, this compact is intended to authorize state psychology regulatory authorities  
22 to afford legal recognition, in a manner consistent with the terms of the compact, to psychologists  
23 licensed in another state;

24 WHEREAS, this compact recognizes that states have a vested interest in protecting the  
25 public's health and safety through their licensing and regulation of psychologists and that such state  
26 regulation will best protect public health and safety;

27 WHEREAS, this compact does not apply when a psychologist is licensed in both the home  
28 and receiving states; and

29 WHEREAS, this compact does not apply to permanent in-person, face-to-face practice, it  
30 does allow for authorization of temporary psychological practice.

31 Consistent with these principles, this compact is designed to achieve the following purposes and  
32 objectives:

1           (1) Increase public access to professional psychological services by allowing for  
2 telepsychological practice across state lines as well as temporary in-person, face-to-face services  
3 into a state which the psychologist is not licensed to practice psychology;

4           (2) Enhance the states' ability to protect the public's health and safety, especially  
5 client/patient safety;

6           (3) Encourage the cooperation of compact states in the areas of psychology licensure and  
7 regulation;

8           (4) Facilitate the exchange of information between compact states regarding psychologist  
9 licensure, adverse actions and disciplinary history;

10          (5) Promote compliance with the laws governing psychological practice in each compact  
11 state; and

12          (6) Invest all compact states with the authority to hold licensed psychologists accountable  
13 through the mutual recognition of compact state licenses.

14           **5-44.1-3. – Definitions**

15          (a) "Adverse action" means any action taken by a state psychology regulatory authority  
16 which finds a violation of a statute or regulation that is identified by the state psychology regulatory  
17 authority as discipline and is a matter of public record.

18          (b) "Association of state and provincial psychology boards (ASPPB)" means the  
19 recognized membership organization composed of state and provincial psychology regulatory  
20 authorities responsible for the licensure and registration of psychologists throughout the United  
21 States and Canada.

22          (c) "Authority to practice interjurisdictional telepsychology" means a licensed  
23 psychologist's authority to practice telepsychology, within the limits authorized under this  
24 compact, in another compact state.

25          (d) "Bylaws" means those bylaws established by the psychology interjurisdictional  
26 compact commission pursuant to section 5-44.1-11 for its governance, or for directing and  
27 controlling its actions and conduct.

28          (e) "Client/patient" means the recipient of psychological services, whether psychological  
29 services are delivered in the context of healthcare, corporate, supervision, and/or consulting  
30 services.

31          (f) "Commissioner" means the voting representative appointed by each state psychology  
32 Regulatory Authority pursuant to section 5-44.1-11.

1           (g) “Compact state” means a state, the District of Columbia, or United States territory that  
2 has enacted this compact legislation and which has not withdrawn pursuant to section 5-44.1-14  
3 (e) or been terminated pursuant to section 5-44.1-13 (b).

4           (h) “Coordinated licensure information system” also referred to as “coordinated database”  
5 means an integrated process for collecting, storing, and sharing information on psychologists’  
6 licensure and enforcement activities related to psychology licensure laws, which is administered  
7 by the recognized membership organization composed of state and provincial psychology  
8 regulatory authorities.

9           (i) “Confidentiality” means the principle that data or information is not made available or  
10 disclosed to unauthorized persons and/or processes.

11           (j) “Day” means any part of a day in which psychological work is performed.

12           (k) “Distant State” means the compact state where a psychologist is physically present (not  
13 through the use of telecommunications technologies), to provide temporary in-person, face-to-face  
14 psychological services.

15           (l) “E.Passport” means a certificate issued by the ASPPB that promotes the standardization  
16 in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed  
17 psychologists to provide telepsychological services across state lines.

18           (m) “Executive board” means a group of directors elected or appointed to act on behalf of,  
19 and within the powers granted to them by, the commission.

20           (n) “Home state” means a compact state where a psychologist is licensed to practice  
21 psychology. If the psychologist is licensed in more than one compact state and is practicing under  
22 the authorization to practice interjurisdictional telepsychology, the home state is the compact state  
23 where the psychologist is physically present when the telepsychological services are delivered. If  
24 the psychologist is licensed in more than one compact state and is practicing under the temporary  
25 authorization to practice, the home state is any compact state where the psychologist is licensed.

26           (o) “Identity history summary” means a summary of information retained by the FBI, or  
27 other designee with similar authority, in connection with arrests and, in some instances, federal  
28 employment, naturalization, or military service.

29           (p) “In-person, face-to-face” means interactions in which the psychologist and the  
30 client/patient are in the same physical space and which does not include interactions that may occur  
31 through the use of telecommunication technologies.

32           (q) “Interjurisdictional practice certificate (IPC)” means a certificate issued by the ASPPB  
33 that grants temporary authority to practice based on notification to the state psychology regulatory

1 authority of intention to practice temporarily, and verification of one’s qualifications for such  
2 practice.

3 (r) “License” means authorization by a state psychology regulatory authority to engage in  
4 the independent practice of psychology, which would be unlawful without the authorization.

5 (s) “Non-compact state” means any state which is not at the time a compact state.

6 (t) “Psychologist” means an individual licensed for the independent practice of psychology.

7 (u) “Psychology interjurisdictional compact” means the formal compact authorized in  
8 chapter 5-44.1.

9 (v) “Psychology interjurisdictional compact commission” also referred to as “commission”  
10 means the national administration of which all compact states are members.

11 (w) “Receiving State” means a compact state where the client/patient is physically located  
12 when the telepsychological services are delivered.

13 (x) “Rule” means a written statement by the psychology interjurisdictional compact  
14 commission promulgated pursuant to section 5-44.1-12 that is of general applicability, implements,  
15 interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or  
16 practice requirement of the commission and has the force and effect of statutory law in a compact  
17 state, and includes the amendment, repeal or suspension of an existing rule.

18 (y) “Significant investigatory information” means investigative information that a state  
19 psychology regulatory authority, after a preliminary inquiry that includes notification and an  
20 opportunity to respond if required by state law, has reason to believe, if proven true, would indicate  
21 more than a violation of state statute or ethics code that would be considered more substantial than  
22 minor infraction; or investigative information that indicates that the psychologist represents an  
23 immediate threat to public health and safety regardless of whether the psychologist has been  
24 notified and/or had an opportunity to respond.

25 (z) “State” means a state, commonwealth, territory, or possession of the United States, the  
26 District of Columbia.

27 (aa) “State psychology regulatory authority” means the board, office or other agency with  
28 the legislative mandate to license and regulate the practice of psychology.

29 (bb) “Telepsychology” means the provision of psychological services using  
30 telecommunication technologies.

31 (cc) “Temporary authorization to practice” means a licensed psychologist’s authority to  
32 conduct temporary in-person, face-to-face practice, within the limits authorized under this compact,  
33 in another compact state.



1 (dd) “Temporary in-person, face-to-face practice” means where a psychologist is  
2 physically present (not through the use of telecommunications technologies), in the distant state to  
3 provide for the practice of psychology for 30 days within a calendar year and based on notification  
4 to the distant state.

5 **5-44.1-4. – Home state licensure.**

6 (a) The home state shall be a compact state where a psychologist is licensed to practice  
7 psychology.

8 (b) A psychologist may hold one or more compact State licenses at a time. If the  
9 psychologist is licensed in more than one compact State, the home State is the compact state where  
10 the psychologist is physically present when the services are delivered as authorized by the authority  
11 to practice interjurisdictional telepsychology under the terms of this compact.

12 (c) Any compact state may require a psychologist not previously licensed in a compact  
13 state to obtain and retain a license to be authorized to practice in the compact state under  
14 circumstances not authorized by the authority to practice interjurisdictional telepsychology under  
15 the terms of this compact.

16 (d) Any compact state may require a psychologist to obtain and retain a license to be  
17 authorized to practice in a compact state under circumstances not authorized by temporary  
18 authorization to practice under the terms of this compact.

19 (e) A home state’s license authorizes a psychologist to practice in a receiving state under  
20 the authority to practice interjurisdictional telepsychology only if the compact state:

21 (1) Currently requires the psychologist to hold an active E.Passport;

22 (2) Has a mechanism in place for receiving and investigating complaints about licensed  
23 individuals;

24 (3) Notifies the commission, in compliance with the terms herein, of any adverse action or  
25 significant investigatory information regarding a licensed individual;

26 (4) Requires an identity history summary of all applicants at initial licensure, including the  
27 use of the results of fingerprints or other biometric data checks compliant with the requirements of  
28 the Federal Bureau of Investigation (FBI), or other designee with similar authority, no later than  
29 ten years after activation of the compact; and

30 (5) Complies with the bylaws and rules.

31 (f) A home state’s license grants temporary authorization to practice to a psychologist in a  
32 distant state only if the compact state:

33 (1) Currently requires the psychologist to hold an active IPC;

1 (2) Has a mechanism in place for receiving and investigating complaints about licensed  
2 individuals;

3 (3) Notifies the commission, in compliance with the terms herein, of any adverse action or  
4 significant investigatory information regarding a licensed individual;

5 (4) Requires an identity history summary of all applicants at initial licensure, including the  
6 use of the results of fingerprints or other biometric data checks compliant with the requirements of  
7 the FBI, or other designee with similar authority, no later than ten years after activation of the  
8 compact; and

9 (5) Complies with the bylaws and rules.

10 **5-44.1-5 Compact privilege to practice telepsychology.**

11 (a) Compact states shall recognize the right of a psychologist, licensed in a compact state  
12 in conformance with section 5-44.1-4, to practice telepsychology in other compact states (receiving  
13 states) in which the psychologist is not licensed, under the authority to practice interjurisdictional  
14 telepsychology as provided in the compact.

15 (b) To exercise the authority to practice interjurisdictional telepsychology under the terms  
16 and provisions of this compact, a psychologist licensed to practice in a compact state must:

17 (1) Hold a graduate degree in psychology from an institute of higher education that was, at  
18 the time the degree was awarded:

19 (i) Regionally accredited by an accrediting body recognized by the U.S. department of  
20 education to grant graduate degrees, or authorized by provincial statute or royal charter to grant  
21 doctoral degrees; or

22 (ii) A foreign college or university deemed to be equivalent to 1(a) above by a foreign  
23 credential evaluation service that is a member of the national association of credential evaluation  
24 services (NACES) or by a recognized foreign credential evaluation service; and

25 (2) Hold a graduate degree in psychology that meets the following criteria: and

26 (3) The program, wherever it may be administratively housed, must be clearly identified  
27 and labeled as a psychology program. Such a program must specify in pertinent institutional  
28 catalogues and brochures its intent to educate and train professional psychologists;

29 (4) The psychology program must stand as a recognizable, coherent, organizational entity  
30 within the institution;

31 (5) There must be a clear authority and primary responsibility for the core and specialty  
32 areas whether or not the program cuts across administrative lines;

33 (6) The program must consist of an integrated, organized sequence of study;

- 1           (7) There must be an identifiable psychology faculty sufficient in size and breadth to carry  
2 out its responsibilities;
- 3           (8) The designated director of the program must be a psychologist and a member of the  
4 core faculty;
- 5           (9) The program must have an identifiable body of students who are matriculated in that  
6 program for a degree;
- 7           (10) The program must include supervised practicum, internship, or field training  
8 appropriate to the practice of psychology;
- 9           (11) The curriculum shall encompass a minimum of three academic years of full-time  
10 graduate study for doctoral degree and a minimum of one academic year of full-time graduate study  
11 for master's degree;
- 12           (12) The program includes an acceptable residency as defined by the rules.
- 13           (13) Possess a current, full and unrestricted license to practice psychology in a home state  
14 which is a compact state;
- 15           (14) Have no history of adverse action that violate the rules;
- 16           (15) Have no criminal record history reported on an Identity history summary that violates  
17 the rules;
- 18           (16) Possess a current, active E.Passport;
- 19           (17) Provide attestations in regard to areas of intended practice, conformity with standards  
20 of practice, competence in telepsychology technology; criminal background; and knowledge and  
21 adherence to legal requirements in the home and receiving states, and provide a release of  
22 information to allow for primary source verification in a manner specified by the commission; and  
23           (18) Meet other criteria as defined by the rules.
- 24           (c) The home state maintains authority over the license of any psychologist practicing into  
25 a Receiving State under the authority to practice interjurisdictional telepsychology.
- 26           (d) A psychologist practicing into a receiving state under the authority to practice  
27 interjurisdictional telepsychology will be subject to the receiving state's scope of practice. A  
28 receiving state may, in accordance with that state's due process law, limit or revoke a  
29 psychologist's Authority to practice interjurisdictional telepsychology in the receiving state and  
30 may take any other necessary actions under the receiving state's applicable law to protect the health  
31 and safety of the receiving State's citizens. If a receiving state takes action, the state shall promptly  
32 notify the home state and the commission.
- 33           (e) If a psychologist's license in any home state, another compact state, or any authority to  
34 practice interjurisdictional telepsychology in any receiving state, is restricted, suspended or

1 otherwise limited, the E.Passport shall be revoked and therefore the psychologist shall not be  
2 eligible to practice telepsychology in a compact state under the authority to practice  
3 interjurisdictional telepsychology.

4 **5-44.1-6. – Compact temporary authorization to practice.**

5 (a) Compact states shall also recognize the right of a psychologist, licensed in a compact state  
6 in conformance with section 5-44.1-4, to practice temporarily in other compact states (distant  
7 states) in which the psychologist is not licensed, as provided in the compact.

8 (b) To exercise the temporary authorization to practice under the terms and provisions of this  
9 compact, a psychologist licensed to practice in a compact state must:

10 (1) Hold a graduate degree in psychology from an institute of higher education that was, at  
11 the time the degree was awarded:

12 (i) Regionally accredited by an accrediting body recognized by the U.S. department of  
13 education to grant graduate degrees, or authorized by provincial statute or royal charter to grant  
14 doctoral degrees; or

15 (ii) A foreign college or university deemed to be equivalent to 1 (a) above by a foreign  
16 credential evaluation service that is a member of the national association of credential evaluation  
17 services (NACES) or by a recognized foreign credential evaluation service; and

18 (2) Hold a graduate degree in psychology that meets the following criteria:

19 (i) The program, wherever it may be administratively housed, must be clearly identified  
20 and labeled as a psychology program. Such a program must specify in pertinent institutional  
21 catalogues and brochures its intent to educate and train professional psychologists;

22 (ii) The psychology program must stand as a recognizable, coherent, organizational entity  
23 within the institution;

24 (iii) There must be a clear authority and primary responsibility for the core and specialty  
25 areas whether or not the program cuts across administrative lines;

26 (iv) The program must consist of an integrated, organized sequence of study;

27 (v) There must be an identifiable psychology faculty sufficient in size and breadth to carry  
28 out its responsibilities;

29 (vi) The designated director of the program must be a psychologist and a member of the  
30 core faculty;

31 (vii) The program must have an identifiable body of students who are matriculated in that  
32 program for a degree;

33 (viii) The program must include supervised practicum, internship, or field training  
34 appropriate to the practice of psychology;

1 (ix) The curriculum shall encompass a minimum of three academic years of full-time  
2 graduate study for doctoral degrees and a minimum of one academic year of full-time graduate  
3 study for master's degree;

4 (x) The program includes an acceptable residency as defined by the rules.

5 (3) Possess a current, full and unrestricted license to practice psychology in a home state  
6 which is a compact state;

7 (4) No history of adverse action that violate the rules;

8 (5) No criminal record history that violates the rules;

9 (6) Possess a current, active IPC;

10 (7) Provide attestations in regard to areas of intended practice and work experience and  
11 provide a release of information to allow for primary source verification in a manner specified by  
12 the commission; and

13 (8) Meet other criteria as defined by the rules.

14 (c) A psychologist practicing into a distant state under the temporary authorization to  
15 practice shall practice within the scope of practice authorized by the distant state.

16 (d) A psychologist practicing into a distant state under the temporary authorization to  
17 practice will be subject to the distant state's authority and law. A distant state may, in accordance  
18 with that state's due process law, limit or revoke a psychologist's temporary authorization to  
19 practice in the distant state and may take any other necessary actions under the distant state's  
20 applicable law to protect the health and safety of the distant state's citizens. If a distant state takes  
21 action, the state shall promptly notify the home state and the commission.

22 (e) If a psychologist's license in any home state, another compact state, or any temporary  
23 authorization to practice in any distant state, is restricted, suspended or otherwise limited, the IPC  
24 shall be revoked and therefore the psychologist shall not be eligible to practice in a compact state  
25 under the temporary authorization to practice.

26 **5-44.1-7. – Conditions of telepsychology practice in a receiving state.**

27 (a) A psychologist may practice in a receiving state under the authority to practice  
28 interjurisdictional telepsychology only in the performance of the scope of practice for psychology  
29 as assigned by an appropriate state psychology regulatory authority, as defined in the rules, and  
30 under the following circumstances:

31 (1) The psychologist initiates a client/patient contact in a home state via  
32 telecommunications technologies with a client/patient in a receiving state;

33 (2) Other conditions regarding telepsychology as determined in the rules.

34 **5-44.1-8. – Adverse actions.**

1           (a) A home state shall have the power to impose adverse action against a psychologist's  
2 license issued by the home state. A distant state shall have the power to take adverse action on a  
3 psychologist's temporary authorization to practice within that distant state.

4           (b) A receiving state may take adverse action on a psychologist's authority to practice  
5 interjurisdictional telepsychology within that receiving state. A home state may take adverse action  
6 against a psychologist based on an adverse action taken by a distant state regarding temporary in-  
7 person, face-to-face practice.

8           (c) If a home state takes adverse action against a psychologist's license, that psychologist's  
9 authority to practice interjurisdictional telepsychology is terminated and the E.Passport is revoked.  
10 Furthermore, that psychologist's temporary authorization to practice is terminated and the IPC is  
11 revoked.

12           (1) All home state disciplinary orders which impose adverse action shall be reported to the  
13 commission in accordance with the rules. A compact state shall report adverse actions in  
14 accordance with the rules.

15           (2) In the event discipline is reported on a psychologist, the psychologist will not be eligible  
16 for telepsychology or temporary in-person, face-to-face practice in accordance with the rules.

17           (3) Other actions may be imposed as determined by the rules.

18           (d) A home state's psychology regulatory authority shall investigate and take appropriate  
19 action with respect to reported inappropriate conduct engaged in by a licensee which occurred in a  
20 Receiving State as it would if such conduct had occurred by a licensee within the home state. In  
21 such cases, the home state's law shall control in determining any adverse action against a  
22 psychologist's license.

23           (e) A distant state's psychology regulatory authority shall investigate and take appropriate  
24 action with respect to reported inappropriate conduct engaged in by a psychologist practicing under  
25 temporary authorization practice which occurred in that distant state as it would if such conduct  
26 had occurred by a licensee within the home state. In such cases, distant state's law shall control in  
27 determining any adverse action against a psychologist's temporary authorization to practice.

28           (f) Nothing in this compact shall override a compact state's decision that a psychologist's  
29 participation in an alternative program may be used in lieu of adverse action and that such  
30 participation shall remain non-public if required by the compact state's law. Compact states must  
31 require psychologists who enter any alternative programs to not provide telepsychology services  
32 under the authority to practice interjurisdictional telepsychology or provide temporary  
33 psychological services under the temporary authorization to practice in any other compact state  
34 during the term of the alternative program.

1 (g) No other judicial or administrative remedies shall be available to a psychologist in the  
2 event a compact State imposes an adverse action pursuant to subsection c, above.

3 **5-44.1-9. – Additional authorities invested in a compact state’s psychology regulatory**  
4 **authority.**

5 (a) In addition to any other powers granted under state law, a compact state’s psychology  
6 regulatory Authority shall have the authority under this compact to:

7 (1) Issue subpoenas, for both hearings and investigations, which require the attendance and  
8 testimony of witnesses and the production of evidence. Subpoenas issued by a compact state’s  
9 psychology regulatory authority for the attendance and testimony of witnesses, and/or the  
10 production of evidence from another compact state shall be enforced in the latter state by any court  
11 of competent jurisdiction, according to that court’s practice and procedure in considering subpoenas  
12 issued in its own proceedings. The issuing state psychology regulatory authority shall pay any  
13 witness fees, travel expenses, mileage and other fees required by the service statutes of the state  
14 where the witnesses and/or evidence are located; and

15 (2) Issue cease and desist and/or injunctive relief orders to revoke a psychologist’s  
16 authority to practice interjurisdictional telepsychology and/or temporary authorization to practice.

17 (3) During the course of any investigation, a psychologist may not change his/her home  
18 state licensure. A home state psychology regulatory authority is authorized to complete any  
19 pending investigations of a psychologist and to take any actions appropriate under its law. The  
20 home state psychology regulatory authority shall promptly report the conclusions of such  
21 investigations to the commission. Once an investigation has been completed, and pending the  
22 outcome of said investigation, the psychologist may change his/her home state licensure. The  
23 commission shall promptly notify the new home state of any such decisions as provided in the rules.  
24 All information provided to the commission or distributed by compact states pursuant to the  
25 psychologist shall be confidential, filed under seal and used for investigatory or disciplinary  
26 matters. The commission may create additional rules for mandated or discretionary sharing of  
27 information by compact States.

28 **5-44.1-10. – Coordinated licensure information system.**

29 (a) The commission shall provide for the development and maintenance of a coordinated  
30 licensure information system and reporting system containing licensure and disciplinary action  
31 information on all psychologists to whom this compact is applicable in all compact states as defined  
32 by the rules.

1 (b) Notwithstanding any other provision of state law to the contrary, a compact state shall  
2 submit a uniform data set to the coordinated database on all licensees as required by the rules,  
3 including:

4 (i) Identifying information;

5 (ii) Licensure data;

6 (iii) Significant investigatory information;

7 (iv) Adverse actions against a psychologist's license;

8 (v) An indicator that a psychologist's authority to practice interjurisdictional  
9 telepsychology and/or temporary authorization to practice is revoked;

10 (vi) Non-confidential information related to alternative program participation information;

11 (vii) Any denial of application for licensure, and the reasons for such denial; and

12 (viii) Other information which may facilitate the administration of this compact, as  
13 determined in the rules.

14 (c) The coordinated database administrator shall promptly notify all compact states of any  
15 adverse action taken against, or significant investigative information on, any licensee in a compact  
16 state.

17 (d) Compact states reporting information to the coordinated database may designate  
18 information that may not be shared with the public without the express permission of the compact  
19 state reporting the information.

20 (e) Any information submitted to the coordinated database that is subsequently required to  
21 be expunged by the law of the compact State reporting the information shall be removed from the  
22 coordinated database.

23 **5-44.1-11. – Establishment of the psychology interjurisdictional compact commission.**

24 (a) The compact states hereby create and establish a joint public agency known as the  
25 psychology interjurisdictional compact commission.

26 (1) The commission is a body politic and an instrumentality of the compact states.

27 (2) Venue is proper and judicial proceedings by or against the commission shall be brought  
28 solely and exclusively in a court of competent jurisdiction where the principal office of the  
29 commission is located. The commission may waive venue and jurisdictional defenses to the extent  
30 it adopts or consents to participate in alternative dispute resolution proceedings.

31 (3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

32 (b) Membership, voting, and meetings

33 (1) The commission shall consist of one voting representative appointed by each compact  
34 state who shall serve as that state's commissioner. The state psychology regulatory authority shall



1 appoint its delegate. This delegate shall be empowered to act on behalf of the compact state. This  
2 delegate shall be limited to:

3 (i) Executive director, executive secretary or similar executive;  
4 (ii) Current member of the state psychology regulatory authority of a compact State; or  
5 (iii) Designee empowered with the appropriate delegate authority to act on behalf of the  
6 compact State.

7 (2) Any commissioner may be removed or suspended from office as provided by the law  
8 of the state from which the commissioner is appointed. Any vacancy occurring in  
9 the commission shall be filled in accordance with the laws of the compact state in which the  
10 vacancy exists.

11 (3) Each commissioner shall be entitled to one vote with regard to the promulgation of  
12 rules and creation of bylaws and shall otherwise have an opportunity to participate in the business  
13 and affairs of the commission. A commissioner shall vote in person or by such other means as  
14 provided in the bylaws. The By-Laws may provide for commissioner's participation in meetings  
15 by telephone or other means of communication.

16 (4) The commission shall meet at least once during each calendar year. Additional  
17 meetings shall be held as set forth in the bylaws.

18 (5) All meetings shall be open to the public, and public notice of meetings shall be given  
19 in the same manner as required under the rulemaking provisions in Chapter 35 of Title 42.

20 (6) The commission may convene in a closed, non-public meeting if the commission must  
21 discuss:

22 (i) Non-compliance of a compact state with its obligations under the compact;  
23 (ii) The employment, compensation, discipline or other personnel matters, practices or  
24 procedures related to specific employees or other matters related to the commission's internal  
25 personnel practices and procedures;

26 (iii) Current, threatened, or reasonably anticipated litigation against the commission;  
27 (iv) Negotiation of contracts for the purchase or sale of goods, services or real estate;  
28 (v) Accusation against any person of a crime or formally censuring any person;  
29 (vi) Disclosure of trade secrets or commercial or financial information which is privileged  
30 or confidential;

31 (vii) Disclosure of information of a personal nature where disclosure would constitute a  
32 clearly unwarranted invasion of personal privacy;

33 (viii) Disclosure of investigatory records compiled for law enforcement purposes;

1 (ix) Disclosure of information related to any investigatory reports prepared by or on behalf  
2 of or for use of the commission or other committee charged with responsibility for investigation or  
3 determination of compliance issues pursuant to the compact; or

4 (x) Matters specifically exempted from disclosure by federal and state statute.

5 (7) If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
6 commission's legal counsel or designee shall certify that the meeting may be closed and shall  
7 reference each relevant exempting provision. The commission shall keep minutes which fully and  
8 clearly describe all matters discussed in a meeting and shall provide a full and accurate summary  
9 of actions taken, of any person participating in the meeting, and the reasons therefore, including a  
10 description of the views expressed. All documents considered in connection with an action shall be  
11 identified in such minutes. All minutes and documents of a closed meeting shall remain under seal,  
12 subject to release only by a majority vote of the commission or order of a court of competent  
13 jurisdiction.

14 (8) The commission shall, by a majority vote of the commissioners, prescribe bylaws  
15 and/or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and  
16 exercise the powers of the compact, including but not limited to:

17 (i) Establishing the fiscal year of the commission;

18 (ii) Providing reasonable standards and procedures:

19 (iii) for the establishment and meetings of other committees; and

20 (iv) governing any general or specific delegation of any authority or function of the  
21 commission;

22 (v) Providing reasonable procedures for calling and conducting meetings of the  
23 commission, ensuring reasonable advance notice of all meetings and providing an opportunity for  
24 attendance of such meetings by interested parties, with enumerated exceptions designed to protect  
25 the public's interest, the privacy of individuals of such proceedings, and proprietary information,  
26 including trade secrets. The commission may meet in closed session only after a majority of the  
27 commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the  
28 commission must make public a copy of the vote to close the meeting revealing the vote of each  
29 commissioner with no proxy votes allowed;

30 (vi) Establishing the titles, duties and authority and reasonable procedures for the election  
31 of the officers of the commission;

32 (vii) Providing reasonable standards and procedures for the establishment of the personnel  
33 policies and programs of the commission. Notwithstanding any civil service or other similar law

1 of any compact State, the bylaws shall exclusively govern the personnel policies and programs of  
2 the commission;

3 (viii) Promulgating a code of ethics to address permissible and prohibited activities of  
4 commission members and employees;

5 (ix) Providing a mechanism for concluding the operations of the commission and the  
6 equitable disposition of any surplus funds that may exist after the termination of the compact after  
7 the payment and/or reserving of all of its debts and obligations;

8 (9) The commission shall publish its Bylaws in a convenient form and file a copy thereof  
9 and a copy of any amendment thereto, with the appropriate agency or officer in each of the compact  
10 states;

11 (10) The commission shall maintain its financial records in accordance with the Bylaws;  
12 and

13 (11) The commission shall meet and take such actions as are consistent with the provisions  
14 of this compact and the bylaws.

15 (c) The commission shall have the following powers:

16 (1) The authority to promulgate uniform rules to facilitate and coordinate implementation  
17 and administration of this compact. The rule shall have the force and effect of law and shall be  
18 binding in all compact states;

19 (2) To bring and prosecute legal proceedings or actions in the name of the commission,  
20 provided that the standing of any state psychology regulatory authority or other regulatory body  
21 responsible for psychology licensure to sue or be sued under applicable law shall not be affected;

22 (3) To purchase and maintain insurance and bonds;

23 (4) To borrow, accept or contract for services of personnel, including, but not limited to,  
24 employees of a compact state;

25 (5) To hire employees, elect or appoint officers, fix compensation, define duties, grant such  
26 individuals appropriate authority to carry out the purposes of the compact, and to establish the  
27 commission's personnel policies and programs relating to conflicts of interest, qualifications of  
28 personnel, and other related personnel matters;

29 (6) To accept any and all appropriate donations and grants of money, equipment, supplies,  
30 materials and services, and to receive, utilize and dispose of the same; provided that at all times the  
31 commission shall strive to avoid any appearance of impropriety and/or conflict of interest;

32 (7) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold,  
33 improve or use, any property, real, personal or mixed; provided that at all times the commission  
34 shall strive to avoid any appearance of impropriety;

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

3           (9) To establish a budget and make expenditures;

4           (10) To borrow money;

5           (11) To appoint committees, including advisory committees comprised of members, state  
6 regulators, state legislators or their representatives, and consumer representatives, and such other  
7 interested persons as may be designated in this compact and the bylaws;

8           (12) To provide and receive information from, and to cooperate with, law enforcement  
9 agencies;

10          (13) To adopt and use an official seal; and

11          (14) To perform such other functions as may be necessary or appropriate to achieve the  
12 purposes of this compact consistent with the state regulation of psychology licensure, temporary  
13 in-person, face-to-face practice and telepsychology practice.

14          (d) The executive board. The elected officers shall serve as the executive board, which  
15 shall have the power to act on behalf of the commission according to the terms of this compact.

16          (1) The executive board shall be comprised of six members:

17           (i) Five voting members who are elected from the current membership of the commission  
18 by the commission;

19           (ii) One ex-officio, nonvoting member from the recognized membership organization  
20 composed of state and provincial psychology regulatory authorities.

21           (1) The ex-officio member must have served as staff or member on a state psychology  
22 regulatory authority and will be selected by its respective organization.

23           (2) The commission may remove any member of the executive board as provided in the  
24 bylaws.

25           (3) The executive board shall meet at least annually.

26           (4) The executive board shall have the following duties and responsibilities:

27           (i) Recommend to the entire commission changes to the rules or bylaws, changes to this  
28 compact legislation, fees paid by compact states such as annual dues, and any other applicable fees;

29           (ii) Ensure compact administration services are appropriately provided, contractual or  
30 otherwise;

31           (iii) Prepare and recommend the budget;

32           (iv) Maintain financial records on behalf of the commission;

33           (v) Monitor compact compliance of member states and provide compliance reports to the  
34 commission;

1 (vi) Establish additional committees as necessary; and

2 (vii) Other duties as provided in rules or bylaws.

3 (e) Financing of the commission

4 (1) The commission shall pay, or provide for the payment of the reasonable expenses of its  
5 establishment, organization and ongoing activities.

6 (2) The commission may accept any and all appropriate revenue sources, donations and  
7 grants of money, equipment, supplies, materials and services.

8 (3) The commission may levy on and collect an annual assessment from each compact state  
9 or impose fees on other parties to cover the cost of the operations and activities of the commission  
10 and its staff which must be in a total amount sufficient to cover its annual budget as approved each  
11 year for which revenue is not provided by other sources. The aggregate annual assessment amount  
12 shall be allocated based upon a formula to be determined by the commission which shall  
13 promulgate a rule binding upon all compact states.

14 (1) The commission shall not incur obligations of any kind prior to securing the funds  
15 adequate to meet the same; nor shall the commission pledge the credit of any of the compact States,  
16 except by and with the authority of the compact state.

17 (2) The commission shall keep accurate accounts of all receipts and disbursements. The  
18 receipts and disbursements of the commission shall be subject to the audit and accounting  
19 procedures established under its bylaws. However, all receipts and disbursements of funds handled  
20 by the commission shall be audited yearly by a certified or licensed public accountant and the report  
21 of the audit shall be included in and become part of the annual report of the commission.

22 (a) Qualified immunity, defense, and indemnification

23 (1) The members, officers, executive director, employees and representatives of the  
24 commission shall be immune from suit and liability, either personally or in their official capacity,  
25 for any claim for damage to or loss of property or personal injury or other civil liability caused by  
26 or arising out of any actual or alleged act, error or omission that occurred, or that the person against  
27 whom the claim is made had a reasonable basis for believing occurred within the scope of  
28 commission employment, duties or responsibilities; provided that nothing in this paragraph shall  
29 be construed to protect any such person from suit and/or liability for any damage, loss, injury or  
30 liability caused by the intentional or willful or wanton misconduct of that person.

31 (2) The commission shall defend any member, officer, executive director, employee or  
32 representative of the commission in any civil action seeking to impose liability arising out of any  
33 actual or alleged act, error or omission that occurred within the scope of commission employment,  
34 duties or responsibilities, or that the person against whom the claim is made had a reasonable basis

1 for believing occurred within the scope of commission employment, duties or responsibilities;  
2 provided that nothing herein shall be construed to prohibit that person from retaining his or her  
3 own counsel; and provided further, that the actual or alleged act, error or omission did not result  
4 from that person's intentional or willful or wanton misconduct.

5 (3) The commission shall indemnify and hold harmless any member, officer, executive  
6 director, employee or representative of the commission for the amount of any settlement or  
7 judgment obtained against that person arising out of any actual or alleged act, error or omission  
8 that occurred within the scope of commission. employment, duties or responsibilities, or that such  
9 person had a reasonable basis for believing occurred within the scope of commission employment,  
10 duties or responsibilities, provided that the actual or alleged act, error or omission did not result  
11 from the intentional or willful or wanton misconduct of that person.

12 **5-44.1-12. – Rulemaking.**

13 (a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth  
14 in section 5-44.1-12 and the rules adopted thereunder, rules and amendments shall become binding  
15 as of the date specified in each rule or amendment.

16 (b) If a majority of the legislatures of the compact states rejects a rule, by enactment of a  
17 statute or resolution in the same manner used to adopt the compact, then such rule shall have no  
18 further force and effect in any compact state.

19 (c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the  
20 commission.

21 (d) Prior to promulgation and adoption of a final rule or rules by the commission, and at  
22 least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon,  
23 the commission shall file a notice of proposed rulemaking:

24 (1) On the website of the commission; and

25 (2) On the website of each compact states' psychology regulatory authority or the  
26 publication in which each state would otherwise publish proposed rules.

27 (e) The Notice of proposed rulemaking shall include:

28 (1) The proposed time, date, and location of the meeting in which the rule will be  
29 considered and voted upon;

30 (2) The text of the proposed rule or amendment and the reason for the proposed rule;

31 (3) A request for comments on the proposed rule from any interested person; and

32 (4) The manner in which interested persons may submit notice to the commission of their  
33 intention to attend the public hearing and any written comments.

1 (f) Prior to adoption of a proposed rule, the commission shall allow persons to submit  
2 written data, facts, opinions and arguments, which shall be made available to the public.

3 (g) The commission shall grant an opportunity for a public hearing before it adopts a rule  
4 or amendment if a hearing is requested by:

5 (1) At least twenty-five (25) persons who submit comments independently of each other;

6 (2) A governmental subdivision or agency; or

7 (3) A duly appointed person in an association that has having at least twenty-five (25)  
8 members.

9 (h) If a hearing is held on the proposed rule or amendment, the commission shall publish  
10 the place, time, and date of the scheduled public hearing.

11 (1) All persons wishing to be heard at the hearing shall notify the executive director of the  
12 commission or other designated member in writing of their desire to appear and testify at the  
13 hearing not less than five (5) business days before the scheduled date of the hearing.

14 (2) Hearings shall be conducted in a manner providing each person who wishes to comment  
15 a fair and reasonable opportunity to comment orally or in writing.

16 (3) No transcript of the hearing is required, unless a written request for a transcript is made,  
17 in which case the person requesting the transcript shall bear the cost of producing the transcript. A  
18 recording may be made in lieu of a transcript under the same terms and conditions as a transcript.  
19 This subsection shall not preclude the commission from making a transcript or recording of the  
20 hearing if it so chooses.

21 (4) Nothing in this section shall be construed as requiring a separate hearing on each rule.  
22 rules may be grouped for the convenience of the commission at hearings required by this section.

23 (i) Following the scheduled hearing date, or by the close of business on the scheduled  
24 hearing date if the hearing was not held, the commission shall consider all written and oral  
25 comments received.

26 (j) The commission shall, by majority vote of all members, take final action on the proposed  
27 rule and shall determine the effective date of the rule, if any, based on the rulemaking record and  
28 the full text of the rule.

29 (k) If no written notice of intent to attend the public hearing by interested parties is  
30 received, the commission may proceed with promulgation of the proposed rule without a public  
31 hearing.

32 (l) Upon determination that an emergency exists, the commission may consider and adopt  
33 an emergency rule without prior notice, opportunity for comment, or hearing, provided that the  
34 usual rulemaking procedures provided in the compact and in this section shall be retroactively

1 applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the  
2 effective date of the rule. For the purposes of this provision, an emergency rule is one that must be  
3 adopted immediately in order to:

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

5 (2) Prevent a loss of commission or compact state funds;

6 (3) Meet a deadline for the promulgation of an administrative rule that is established by  
7 federal law or rule; or

8 (4) Protect public health and safety.

9 (m) The commission or an authorized committee of the commission may direct revisions  
10 to a previously adopted rule or amendment for purposes of correcting typographical errors, errors  
11 in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be  
12 posted on the website of the commission. The revision shall be subject to challenge by any person  
13 for a period of thirty (30) days after posting. The revision may be challenged only on grounds that  
14 the revision results in a material change to a rule. A challenge shall be made in writing, and  
15 delivered to the chair of the commission prior to the end of the notice period. If no challenge is  
16 made, the revision will take effect without further action. If the revision is challenged, the revision  
17 may not take effect without the approval of the commission.

18 **5-44.1-13. -- Oversight, dispute resolution, and enforcement.**

19 **(a) Oversight**

20 (1) The executive, legislative and judicial branches of state government in each compact  
21 state shall enforce this compact and take all actions necessary and appropriate to effectuate the  
22 compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder  
23 shall have standing as statutory law.

24 (2) All courts shall take judicial notice of the compact and the rules in any judicial or  
25 administrative proceeding in a compact state pertaining to the subject matter of this  
26 compact which may affect the powers, responsibilities or actions of the commission.

27 (3) The commission shall be entitled to receive service of process in any such proceeding,  
28 and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service  
29 of process to the commission shall render a judgment or order void as to the commission, this  
30 compact or promulgated rules.

31 **(b) Default, technical assistance, and termination**

32 (1) If the commission determines that a compact state has defaulted in the performance of  
33 its obligations or responsibilities under this compact or the promulgated rules, the commission  
34 shall:



1 (a) Provide written notice to the defaulting state and other compact states of the nature of  
2 the default, the proposed means of remedying the default and/or any other action to be taken by the  
3 commission; and

4 (b) Provide remedial training and specific technical assistance regarding the default.

5 (2) If a state in default fails to remedy the default, the defaulting state may be terminated  
6 from the compact upon an affirmative vote of a majority of the compact states, and all rights,  
7 privileges and benefits conferred by this compact shall be terminated on the effective date of  
8 termination. A remedy of the default does not relieve the offending state of obligations or liabilities  
9 incurred during the period of default.

10 (3) Termination of membership in the compact shall be imposed only after all other means  
11 of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be  
12 submitted by the commission to the governor, the majority and minority leaders of the defaulting  
13 state's legislature, and each of the compact states.

14 (4) A compact state which has been terminated is responsible for all assessments,  
15 obligations and liabilities incurred through the effective date of termination, including obligations  
16 which extend beyond the effective date of termination.

17 (5) The commission shall not bear any costs incurred by the state which is found to be in  
18 default or which has been terminated from the compact, unless agreed upon in writing between the  
19 commission and the defaulting state.

20 (6) The defaulting state may appeal the action of the commission by petitioning the U.S.  
21 district court for the state of Georgia or the federal district where the compact has its principal  
22 offices. The prevailing member shall be awarded all costs of such litigation, including reasonable  
23 attorney's fees.

24 (c) Dispute resolution

25 (1) Upon request by a compact state, the commission shall attempt to resolve disputes  
26 related to the compact which arise among compact states and between compact and non-compact  
27 states.

28 (2) The commission shall promulgate a rule providing for both mediation and binding  
29 dispute resolution for disputes that arise before the commission.

30 (d) Enforcement

31 (1) The commission, in the reasonable exercise of its discretion, shall enforce the  
32 provisions and rules of this compact.

33 (2) By majority vote, the commission may initiate legal action in the United States district  
34 court for the State of Georgia or the federal district where the compact has its principal offices

1 against a compact state in default to enforce compliance with the provisions of the compact and its  
2 promulgated rules and bylaws. The relief sought may include both injunctive relief and damages.  
3 In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of  
4 such litigation, including reasonable attorney's fees.

5 (3) The remedies herein shall not be the exclusive remedies of the commission. The  
6 commission may pursue any other remedies available under federal or state law.

7 **5-44.1-14. Date of implementation of the psychology interjurisdictional compact**  
8 **commission and associated rules, withdrawal, and amendments.**

9 (a) The compact shall come into effect on the date on which the compact is enacted into  
10 law in the seventh compact state. The provisions which become effective at that time shall be  
11 limited to the powers granted to the commission relating to assembly and the promulgation of rules.  
12 Thereafter, the commission shall meet and exercise rulemaking powers necessary to the  
13 implementation and administration of the compact.

14 (b) Any state which joins the compact subsequent to the commission's initial adoption of  
15 the rules shall be subject to the rules as they exist on the date on which the compact becomes law  
16 in that state. Any rule which has been previously adopted by the commission shall have the full  
17 force and effect of law on the day the compact becomes law in that state.

18 (c) Any compact state may withdraw from this compact by enacting a statute repealing the  
19 same.

20 (1) A compact state's withdrawal shall not take effect until six (6) months after enactment  
21 of the repealing statute.

22 (2) Withdrawal shall not affect the continuing requirement of the withdrawing state's  
23 psychology regulatory authority to comply with the investigative and adverse action reporting  
24 requirements of this act prior to the effective date of withdrawal.

25 (d) Nothing contained in this compact shall be construed to invalidate or prevent any  
26 psychology licensure agreement or other cooperative arrangement between a compact state and a  
27 non-compact state which does not conflict with the provisions of this compact.

28 (e) This compact may be amended by the compact states. No amendment to this compact  
29 shall become effective and binding upon any compact State until it is enacted into the law of all  
30 compact states.

31 **5-44.1-15. – Construction and severability.**

32 This compact shall be liberally construed so as to effectuate the purposes thereof. If this  
33 compact shall be held contrary to the constitution of any state member thereto, the compact shall  
34 remain in full force and effect as to the remaining compact States.

1 SECTION 6. Title 5 of the General Laws entitled “Business and Professions” is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 40.2

4 RHODE ISLAND PHYSICAL THERAPIST LICENSURE COMPACT

5 **5-40.2-1. Short title – The Rhode Island Physical Therapist Licensure Compact Act.**

6 This chapter shall be known and may be cited as the Rhode Island physical therapist  
7 licensure compact act.

8 **5-40.2-2. Purpose.**

9 (a) The purpose of the physical therapist licensure compact is to facilitate interstate practice  
10 of physical therapy with the goal of improving public access to physical therapy services. The  
11 practice of physical therapy occurs in the state where the patient/client is located at the time of the  
12 patient/client encounter. The compact preserves the regulatory authority of the state to protect  
13 public health and safety through the current system of state licensure. The compact is designed to  
14 achieve the following objectives:

15 (1) Increase public access to physical therapy services by providing for the mutual  
16 recognition of other member state licenses;

17 (2) Enhance the states’ ability to protect the public’s health and safety;

18 (3) Encourage the cooperation of member states in regulating multi-state physical therapy  
19 practice;

20 (4) Support spouses of relocating military members;

21 (5) Enhance the exchange of licensure, investigative, and disciplinary information between  
22 member states; and

23 (6) Allow a remote state to hold a provider of services with a compact privilege in that state  
24 accountable to that state’s practice standards.

25 **5-40.2-3. Definitions.**

26 As used in this compact, and except as otherwise provided, the following definitions shall  
27 apply:

28 (a) “Active duty military” means full-time duty status in the active uniformed service of  
29 the United States, including members of the national guard and reserve on active duty orders  
30 pursuant to 10 U.S.C. Section 1209 and 1211.

31 (b) “Adverse action” means disciplinary action taken by a physical therapy licensing board  
32 based upon misconduct, unacceptable performance, or a combination of both.

1           (c) “Alternative program” means a non-disciplinary monitoring or practice remediation  
2 process approved by a physical therapy licensing board. This includes, but is not limited to,  
3 substance abuse issues.

4           (d) “Compact privilege” means the authorization granted by a remote state to allow a  
5 licensee from another member state to practice as a physical therapist or work as a physical therapist  
6 assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the  
7 member state where the patient/client is located at the time of the patient/client encounter.

8           (e) “Continuing competence” means a requirement, as a condition of license renewal, to  
9 provide evidence of participation in, and/or completion of, educational and professional activities  
10 relevant to practice or area of work.

11           (f) “Data system” means a repository of information about licensees, including  
12 examination, licensure, investigative, compact privilege, and adverse action.

13           (g) “Encumbered license” means a license that a physical therapy licensing board has  
14 limited in any way.

15           (h) “Executive board” means a group of directors elected or appointed to act on behalf of,  
16 and within the powers granted to them by, the commission.

17           (i) “Home state” means the member state that is the licensee’s primary state of residence.

18           (j) “Investigative information” means information, records, and documents received or  
19 generated by a physical therapy licensing board pursuant to an investigation.

20           (k) “Jurisprudence requirement” means the assessment of an individual’s knowledge of the  
21 laws and rules governing the practice of physical therapy in a state.

22           (l) “Licensee” means an individual who currently holds an authorization from the state to  
23 practice as a physical therapist or to work as a physical therapist assistant.

24           (m) “Member state” means a state that has enacted the compact.

25           (n) “Party state” means any member state in which a licensee holds a current license or  
26 compact privilege or is applying for a license or compact privilege.

27           (o) “Physical therapist” means an individual who is licensed by a state to practice physical  
28 therapy.

29           (p) “Physical therapist assistant” means an individual who is licensed/certified by a state  
30 and who assists the physical therapist in selected components of physical therapy.

31           (q) “Physical therapy,” “physical therapy practice,” and “the practice of physical therapy”  
32 mean the care and services provided by or under the direction and supervision of a licensed physical  
33 therapist.

34           (r) “Physical therapy compact” means the formal compact authorized in chapter 5-40.2.

1 (s) “Physical therapy compact commission” or “commission” means the national  
2 administrative body whose membership consists of all states that have enacted the compact.

3 (t) “Physical therapy licensing board” or “licensing board” means the agency of a state that  
4 is responsible for the licensing and regulation of physical therapists and physical therapist  
5 assistants.

6 (u) “Remote state” means a member state other than the home state, where a licensee is  
7 exercising or seeking to exercise the compact privilege.

8 (v) “Rule” means a regulation, principle, or directive promulgated by the commission that  
9 has the force of law.

10 (w) “State” means any state, commonwealth, district, or territory of the United States of  
11 America that regulates the practice of physical therapy.

12 **5-40.2-4. State participation in the compact.**

13 (a) To participate in the compact, a state must:

14 (1) Participate fully in the commission’s data system, including using the commission’s  
15 unique identifier as defined in rules;

16 (2) Have a mechanism in place for receiving and investigating complaints about licensees;

17 (3) Notify the commission, in compliance with the terms of the compact and rules, of any  
18 adverse action or the availability of investigative information regarding a licensee;

19 (4) Fully implement a criminal background check requirement, within a time frame  
20 established by rule, by receiving the results of the Federal Bureau of Investigation record search on  
21 criminal background checks and use the results in making licensure decisions in accordance with  
22 section 5-40.2-4 (b);

23 (5) Comply with the rules of the commission;

24 (6) Utilize a recognized national examination as a requirement for licensure pursuant to the  
25 rules of the commission; and

26 (7) Have continuing competence requirements as a condition for license renewal.

27 (b) Upon adoption of this statute, the member state shall have the authority to obtain  
28 biometric-based information from each physical therapy licensure applicant and submit this  
29 information to the Federal Bureau of Investigation for a criminal background check in accordance  
30 with 28 U.S.C. §534 and 42 U.S.C. §14616.

31 (c) A member state shall grant the compact privilege to a licensee holding a valid  
32 unencumbered license in another member state in accordance with the terms of the compact and  
33 rules.

34 (d) Member states may charge a fee for granting a compact privilege.

1           **5-40.2-5. Compact privilege.**

2           (a) To exercise the compact privilege under the terms and provisions of the compact, the  
3 licensee shall:

4           (1) Hold a license in the home state;

5           (2) Have no encumbrance on any state license;

6           (3) Be eligible for a compact privilege in any member state in accordance with section 5-  
7 40.2-5 (d), (g), and (h);

8           (4) Have not had any adverse action against any license or compact privilege within the  
9 previous two years;

10          (5) Notify the commission that the licensee is seeking the compact privilege within a  
11 remote state(s);

12          (6) Pay any applicable fees, including any state fee, for the compact privilege;

13          (7) Meet any jurisprudence requirements established by the remote state(s) in which the  
14 licensee is seeking a compact privilege; and

15          (8) Report to the commission adverse action taken by any non-member state within 30 days  
16 from the date the adverse action is taken.

17          (b) The compact privilege is valid until the expiration date of the home license. The licensee  
18 must comply with the requirements of section 5-40.2-5 (a) to maintain the compact privilege in the  
19 remote state.

20          (c) A licensee providing physical therapy in a remote state under the compact privilege  
21 shall function within the laws and regulations of the remote state.

22          (d) A licensee providing physical therapy in a remote state is subject to that state's  
23 regulatory authority. A remote state may, in accordance with due process and that state's laws,  
24 remove a licensee's compact privilege in the remote state for a specific period of time, impose  
25 finances, and/or take any other necessary actions to protect the health and safety of its citizens. The  
26 licensee is not eligible for a compact privilege in any state until the specific time for removal has  
27 passed and all fines are paid.

28          (e) If a home state license is encumbered, the licensee shall lose the compact privilege in  
29 any remote state until the following occur:

30                 (1) The home state license is no longer encumbered; and

31                 (2) Two years have elapsed from the date of the adverse action.

32          (f) Once an encumbered license in the home state is restored to good standing, the licensee  
33 must meet the requirements of section 5-40.2-5 (a) to obtain a compact privilege in any remote  
34 state.

1 (g) If a licensee's compact privilege in any remote state is removed, the individual shall  
2 lose the compact privilege in any remote state until the following occur:

3 (1) The specific period of time for which the compact privilege was removed has ended;

4 (2) All fines have been paid; and

5 (3) Two years have elapsed from the date of the adverse action.

6 (h) Once the requirements of section 5-40.2-5 (g) have been met, the license must meet the  
7 requirements in section 5-40.2-5 (a) to obtain a compact privilege in a remote state.

8 **5-40.2-6. Active duty military personnel or their spouses.**

9 (a) A licensee who is active duty military or is the spouse of an individual who is active  
10 duty military may designate one of the following as the home state:

11 (1) Home of record;

12 (2) Permanent change of station (PCS); or

13 (3) State of current residence if it is different than the PCS state or home of record.

14 **5-40.2-7. Adverse Actions.**

15 (a) A home state shall have exclusive power to impose adverse action against a license  
16 issued by the home state.

17 (b) A home state may take adverse action based on the investigative information of a  
18 remote state, so long as the home state follows its own procedures for imposing adverse action.

19 (c) Nothing in this compact shall override a member state's decision that participation in  
20 an alternative program may be used in lieu of adverse action and that such participation shall remain  
21 non-public if required by the member state's laws. Member states must require licensees who enter  
22 any alternative programs in lieu of discipline to agree not to practice in any other member state  
23 during the term of the alternative program without prior authorization from such other member  
24 state.

25 (d) Any member state may investigate actual or alleged violations of the statutes and rules  
26 authorizing the practice of physical therapy in any other member state in which a physical therapist  
27 or physical therapist assistant holds a license or compact privilege.

28 (e) A remote state shall have the authority to:

29 (1) Take adverse actions as set forth in section 5-40.2-5 (d) against a licensee's compact  
30 privilege in the state;

31 (2) Issue subpoenas for both hearings and investigations that require the attendance and  
32 testimony of witnesses, and the production of evidence. Subpoenas issued by a physical therapy  
33 licensing board in a party state for the attendance and testimony of witnesses, and/or the production  
34 of evidence from another party state, shall be enforced in the latter state by any court of competent

1 jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in  
2 proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses,  
3 mileage, and other fees required by the service statutes of the state where the witnesses and/or  
4 evidence are located; and

5 (3) If otherwise permitted by state law, recover from the licensee the costs of investigations  
6 and disposition of cases resulting from any adverse action taken against that licensee.

7 (f) Joint Investigations

8 (1) In addition to the authority granted to a member state by its respective physical therapy  
9 practice act or other applicable state law, a member state may participate with other member states  
10 in joint investigations of licensees.

11 (2) Member states shall share any investigative, litigation, or compliance materials in  
12 furtherance of any joint or individual investigation initiated under the Compact.

13 **5-40.2-8. Establishment of the physical therapy compact commission.**

14 (a) The compact member states hereby create and establish a joint public agency known as  
15 the physical therapy compact commission:

16 (1) The commission is an instrumentality of the compact states.

17 (2) Venue is proper and judicial proceedings by or against the commission shall be brought  
18 solely and exclusively in a court of competent jurisdiction where the principal office of the  
19 commission is located. The commission may waive venue and jurisdictional defenses to the extent  
20 it adopts or consents to participate in alternative dispute resolution proceedings.

21 (3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

22 (b) Membership, Voting, and Meetings

23 (1) Each member state shall have and be limited to one delegate selected by that member  
24 state's licensing board.

25 (2) The delegate shall be a current member of the licensing board, who is a physical  
26 therapist, physical therapist assistant, public member, or the board administrator.

27 (3) Any delegate may be removed or suspended from office as provided by the law of the  
28 state from which the delegate is appointed.

29 (4) The member state board shall fill any vacancy occurring in the commission.

30 (5) Each delegate shall be entitled to one vote with regard to the promulgation of rules and  
31 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs  
32 of the commission.



1           (6) A delegate shall vote in person or by such other means as provided in the bylaws. The  
2 bylaws may provide for delegates' participation in meetings by telephone or other means of  
3 communication.

4           (7) The commission shall meet at least once during each calendar year.

5           (8) Additional meetings shall be held as set forth in the bylaws.

6           (c) The commission shall have the following powers and duties:

7           (1) Establish the fiscal year of the commission;

8           (2) Establish bylaws;

9           (3) Maintain its financial records in accordance with the bylaws;

10          (4) Meet and take such actions as are consistent with the provisions of this compact and  
11 the bylaws;

12          (5) Promulgate uniform rules to facilitate and coordinate implementation and  
13 administration of this compact. The rules shall have the force and effect of law and shall be binding  
14 in all member states;

15          (6) Bring and prosecute legal proceedings or actions in the name of the commission,  
16 provided that the standing of any state physical therapy licensing board to sue or be sued under  
17 applicable law shall not be affected;

18          (7) Purchase and maintain insurance and bonds;

19          (8) Borrow, accept, or contract for services of personnel, including, but not limited to,  
20 employees of a member state;

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

25          (10) Accept any and all appropriate donations and grants of money, equipment, supplies,  
26 materials and services, and to receive, utilize and dispose of the same; provided that at all times the  
27 commission shall avoid any appearance of impropriety and/or conflict of interest;

28          (11) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold,  
29 improve or use, any property, real, personal or mixed; provided that at all times the commission  
30 shall avoid any appearance of impropriety;

31          (12) Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any  
32 property real, personal, or mixed;

33          (13) Establish a budget and make expenditures;

34          (14) Borrow money;

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

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

5 (17) Establish and elect an executive board; and

6 (18) Perform such other functions as may be necessary or appropriate to achieve the  
7 purposes of this compact consistent with the state regulation of physical therapy licensure and  
8 practice.

9 (d) The executive board shall have the power to act on behalf of the commission according  
10 to the terms of this compact. The executive board shall be composed of nine members:

11 (1) Seven voting members who are elected by the commission from the current  
12 membership of the commission;

13 (2) One ex-officio, nonvoting member from the recognized national physical therapy  
14 professional association; and

15 (3) One ex-officio, nonvoting member from the recognized membership organization of  
16 the physical therapy licensing boards.

17 (4) The ex-officio members will be selected by their respective organizations.

18 (5) The commission may remove any member of the executive board as provided in  
19 bylaws.

20 (e) The executive board shall meet at least annually.

21 (f) The executive board shall have the following duties and responsibilities:

22 (1) Recommend to the entire commission changes to the rules or bylaws, changes to this  
23 compact legislation, fees paid by compact member states such as annual dues, and any commission  
24 compact fee charged to licensees for the compact privilege;

25 (2) Ensure compact administration services are appropriately provided, contractual or  
26 otherwise;

27 (3) Prepare and recommend the budget;

28 (4) Maintain financial records on behalf of the commission;

29 (5) Monitor compact compliance of member states and provide compliance reports to the  
30 commission;

31 (6) Establish additional committees as necessary; and

32 (7) Other duties as provided in rules or bylaws.

33 (g) All meetings of the commission shall be open to the public, and public notice of  
34 meetings shall be given in the same manner as required under the rulemaking provisions in 5-40.2-

1           (1) The commission or the executive board or other committees of the commission may  
2 convene in a closed, non-public meeting if the commission or executive board or other committees  
3 of the commission must discuss:

4           (2) Non-compliance of a member state with its obligations under the compact;

5           (3) The employment, compensation, discipline or other matters, practices or procedures  
6 related to specific employees or other matters related to the commission's internal personnel  
7 practices and procedures;

8           (4) Current, threatened, or reasonably anticipated litigation;

9           (5) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

10          (6) Accusing any person of a crime or formally censuring any person;

11          (7) Disclosure of trade secrets or commercial or financial information that is privileged or  
12 confidential;

13          (8) Disclosure of information of a personal nature where disclosure would constitute a  
14 clearly unwarranted invasion of personal privacy;

15          (9) Disclosure of investigative records compiled for law enforcement purposes;

16          (10) Disclosure of information related to any investigative reports prepared by or on behalf  
17 of or for use of the commission or other committee charged with responsibility of investigation or  
18 determination of compliance issues pursuant to the compact; or

19          (11) Matters specifically exempted from disclosure by federal or member state statute.

20          (h) If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
21 commission's legal counsel or designee shall certify that the meeting may be closed and shall  
22 reference each relevant exempting provision.

23          (i) The commission shall keep minutes that fully and clearly describe all matters discussed  
24 in a meeting and shall provide a full and accurate summary of actions taken, and the reasons  
25 therefore, including a description of the views expressed. All documents considered in connection  
26 with an action shall be identified in such minutes. All minutes and documents of a closed meeting  
27 shall remain under seal, subject to release by a majority vote of the commission or order of a court  
28 of competent jurisdiction.

29          (j) The commission shall pay, or provide for the payment of, the reasonable expenses of its  
30 establishment, organization, and ongoing activities.

31          (1) The commission may accept any and all appropriate revenue sources, donations, and  
32 grants of money, equipment, supplies, materials, and services.

33          (2) The commission may levy on and collect an annual assessment from each member state  
34 or impose fees on other parties to cover the cost of the operations and activities of the commission

1 and its staff, which must be in a total amount sufficient to cover its annual budget as approved each  
2 year for which revenue is not provided by other sources. The aggregate annual assessment amount  
3 shall be allocated based upon a formula to be determined by the commission, which shall  
4 promulgate a rule binding upon all member states.

5 (3) The commission shall not incur obligations of any kind prior to securing the funds  
6 adequate to meet the same; nor shall the commission pledge the credit of any of the member states,  
7 except by and with the authority of the member state.

8 (4) The commission shall keep accurate accounts of all receipts and disbursements. The  
9 receipts and disbursements of the commission shall be subject to the audit and accounting  
10 procedures established under its bylaws. However, all receipts and disbursements of funds handled  
11 by the commission shall be audited yearly by a certified or licensed public accountant, and the  
12 report of the audit shall be included in and become part of the annual report of the commission.

13 (k) The members, officers, executive director, employees and representatives of the  
14 commission shall be immune from suit and liability, either personally or in their official capacity,  
15 for any claim for damage to or loss of property or personal injury or other civil liability caused by  
16 or arising out of any actual or alleged act, error or omission that occurred, or that the person against  
17 whom the claim is made had a reasonable basis for believing occurred within the scope of  
18 commission employment, duties or responsibilities; provided that nothing in this paragraph shall  
19 be construed to protect any such person from suit and/or liability for any damage, loss, injury, or  
20 liability caused by the intentional or willful or wanton misconduct of that person.

21 (1) The commission shall defend any member, officer, executive director, employee or  
22 representative of the commission in any civil action seeking to impose liability arising out of any  
23 actual or alleged act, error, or omission that occurred within the scope of commission employment,  
24 duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis  
25 for believing occurred within the scope of commission employment, duties, or responsibilities;  
26 provided that nothing herein shall be construed to prohibit that person from retaining his or her own  
27 counsel; and provided further, that the actual or alleged act, error, or omission did not result from  
28 that person's intentional or willful or wanton misconduct.

29 (2) The commission shall indemnify and hold harmless any member, officer, executive  
30 director, employee, or representative of the commission for the amount of any settlement or  
31 judgment obtained against that person arising out of any actual or alleged act, error or omission  
32 that occurred within the scope of commission employment, duties, or responsibilities, or that such  
33 person had a reasonable basis for believing occurred within the scope of commission employment.

1 duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result  
2 from the intentional or willful or wanton misconduct of that person.

3 **5-40-2-9. Data System.**

4 (a) The commission shall provide for the development, maintenance, and utilization of a  
5 coordinated database and reporting system containing licensure, adverse action, and investigative  
6 information on all licensed individuals in member states.

7 (b) Notwithstanding any other provision of state law to the contrary, a member state shall  
8 submit a uniform data set to the data system on all individuals to whom this compact is applicable  
9 as required by the rules of the commission, including:

10 (1) Identifying information;

11 (2) Licensure data;

12 (3) Adverse actions against a license or compact privilege;

13 (4) Non-confidential information related to alternative program participation;

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

15 (6) Other information that may facilitate the administration of this compact, as determined  
16 by the rules of the commission.

17 (c) Investigative information pertaining to a licensee in any member state will only be  
18 available to other party states.

19 (d) The commission shall promptly notify all member states of any adverse action taken  
20 against a licensee or an individual applying for a license. Adverse action information pertaining to  
21 a licensee in any member state will be available to any other member state.

22 (e) Member states contributing information to the data system may designate information  
23 that may not be shared with the public without the express permission of the contributing state.

24 (f) Any information submitted to the data system that is subsequently required to be  
25 expunged by the laws of the member state contributing the information shall be removed from the  
26 data system.

27 **5-40-2-10. Rulemaking.**

28 (a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth  
29 in this Section and the rules adopted thereunder. Rules and amendments shall become binding as  
30 of the date specified in each rule or amendment.

31 (b) If a majority of the legislatures of the member states rejects a rule, by enactment of a  
32 statute or resolution in the same manner used to adopt the compact within four years of the date of  
33 adoption of the rule, then such rule shall have no further force and effect in any member state.

1 (c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the  
2 commission.

3 (d) Prior to promulgation and adoption of a final rule or rules by the commission, and at  
4 least thirty days in advance of the meeting at which the rule will be considered and voted upon, the  
5 commission shall file a notice of proposed Rulemaking:

- 6 (1) On the website of the commission or other publicly accessible platform; and  
7 (2) On the website of each member state physical therapy licensing board or other publicly  
8 accessible platform or the publication in which each state would otherwise publish proposed rules.

9 (e) The notice of proposed rulemaking shall include:

10 (1) The proposed time, date, and location of the meeting in which the rule will be  
11 considered and voted upon;

12 (2) The text of the proposed rule or amendment and the reason for the proposed rule;

13 (3) A request for comments on the proposed rule from any interested person; and

14 (4) The manner in which interested persons may submit notice to the commission of their  
15 intention to attend the public hearing and any written comments.

16 (f) Prior to adoption of a proposed rule, the commission shall allow persons to submit  
17 written data, facts, opinions, and arguments, which shall be made available to the public.

18 (g) The commission shall grant an opportunity for a public hearing before it adopts a rule  
19 or amendment if a hearing is requested by:

20 (1) At least twenty-five persons;

21 (2) A state or federal governmental subdivision or agency; or

22 (3) An association having at least twenty-five members.

23 (h) If a hearing is held on the proposed rule or amendment, the commission shall publish  
24 the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means,  
25 the commission shall publish the mechanism for access to the electronic hearing.

26 (1) All persons wishing to be heard at the hearing shall notify the executive director of the  
27 commission or other designated member in writing of their desire to appear and testify at the  
28 hearing not less than five business days before the scheduled date of the hearing.

29 (2) Hearings shall be conducted in a manner providing each person who wishes to comment  
30 a fair and reasonable opportunity to comment orally or in writing.

31 (3) All hearings will be recorded. A copy of the recording will be made available on  
32 request.

33 (4) Nothing in this section shall be construed as requiring a separate hearing on each rule.  
34 Rules may be grouped for the convenience of the commission at hearings required by this section.

1 (i) Following the scheduled hearing date, or by the close of business on the scheduled  
2 hearing date if the hearing was not held, the commission shall consider all written and oral  
3 comments received.

4 (j) If no written notice of intent to attend the public hearing by interested parties is received,  
5 the commission may proceed with promulgation of the proposed rule without a public hearing.

6 (k) The commission shall, by majority vote of all members, take final action on the  
7 proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking  
8 record and the full text of the rule.

9 (l) Upon determination that an emergency exists, the commission may consider and adopt  
10 an emergency rule without prior notice, opportunity for comment, or hearing, provided that the  
11 usual rulemaking procedures provided in the compact and in this section shall be retroactively  
12 applied to the rule as soon as reasonably possible, in no event later than ninety days after the  
13 effective date of the rule. For the purposes of this provision, an emergency rule is one that must be  
14 adopted immediately in order to:

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

16 (2) Prevent a loss of commission or member state funds;

17 (3) Meet a deadline for the promulgation of an administrative rule that is established by  
18 federal law or rule; or

19 (4) Protect public health and safety.

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

29 **5-40-.2-11. Oversight, dispute resolution, and enforcement.**

30 (a) The executive, legislative, and judicial branches of state government in each member  
31 state shall enforce this compact and take all actions necessary and appropriate to effectuate the  
32 compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder  
33 shall have standing as statutory law.

1           **(b) All courts shall take judicial notice of the compact and the rules in any judicial or**  
2 **administrative proceeding in a member state pertaining to the subject matter of this compact which**  
3 **may affect the powers, responsibilities or actions of the commission.**

4           **(c) The commission shall be entitled to receive service of process in any such proceeding**  
5 **and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service**  
6 **of process to the commission shall render a judgment or order void as to the commission, this**  
7 **compact, or promulgated rules.**

8           **(d) If the commission determines that a member state has defaulted in the performance of**  
9 **its obligations or responsibilities under this compact or the promulgated rules, the commission**  
10 **shall:**

11           **(1) Provide written notice to the defaulting state and other member states of the nature of**  
12 **the default, the proposed means of curing the default and/or any other action to be taken by the**  
13 **commission; and**

14           **(2) Provide remedial training and specific technical assistance regarding the default.**

15           **(e) If a state in default fails to cure the default, the defaulting state may be terminated from**  
16 **the compact upon an affirmative vote of a majority of the member states, and all rights, privileges**  
17 **and benefits conferred by this compact may be terminated on the effective date of termination. A**  
18 **cure of the default does not relieve the offending state of obligations or liabilities incurred during**  
19 **the period of default.**

20           **(f) Termination of membership in the compact shall be imposed only after all other means**  
21 **of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given**  
22 **by the commission to the governor, the majority and minority leaders of the defaulting state's**  
23 **legislature, and each of the member states.**

24           **(g) A state that has been terminated is responsible for all assessments, obligations, and**  
25 **liabilities incurred through the effective date of termination, including obligations that extend**  
26 **beyond the effective date of termination.**

27           **(h) The commission shall not bear any costs related to a state that is found to be in default**  
28 **or that has been terminated from the compact, unless agreed upon in writing between the**  
29 **commission and the defaulting state.**

30           **(i) The defaulting state may appeal the action of the commission by petitioning the U.S.**  
31 **district court for the District of Columbia or the federal district where the commission has its**  
32 **principal offices. The prevailing member shall be awarded all costs of such litigation, including**  
33 **reasonable attorney's fees.**



1 (j) Upon request by a member state, the commission shall attempt to resolve disputes  
2 related to the compact that arise among member states and between member and non-member  
3 states.

4 (k) The commission shall promulgate a rule providing for both mediation and binding  
5 dispute resolution for disputes as appropriate.

6 (l) The commission, in the reasonable exercise of its discretion, shall enforce the provisions  
7 and rules of this compact.

8 (m) By majority vote, the commission may initiate legal action in the United States district  
9 court for the District of Columbia or the federal district where the commission has its principal  
10 offices against a member state in default to enforce compliance with the provisions of the compact  
11 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and  
12 damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded  
13 all costs of such litigation, including reasonable attorney's fees.

14 (n) The remedies herein shall not be the exclusive remedies of the commission. The  
15 commission may pursue any other remedies available under federal or state law.

16 **5-40-.2-12. Date of implementation of the interstate commission for physical therapy**  
17 **practice and associated rules, withdrawal, and amendment**

18 (a) The compact shall come into effect on the date on which the compact statute is enacted  
19 into law in the tenth member state. The provisions, which become effective at that time, shall be  
20 limited to the powers granted to the commission relating to assembly and the promulgation of rules.  
21 Thereafter, the commission shall meet and exercise rulemaking powers necessary to the  
22 implementation and administration of the compact.

23 (b) Any state that joins the compact subsequent to the commission's initial adoption of the  
24 rules shall be subject to the rules as they exist on the date on which the compact becomes law in  
25 that state. Any rule that has been previously adopted by the commission shall have the full force  
26 and effect of law on the day the compact becomes law in that state.

27 (c) Any member state may withdraw from this compact by enacting a statute repealing the  
28 same.

29 (1) A member state's withdrawal shall not take effect until six months after enactment of  
30 the repealing statute.

31 (2) Withdrawal shall not affect the continuing requirement of the withdrawing state's  
32 physical therapy licensing board to comply with the investigative and adverse action reporting  
33 requirements of this act prior to the effective date of withdrawal.

1 (d) Nothing contained in this compact shall be construed to invalidate or prevent any  
2 physical therapy licensure agreement or other cooperative arrangement between a member state  
3 and a non-member state that does not conflict with the provisions of this compact.

4 (e) This compact may be amended by the member states. No amendment to this compact  
5 shall become effective and binding upon any member state until it is enacted into the laws of all  
6 member states.

7 **5-40.2-13. Construction and severability**

8 This compact shall be liberally construed so as to effectuate the purposes thereof. The  
9 provisions of this compact shall be severable and if any phrase, clause, sentence or provision of  
10 this compact is declared to be contrary to the constitution of any party state or of the United States  
11 or the applicability thereof to any government, agency, person or circumstance is held invalid, the  
12 validity of the remainder of this compact and the applicability thereof to any government, agency,  
13 person or circumstance shall not be affected thereby. If this compact shall be held contrary to the  
14 constitution of any party state, the compact shall remain in full force and effect as to the remaining  
15 party states and in full force and effect as to the party state affected as to all severable matters.

16 SECTION 7. Title 23 of the General Laws entitled “Health and Safety” is hereby amended  
17 by adding thereto the following chapter:

18 **CHAPTER 23-4.2**

19 **EMERGENCY MEDICAL SERVICES PERSONNEL LICENSURE INTERSTATE**  
20 **COMPACT.**

21 **23-4.2-1. Short title.** – This chapter shall be known and may be cited as the Emergency  
22 medical Services Personnel Licensure Interstate Compact.

23 **23-4.2-2. Purpose.** - In order to protect the public through verification of competency and  
24 ensure accountability for patient care related activities all states license emergency medical services  
25 (EMS) personnel, such as emergency medical technicians (EMTs), advanced EMTs and  
26 paramedics. This Compact is intended to facilitate the day to day movement of EMS personnel  
27 across state boundaries in the performance of their EMS duties as assigned by an appropriate  
28 authority and authorize state EMS offices to afford immediate legal recognition to EMS personnel  
29 licensed in a member state. This Compact recognizes that states have a vested interest in protecting  
30 the public’s health and safety through their licensing and regulation of EMS personnel and that  
31 such state regulation shared among the member states will best protect public health and safety.  
32 This Compact is designed to achieve the following purposes and objectives:

33 **(1) Increase public access to EMS personnel;**

- 1           (2) Enhance the states' ability to protect the public's health and safety, especially patient  
2 safety;
- 3           (3) Encourage the cooperation of member states in the areas of EMS personnel licensure  
4 and regulation;
- 5           (4) Support licensing of military members who are separating from an active duty tour and  
6 their spouses;
- 7           (5) Facilitate the exchange of information between member states regarding EMS  
8 personnel licensure, adverse action and significant investigatory information
- 9           (6) Promote compliance with the laws governing EMS personnel practice in each member  
10 state; and
- 11           (7) Invest all member states with the authority to hold EMS personnel accountable through  
12 the mutual recognition of member state licenses.

13           **23-4.2-3. Definitions.**

14           (a) "Advanced emergency medical technician (AEMT)" means: an individual licensed  
15 with cognitive knowledge and a scope of practice that corresponds to that level in the national EMS  
16 education standards and national EMS scope of practice model.

17           (b) "Adverse action" means: any administrative, civil, equitable or criminal action  
18 permitted by a state's laws which may be imposed against licensed EMS personnel by a state EMS  
19 authority or state court, including, but not limited to, actions against an individual's license such as  
20 revocation, suspension, probation, consent agreement, monitoring or other limitation or  
21 encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal  
22 convictions and state court judgments enforcing adverse actions by the state EMS authority.

23           (c) "Alternative program" means: a voluntary, non-disciplinary substance abuse recovery  
24 program approved by a state EMS authority.

25           (d) "Certification" means the successful verification of entry-level cognitive and  
26 psychomotor competency using a reliable, validated, and legally defensible examination.

27           (e) "Commission" means the national administrative body of which all states that have  
28 enacted the compact are members.

29           (f) "Emergency medical technician (EMT)" means: an individual licensed with cognitive  
30 knowledge and a scope of practice that corresponds to that level in the national EMS education  
31 standards and national EMS scope of practice model.

32           (g) "Home state" means a member state where an individual is licensed to practice  
33 emergency medical services.

1           (h) “License” means the authorization by a state for an individual to practice as an EMT,  
2 AEMT, paramedic, or a level in between EMT and paramedic.

3           (i) “Medical director” means: a physician licensed in a member state who is accountable  
4 for the care delivered by EMS personnel.

5           (j) “Member state” means a state that has enacted this compact.

6           (k) “Privilege to practice” means: an individual’s authority to deliver emergency medical  
7 services in remote states as authorized under this compact.

8           (l) “Paramedic” means an individual licensed with cognitive knowledge and a scope of  
9 practice that corresponds to that level in the national EMS education standards and national EMS  
10 scope of practice model.

11           (m) “Remote state” means a member state in which an individual is not licensed.

12           (n) “Restricted” means the outcome of an adverse action that limits a license or the  
13 privilege to practice.

14           (o) “Rule” means a written statement by the interstate commission promulgated pursuant  
15 to section 23-4.2-13 of this compact that is of general applicability; implements, interprets, or  
16 prescribes a policy or provision of the compact; or is an organizational, procedural, or practice  
17 requirement of the commission and has the force and effect of statutory law in a member state and  
18 includes the amendment, repeal, or suspension of an existing rule.

19           (p) “Scope of practice” means defined parameters of various duties or services that may be  
20 provided by an individual with specific credentials. Whether regulated by rule, statute, or court  
21 decision, it tends to represent the limits of services an individual may perform.

22           (q) “Significant investigatory information” means:

23           (1) investigative information that a state EMS authority, after a preliminary inquiry that  
24 includes notification and an opportunity to respond if required by state law, has reason to believe,  
25 if proved true, would result in the imposition of an adverse action on a license or privilege to  
26 practice; or

27           (2) investigative information that indicates that the individual represents an immediate  
28 threat to public health and safety regardless of whether the individual has been notified and had an  
29 opportunity to respond.

30           (r) “State” means means any state, commonwealth, district, or territory of the United  
31 States.

32           (s) “State EMS authority” means: the board, office, or other agency with the legislative  
33 mandate to license EMS personnel.

34           **23-4.2-4– Home state licensure.**

1 (a) Any member state in which an individual holds a current license shall be deemed a  
2 home state for purposes of this compact.

3 (b) Any member state may require an individual to obtain and retain a license to be  
4 authorized to practice in the member state under circumstances not authorized by the privilege to  
5 practice under the terms of this compact.

6 (c) A home state's license authorizes an individual to practice in a remote state under the  
7 privilege to practice only if the home state:

8 (1) Currently requires the use of the national registry of emergency medical technicians  
9 (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels;

10 (2) Has a mechanism in place for receiving and investigating complaints about individuals;

11 (3) Notifies the commission, in compliance with the terms herein, of any adverse action or  
12 significant investigatory information regarding an individual;

13 (4) No later than five years after activation of the compact, requires a criminal background  
14 check of all applicants for initial licensure, including the use of the results of fingerprint or other  
15 biometric data checks compliant with the requirements of the Federal Bureau of Investigation with  
16 the exception of federal employees who have suitability determination in accordance with US CFR  
17 §731.202 and submit documentation of such as promulgated in the rules of the commission; and

18 (5) Complies with the rules of the commission.

19 **23-4.2-5– Compact privilege to practice.**

20 (a) Member states shall recognize the privilege to practice of an individual licensed in  
21 another member state that is in conformance with section 23-4.2-4.

22 (b) To exercise the privilege to practice under the terms and provisions of this compact, an  
23 individual must:

24 (1) Be at least 18 years of age;

25 (2) Possess a current unrestricted license in a member state as an EMT, AEMT, paramedic,  
26 or state recognized and licensed level with a scope of practice and authority between EMT and  
27 paramedic; and

28 (3) Practice under the supervision of a medical director.

29 (c) An individual providing patient care in a remote state under the privilege to practice  
30 shall function within the scope of practice authorized by the home state unless and until modified  
31 by an appropriate authority in the remote state as may be defined in the rules of the commission.

32 (d) Except as provided in this subsection, an individual practicing in a remote state will be  
33 subject to the remote state's authority and laws. A remote state may, in accordance with due process  
34 and that state's laws, restrict, suspend, or revoke an individual's privilege to practice in the remote

1 state and may take any other necessary actions to protect the health and safety of its citizens. If a  
2 remote state takes action it shall promptly notify the home state and the Commission.

3 (e) If an individual's license in any home state is restricted or suspended, the individual  
4 shall not be eligible to practice in a remote state under the privilege to practice until the individual's  
5 home state license is restored.

6 (f) If an individual's privilege to practice in any remote state is restricted, suspended, or  
7 revoked the individual shall not be eligible to practice in any remote state until the individual's  
8 privilege to practice is restored.

9 **23-4.2-6– Conditions of practice in a remote site.**

10 An individual may practice in a remote state under a privilege to practice only in the  
11 performance of the individual's EMS duties as assigned by an appropriate authority, as defined in  
12 the rules of the Commission, and under the following circumstances:

13 (1) The individual originates a patient transport in a home state and transports the patient  
14 to a remote state;

15 (2) The individual originates in the home state and enters a remote state to pick up a patient  
16 and provide care and transport of the patient to the home state;

17 (3) The individual enters a remote state to provide patient care and/or transport within that  
18 remote state;

19 (4) The individual enters a remote state to pick up a patient and provide care and transport  
20 to a third member state;

21 (5) Other conditions as determined in the rules.

22 **23-4.2-7 – Relationship to emergency management assistance compact.**

23 Upon a member state's governor's declaration of a state of emergency or disaster that  
24 activates the emergency management assistance compact (EMAC), all relevant terms and  
25 provisions of EMAC shall apply and to the extent any terms or provisions of this compact conflicts  
26 with EMAC, the terms of EMAC shall prevail with respect to any individual practicing in the  
27 remote state in response to such declaration.

28 **23-4.2-8– Veterans, service members separating from active duty military, and their**  
29 **spouses.**

30 Member states shall consider a veteran, active military service member, and member of the  
31 national guard and reserves separating from an active duty tour, and a spouse thereof, who holds a  
32 current valid and unrestricted NREMT certification at or above the level of the state license being  
33 sought as satisfying the minimum training and examination requirements for such licensure.

1 (b) Member states shall expedite the processing of licensure applications submitted by  
2 veterans, active military service members, and members of the national guard and reserves  
3 separating from an active duty tour, and their spouses.

4 (c) All individuals functioning with a privilege to practice under this section remain subject  
5 to the adverse actions provisions of section 23-4.2-9.

6 **23-4.2-9– Adverse actions.**

7 A home state shall have exclusive power to impose adverse action against an individual’s  
8 license issued by the home state.

9 (b) If an individual’s license in any home state is restricted or suspended, the individual  
10 shall not be eligible to practice in a remote state under the privilege to practice until the individual’s  
11 home state license is restored.

12 (1) All home state adverse action orders shall include a statement that the individual’s  
13 compact privileges are inactive. The order may allow the individual to practice in remote states  
14 with prior written authorization from both the home state and remote state’s EMS authority.

15 (2) An individual currently subject to adverse action in the home state shall not practice in  
16 any remote state without prior written authorization from both the home state and remote state’s  
17 EMS authority.

18 (3) A member state shall report adverse actions and any occurrences that the individual’s  
19 compact privileges are restricted, suspended, or revoked to the commission in accordance with the  
20 rules.

21 (4) A remote state may take adverse action on an individual’s privilege to practice within  
22 that state.

23 (5) Any member state may take adverse action against an individual’s privilege to practice  
24 in that state based on the factual findings of another member state, so long as each state follows its  
25 own procedures for imposing such adverse action.

26 (c) A home state’s EMS authority shall investigate and take appropriate action with respect  
27 to reported conduct in a remote state as it would if such conduct had occurred within the home  
28 state. In such cases, the home state’s law shall control in determining the appropriate adverse action.

29 (d) Nothing in this compact shall override a member state’s decision that participation in  
30 an alternative program may be used in lieu of adverse action and that such participation shall remain  
31 non-public if required by the member state’s laws. Member states must require individuals who  
32 enter any alternative programs to agree not to practice in any other member state during the term  
33 of the alternative program without prior authorization from such other member state.

1           **23-4.2-10- Additional powers invested in a member state’s emergency medical**  
2 **services authority.**

3 A member state’s EMS authority, in addition to any other powers granted under state law, is  
4 authorized under this compact to:

5           (1) Issue subpoenas for both hearings and investigations that require the attendance and  
6 testimony of witnesses and the production of evidence. Subpoenas issued by a member state’s EMS  
7 authority for the attendance and testimony of witnesses, and/or the production of evidence from  
8 another member state, shall be enforced in the remote state by any court of competent jurisdiction,  
9 according to that court’s practice and procedure in considering subpoenas issued in its own  
10 proceedings. The issuing state EMS authority shall pay any witness fees, travel expenses, mileage,  
11 and other fees required by the service statutes of the state where the witnesses and/or evidence are  
12 located; and

13 (2) Issue cease and desist orders to restrict, suspend, or revoke an individual’s privilege to practice  
14 in the state.

15           **23-4.2-11– Establishment of the interstate commission for emergency medical**  
16 **personnel practice.**

17           (a) The compact states hereby create and establish a joint public agency known as the  
18 interstate commission for EMS personnel practice.

19           (1) The commission is a body politic and an instrumentality of the compact states.

20           (2) Venue is proper and judicial proceedings by or against the commission shall be brought  
21 solely and exclusively in a court of competent jurisdiction where the principal office of the  
22 commission is located. The commission may waive venue and jurisdictional defenses to the extent  
23 it adopts or consents to participate in alternative dispute resolution proceedings.

24           (3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

25           (b) Membership, voting, and meetings

26           (1) Each member state shall have and be limited to one delegate. The responsible official  
27 of the state EMS authority or his designee shall be the delegate to this compact for each member  
28 state. Any delegate may be removed or suspended from office as provided by the law of the state  
29 from which the delegate is appointed. Any vacancy occurring in the commission shall be filled in  
30 accordance with the laws of the member state in which the vacancy exists. In the event that more  
31 than one board, office, or other agency with the legislative mandate to license EMS personnel at  
32 and above the level of EMT exists, the governor of the state will determine which entity will be  
33 responsible for assigning the delegate.



1           (2) Each delegate shall be entitled to one vote with regard to the promulgation of rules and  
2 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs  
3 of the commission. A delegate shall vote in person or by such other means as provided in the  
4 bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other  
5 means of communication.

6           (3) The commission shall meet at least once during each calendar year. Additional meetings  
7 shall be held as set forth in the bylaws.

8           (4) All meetings shall be open to the public, and public notice of meetings shall be given  
9 in the same manner as required under Chapter 35 of Title 42.

10          (5) The commission may convene in a closed, non-public meeting if the Commission must  
11 discuss:

12           (i) Non-compliance of a member state with its obligations under the compact;

13           (ii) The employment, compensation, discipline or other personnel matters, practices or  
14 procedures related to specific employees or other matters related to the commission's internal  
15 personnel practices and procedures;

16           (iii) Current, threatened, or reasonably anticipated litigation;

17           (iv) Negotiation of contracts for the purchase or sale of goods, services, or real estate;

18           (v) Accusing any person of a crime or formally censuring any person;

19           (vi) Disclosure of trade secrets or commercial or financial information that is privileged or  
20 confidential;

21           (vii) Disclosure of information of a personal nature where disclosure would constitute a  
22 clearly unwarranted invasion of personal privacy;

23           (viii) Disclosure of investigatory records compiled for law enforcement purposes;

24           (ix) Disclosure of information related to any investigatory reports prepared by or on behalf  
25 of or for use of the commission or other committee charged with responsibility of investigation or  
26 determination of compliance issues pursuant to the compact; or

27           (x) Matters specifically exempted from disclosure by federal or member state statute.

28          (6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
29 commission's legal counsel or designee shall certify that the meeting may be closed and shall  
30 reference each relevant exempting provision. The commission shall keep minutes that fully and  
31 clearly describe all matters discussed in a meeting and shall provide a full and accurate summary  
32 of actions taken, and the reasons therefore, including a description of the views expressed. All  
33 documents considered in connection with an action shall be identified in such minutes. All minutes

1 and documents of a closed meeting shall remain under seal, subject to release by a majority vote of  
2 the commission or order of a court of competent jurisdiction.

3 (c) The commission shall, by a majority vote of the delegates, prescribe bylaws and/or rules  
4 to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the  
5 powers of the compact, including but not limited to:

6 (1) Establishing the fiscal year of the commission;

7 (2) Providing reasonable standards and procedures:

8 (3) for the establishment and meetings of other committees; and

9 (4) governing any general or specific delegation of any authority or function of the  
10 commission;

11 (5) Providing reasonable procedures for calling and conducting meetings of the  
12 commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for  
13 attendance of such meetings by interested parties, with enumerated exceptions designed to protect  
14 the public's interest, the privacy of individuals, and proprietary information, including trade secrets.  
15 The commission may meet in closed session only after a majority of the membership votes to close  
16 a meeting in whole or in part. As soon as practicable, the commission must make public a copy of  
17 the vote to close the meeting revealing the vote of each member with no proxy votes allowed;

18 (6) Establishing the titles, duties and authority, and reasonable procedures for the election  
19 of the officers of the commission;

20 (7) Providing reasonable standards and procedures for the establishment of the personnel  
21 policies and programs of the commission. Notwithstanding any civil service or other similar laws  
22 of any member state, the bylaws shall exclusively govern the personnel policies and programs of  
23 the commission;

24 (8) Promulgating a code of ethics to address permissible and prohibited activities of  
25 commission members and employees;

26 (9) Providing a mechanism for winding up the operations of the commission and the  
27 equitable disposition of any surplus funds that may exist after the termination of the compact after  
28 the payment and/or reserving of all of its debts and obligations;

29 (10) The commission shall publish its bylaws and file a copy thereof, and a copy of any  
30 amendment thereto, with the appropriate agency or officer in each of the member states, if any.

31 (11) The commission shall maintain its financial records in accordance with the bylaws.

32 (12) The commission shall meet and take such actions as are consistent with the provisions  
33 of this compact and the bylaws.

34 (d) The commission shall have the following powers:

- 1           (1) The authority to promulgate uniform rules to facilitate and coordinate implementation  
2 and administration of this compact. The rules shall have the force and effect of law and shall be  
3 binding in all member states;
- 4           (2) To bring and prosecute legal proceedings or actions in the name of the commission,  
5 provided that the standing of any state EMS authority or other regulatory body responsible for EMS  
6 personnel licensure to sue or be sued under applicable law shall not be affected;
- 7           (3) To purchase and maintain insurance and bonds;
- 8           (4) To borrow, accept, or contract for services of personnel, including, but not limited to,  
9 employees of a member state;
- 10           (5) To hire employees, elect or appoint officers, fix compensation, define duties, grant such  
11 individuals appropriate authority to carry out the purposes of the compact, and to establish the  
12 commission’s personnel policies and programs relating to conflicts of interest, qualifications of  
13 personnel, and other related personnel matters;
- 14           (6) To accept any and all appropriate donations and grants of money, equipment, supplies,  
15 materials and services, and to receive, utilize and dispose of the same; provided that at all times the  
16 commission shall strive to avoid any appearance of impropriety and/or conflict of interest;
- 17           (7) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold,  
18 improve or use, any property, real, personal or mixed; provided that at all times the Commission  
19 shall strive to avoid any appearance of impropriety;
- 20           (8) To sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of  
21 any property real, personal, or mixed;
- 22           (9) To establish a budget and make expenditures;
- 23           (10) To borrow money;
- 24           (11) To appoint committees, including advisory committees comprised of members, state  
25 regulators, state legislators or their representatives, and consumer representatives, and such other  
26 interested persons as may be designated in this compact and the bylaws;
- 27           (12) To provide and receive information from, and to cooperate with, law enforcement  
28 agencies;
- 29           (13) To adopt and use an official seal; and
- 30           (14) To perform such other functions as may be necessary or appropriate to achieve the  
31 purposes of this compact consistent with the state regulation of EMS personnel licensure and  
32 practice.
- 33           (e) Financing of the commission

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

3           (2) The commission may accept any and all appropriate revenue sources, donations, and  
4 grants of money, equipment, supplies, materials, and services.

5           (3) The commission may levy on and collect an annual assessment from each member state  
6 or impose fees on other parties to cover the cost of the operations and activities of the commission  
7 and its staff, which must be in a total amount sufficient to cover its annual budget as approved each  
8 year for which revenue is not provided by other sources. The aggregate annual assessment amount  
9 shall be allocated based upon a formula to be determined by the commission, which shall  
10 promulgate a rule binding upon all member states.

11           (4) The commission shall not incur obligations of any kind prior to securing the funds  
12 adequate to meet the same; nor shall the commission pledge the credit of any of the member states,  
13 except by and with the authority of the member state.

14           (5) The commission shall keep accurate accounts of all receipts and disbursements. The  
15 receipts and disbursements of the commission shall be subject to the audit and accounting  
16 procedures established under its bylaws. However, all receipts and disbursements of funds handled  
17 by the commission shall be audited yearly by a certified or licensed public accountant, and the  
18 report of the audit shall be included in and become part of the annual report of the commission.

19           (f) Qualified immunity, defense, and indemnification

20           (1) The members, officers, executive director, employees and representatives of the  
21 Commission shall be immune from suit and liability, either personally or in their official capacity,  
22 for any claim for damage to or loss of property or personal injury or other civil liability caused by  
23 or arising out of any actual or alleged act, error or omission that occurred, or that the person against  
24 whom the claim is made had a reasonable basis for believing occurred within the scope of  
25 commission employment, duties or responsibilities; provided that nothing in this paragraph shall  
26 be construed to protect any such person from suit and/or liability for any damage, loss, injury, or  
27 liability caused by the intentional or willful or wanton misconduct of that person.

28           (2) The commission shall defend any member, officer, executive director, employee or  
29 representative of the commission in any civil action seeking to impose liability arising out of any  
30 actual or alleged act, error, or omission that occurred within the scope of commission employment,  
31 duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis  
32 for believing occurred within the scope of commission employment, duties, or responsibilities;  
33 provided that nothing herein shall be construed to prohibit that person from retaining his or her own

1 counsel; and provided further, that the actual or alleged act, error, or omission did not result from  
2 that person's intentional or willful or wanton misconduct.

3 (3) The commission shall indemnify and hold harmless any member, officer, executive  
4 director, employee, or representative of the commission for the amount of any settlement or  
5 judgment obtained against that person arising out of any actual or alleged act, error or omission  
6 that occurred within the scope of commission employment, duties, or responsibilities, or that such  
7 person had a reasonable basis for believing occurred within the scope of commission employment,  
8 duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result  
9 from the intentional or willful or wanton misconduct of that person.

10 **23-4.2-12 Coordinated database.**

11 (a) The commission shall provide for the development and maintenance of a coordinated  
12 database and reporting system containing licensure, adverse action, and significant investigatory  
13 information on all licensed individuals in member states.

14 (b) Notwithstanding any other provision of state law to the contrary, a member state shall  
15 submit a uniform data set to the coordinated database on all individuals to whom this compact is  
16 applicable as required by the rules of the commission, including:

17 (1) Identifying information;

18 (2) Licensure data;

19 (3) Significant investigatory information;

20 (4) Adverse actions against an individual's license;

21 (5) An indicator that an individual's privilege to practice is restricted, suspended or  
22 revoked;

23 (6) Non-confidential information related to alternative program participation;

24 (7) Any denial of application for licensure, and the reason(s) for such denial; and

25 (8) Other information that may facilitate the administration of this Compact, as determined  
26 by the rules of the commission.

27 (c) The coordinated database administrator shall promptly notify all member states of any  
28 adverse action taken against, or significant investigative information on, any individual in a  
29 member state.

30 (d) Member states contributing information to the coordinated database may designate  
31 information that may not be shared with the public without the express permission of the  
32 contributing state.

1 (e) Any information submitted to the coordinated database that is subsequently required to  
2 be expunged by the laws of the member state contributing the information shall be removed from  
3 the coordinated database.

4 **23-4.2-13– Rulemaking.**

5 The commission shall exercise its rulemaking powers pursuant to the criteria set forth in  
6 this Section and the rules adopted thereunder. As well as Chapter 35 of Title 42. Rules and  
7 amendments shall become binding as of the date specified in each rule or amendment.

8 (b) If a majority of the legislatures of the member states rejects a rule, by enactment of a  
9 statute or resolution in the same manner used to adopt the compact, then such rule shall have no  
10 further force and effect in any member state.

11 (c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the  
12 commission.

13 (d) Prior to promulgation and adoption of a final rule or rules by the commission, and at  
14 least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon,  
15 the commission shall file a notice of proposed rulemaking:

16 (1) On the website of the commission; and

17 (2) On the website of each member state EMS authority or the publication in which each  
18 state would otherwise publish proposed rules.

19 (e) The notice of proposed rulemaking shall include:

20 (1) The proposed time, date, and location of the meeting in which the rule will be  
21 considered and voted upon;

22 (2) The text of the proposed rule or amendment and the reason for the proposed rule;

23 (3) A request for comments on the proposed rule from any interested person; and

24 (4) The manner in which interested persons may submit notice to the commission of their  
25 intention to attend the public hearing and any written comments.

26 (f) Prior to adoption of a proposed rule, the commission shall allow persons to submit  
27 written data, facts, opinions, and arguments, which shall be made available to the public.

28 (g)The commission shall grant an opportunity for a public hearing before it adopts a rule  
29 or amendment if a hearing is requested by:

30 (1) At least twenty-five (25) persons;

31 (2) A governmental subdivision or agency; or

32 (3) An association having at least twenty-five (25) members.

33 (h) a hearing is held on the proposed rule or amendment, the commission shall publish the  
34 place, time, and date of the scheduled public hearing.

1 (1) All persons wishing to be heard at the hearing shall notify the executive director of the  
2 commission or other designated member in writing of their desire to appear and testify at the  
3 hearing not less than five business days before the scheduled date of the hearing.

4 (2) Hearings shall be conducted in a manner providing each person who wishes to comment  
5 a fair and reasonable opportunity to comment orally or in writing.

6 (3) No transcript of the hearing is required, unless a written request for a transcript is made,  
7 in which case the person requesting the transcript shall bear the cost of producing the transcript. A  
8 recording may be made in lieu of a transcript under the same terms and conditions as a transcript.  
9 This subsection shall not preclude the commission from making a transcript or recording of the  
10 hearing if it so chooses.

11 (4) Nothing in this section shall be construed as requiring a separate hearing on each rule.  
12 Rules may be grouped for the convenience of the commission at hearings required by this section.

13 (i) Following the scheduled hearing date, or by the close of business on the scheduled  
14 hearing date if the hearing was not held, the commission shall consider all written and oral  
15 comments received.

16 (j) The commission shall, by majority vote of all members, take final action on the proposed  
17 rule and shall determine the effective date of the rule, if any, based on the rulemaking record and  
18 the full text of the rule.

19 (k) If no written notice of intent to attend the public hearing by interested parties is  
20 received, the commission may proceed with promulgation of the proposed rule without a public  
21 hearing.

22 (l) Upon determination that an emergency exists, the commission may consider and adopt  
23 an emergency rule without prior notice, opportunity for comment, or hearing, provided that the  
24 usual rulemaking procedures provided in the compact and in this section shall be retroactively  
25 applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the  
26 effective date of the rule. For the purposes of this provision, an emergency rule is one that must be  
27 adopted immediately in order to:

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

29 (2) Prevent a loss of commission or member state funds;

30 (3) Meet a deadline for the promulgation of an administrative rule that is established by  
31 federal law or rule; or

32 (4) Protect public health and safety.

33 (m) The commission or an authorized committee of the Commission may direct revisions  
34 to a previously adopted rule or amendment for purposes of correcting typographical errors, errors

1 in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be  
2 posted on the website of the commission. The revision shall be subject to challenge by any person  
3 for a period of thirty days after posting. The revision may be challenged only on grounds that the  
4 revision results in a material change to a rule. A challenge shall be made in writing and delivered  
5 to the chair of the commission prior to the end of the notice period. If no challenge is made, the  
6 revision will take effect without further action. If the revision is challenged, the revision may not  
7 take effect without the approval of the commission.

8 **23-4.2-14– Oversight, dispute resolution, and enforcement.**

9 **(a) Oversight**

10 (1) The executive, legislative, and judicial branches of state government in each member  
11 state shall enforce this compact and take all actions necessary and appropriate to effectuate the  
12 compact’s purposes and intent. The provisions of this compact and the rules promulgated hereunder  
13 shall have standing as statutory law.

14 (2) All courts shall take judicial notice of the compact and the rules in any judicial or  
15 administrative proceeding in a member state pertaining to the subject matter of this compact which  
16 may affect the powers, responsibilities or actions of the commission.

17 (b) The Commission shall be entitled to receive service of process in any such proceeding  
18 and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service  
19 of process to the commission shall render a judgment or order void as to the commission, this  
20 compact, or promulgated rules.

21 **(c) Default, technical assistance, and termination**

22 (1) If the commission determines that a member state has defaulted in the performance of  
23 its obligations or responsibilities under this compact or the promulgated rules, the commission  
24 shall:

25 (i) Provide written notice to the defaulting state and other member states of the nature of  
26 the default, the proposed means of curing the default and/or any other action to be taken by the  
27 commission; and

28 (ii) Provide remedial training and specific technical assistance regarding the default.

29 (iii) If a state in default fails to cure the default, the defaulting state may be terminated from  
30 the compact upon an affirmative vote of a majority of the member states, and all rights, privileges  
31 and benefits conferred by this compact may be terminated on the effective date of termination. A  
32 cure of the default does not relieve the offending state of obligations or liabilities incurred during  
33 the period of default.



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

5 (2) A state that has been terminated is responsible for all assessments, obligations, and  
6 liabilities incurred through the effective date of termination, including obligations that extend  
7 beyond the effective date of termination.

8 (3) The commission shall not bear any costs related to a state that is found to be in default  
9 or that has been terminated from the compact, unless agreed upon in writing between the  
10 commission and the defaulting state.

11 (4) The defaulting state may appeal the action of the commission by petitioning the U.S.  
12 district court for the District of Columbia or the federal district where the commission has its  
13 principal offices. The prevailing member shall be awarded all costs of such litigation, including  
14 reasonable attorney's fees.

15 (d) Dispute resolution

16 (1) Upon request by a member state, the commission shall attempt to resolve disputes  
17 related to the compact that arise among member states and between member and non-member  
18 states.

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

21 (e) Enforcement

22 (1) The commission, in the reasonable exercise of its discretion, shall enforce the  
23 provisions and rules of this compact.

24 (2) By majority vote, the commission may initiate legal action in the United States district  
25 court for the District of Columbia or the federal district where the commission has its principal  
26 offices against a member state in default to enforce compliance with the provisions of the compact  
27 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and  
28 damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded  
29 all costs of such litigation, including reasonable attorney's fees.

30 (3) The remedies herein shall not be the exclusive remedies of the commission. The  
31 commission may pursue any other remedies available under federal or state law.

32 **23-4.2-15- Date of implementation of the interstate compact commission for**  
33 **emergency medical personnel practice and associated rules, withdrawal, and amendment.**

1 The compact shall come into effect on the date on which the compact statute is enacted into law in  
2 the tenth member state. The provisions, which become effective at that time, shall be limited to the  
3 powers granted to the commission relating to assembly and the promulgation of rules. Thereafter,  
4 the commission shall meet and exercise rulemaking powers necessary to the implementation and  
5 administration of the compact.

6 (b) Any state that joins the compact subsequent to the commission's initial adoption of the  
7 rules shall be subject to the rules as they exist on the date on which the compact becomes law in  
8 that state. Any rule that has been previously adopted by the commission shall have the full force  
9 and effect of law on the day the compact becomes law in that state.

10 (c) Any member state may withdraw from this compact by enacting a statute repealing the  
11 same.

12 (1) A member state's withdrawal shall not take effect until six (6) months after enactment  
13 of the repealing statute.

14 (2) Withdrawal shall not affect the continuing requirement of the withdrawing state's EMS  
15 authority to comply with the investigative and adverse action reporting requirements of this act  
16 prior to the effective date of withdrawal.

17 (d) Nothing contained in this compact shall be construed to invalidate or prevent any EMS  
18 personnel licensure agreement or other cooperative arrangement between a member state and a  
19 non-member state that does not conflict with the provisions of this compact.

20 (e) This compact may be amended by the member states. No amendment to this compact  
21 shall become effective and binding upon any member state until it is enacted into the laws of all  
22 member states.

23 **23-4.2-16– Construction and severability.**

24 This compact shall be liberally construed so as to effectuate the purposes thereof. If this compact  
25 shall be held contrary to the constitution of any state member thereto, the compact shall remain in  
26 full force and effect as to the remaining member states. Nothing in this compact supersedes state  
27 law or rules related to licensure of EMS agencies.

28 SECTION 8: Sections 27-18.5-3, 27-18.5-4, 27-18.5-5, 27-18.5-6 and 27-18.5-10 of the  
29 General Laws in Chapter 27-18.5 entitled "Individual Health Insurance Coverage" are hereby  
30 amended to read as follows:

31 **27-18.5-3. Guaranteed availability to certain individuals.**

32 (a) ~~Notwithstanding any of the provisions of this title to the contrary~~ Subject to subsections  
33 (b) through (i) of this section, all health insurance carriers that offer health insurance coverage in  
34 the individual market in this state shall provide for the guaranteed availability of coverage to any

1 eligible applicant. ~~to an eligible individual or an individual who has had health insurance coverage,~~  
2 ~~including coverage in the individual market, or coverage under a group health plan or coverage~~  
3 ~~under 5 U.S.C. § 8901 et seq. and had that coverage continuously for at least twelve (12)~~  
4 ~~consecutive months and who applies for coverage in the individual market no later than sixty three~~  
5 ~~(63) days following termination of the coverage, desiring to enroll in individual health insurance~~  
6 ~~coverage, and who is not eligible for coverage under a group health plan, part A or part B or title~~  
7 ~~XVIII of the Social Security Act, 42 U.S.C. § 1395c et seq. or 42 U.S.C. § 1395j et seq., or any~~  
8 ~~state plan under title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (or any successor~~  
9 ~~program) and does not have other health insurance coverage (provided, that eligibility for the other~~  
10 ~~coverage shall not disqualify an individual with twelve (12) months of consecutive coverage if that~~  
11 ~~individual applies for coverage in the individual market for the primary purpose of obtaining~~  
12 ~~coverage for a specific pre-existing condition, and the other available coverage excludes coverage~~  
13 ~~for that pre-existing condition) and~~ For the purposes of this section, an “eligible applicant” means  
14 any individual resident of this state. A carrier offering health insurance coverage in the individual  
15 market must offer to any eligible applicant in the state all health insurance coverage plans of that  
16 carrier that are approved for sale in the individual market and must accept any eligible applicant  
17 that applies for coverage under those plans. A carrier may not:

- 18 (1) Decline to offer the coverage to, or deny enrollment of, the individual; or
- 19 (2) Impose any preexisting condition exclusion with respect to the coverage.

20 (b)(1) All health insurance carriers that offer health insurance coverage in the individual  
21 market in this state shall offer all policy forms of health insurance coverage to all eligible  
22 applicants. Provided, a carrier may offer plans with reduced cost sharing for qualifying eligible  
23 applicants, based on available federal funds including those described by 42 U.S.C. § 18071, or  
24 based on a program established with state funds. ~~Provided, the carrier may elect to limit the~~  
25 ~~coverage offered so long as it offers at least two (2) different policy forms of health insurance~~  
26 ~~coverage (policy forms which have different cost sharing arrangements or different riders shall be~~  
27 ~~considered to be different policy forms) both of which:~~

- 28 (i) ~~Are designed for, made generally available to, and actively market to, and enroll both~~  
29 ~~eligible and other individuals by the carrier; and~~
- 30 (ii) ~~Meet the requirements of subparagraph (A) or (B) of this paragraph as elected by the~~  
31 ~~carrier:~~

32 (A) ~~If the carrier offers the policy forms with the largest, and next to the largest, premium volume~~  
33 ~~of all the policy forms offered by the carrier in this state; or~~

1 ~~(B) If the carrier offers a choice of two (2) policy forms with representative coverage,~~  
2 ~~consisting of a lower level coverage policy form and a higher level coverage policy form each of~~  
3 ~~which includes benefits substantially similar to other individual health insurance coverage offered~~  
4 ~~by the carrier in this state and each of which is covered under a method that provides for risk~~  
5 ~~adjustment, risk spreading, or financial subsidization.~~

6 ~~(2) For the purposes of this subsection, "lower level coverage" means a policy form for~~  
7 ~~which the actuarial value of the benefits under the coverage is at least eighty five percent (85%)~~  
8 ~~but not greater than one hundred percent (100%) of the policy form weighted average.~~

9 ~~(3) For the purposes of this subsection, "higher level coverage" means a policy form for~~  
10 ~~which the actuarial value of the benefits under the coverage is at least fifteen percent (15%) greater~~  
11 ~~than the actuarial value of lower level coverage offered by the carrier in this state, and the actuarial~~  
12 ~~value of the benefits under the coverage is at least one hundred percent (100%) but not greater than~~  
13 ~~one hundred twenty percent (120%) of the policy form weighted average.~~

14 ~~(4) For the purposes of this subsection, "policy form weighted average" means the average~~  
15 ~~actuarial value of the benefits provided by all the health insurance coverage issued (as elected by~~  
16 ~~the carrier) either by that carrier or, if the data are available, by all carriers in this state in the~~  
17 ~~individual market during the previous year (not including coverage issued under this subsection);~~  
18 ~~weighted by enrollment for the different coverage. The actuarial value of benefits shall be~~  
19 ~~calculated based on a standardized population and a set of standardized utilization and cost factors.~~

20 ~~(5) The carrier elections under this subsection shall apply uniformly to all eligible~~  
21 ~~individuals in this state for that carrier. The election shall be effective for policies offered during a~~  
22 ~~period of not shorter than two years.~~

23 (c)(1) A carrier may deny health insurance coverage in the individual market to an eligible  
24 individual applicant if the carrier has demonstrated to the ~~director~~ commissioner that:

25 (i) It does not have the financial reserves necessary to underwrite additional coverage; and

26 (ii) It is applying this subsection uniformly to all individuals in the individual market in  
27 this state consistent with applicable state law and without regard to any health status-related factor  
28 of the individuals. ~~without regard to whether the individuals are eligible individuals.~~

29 (2) A carrier upon denying individual health insurance coverage in this state in accordance  
30 with this subsection may not offer that coverage in the individual market in this state for a period  
31 of one hundred eighty (180) days after the date the coverage is denied or until the carrier has  
32 demonstrated to the ~~director~~ commissioner that the carrier has sufficient financial reserves to  
33 underwrite additional coverage, whichever is later.

1 (d) Nothing in this section shall be construed to require that a carrier offering health  
2 insurance coverage only in connection with group health plans or through one or more bona fide  
3 associations, or both, offer health insurance coverage in the individual market.

4 (e) A carrier offering health insurance coverage in connection with group health plans  
5 under this title shall not be deemed to be a health insurance carrier offering individual health  
6 insurance coverage solely because the carrier offers a conversion policy.

7 (f) Except for any high risk pool rating rules to be established by the Office of the Health  
8 Insurance Commissioner (OHIC) as described in this section, nothing in this section shall be  
9 construed to create additional restrictions on the amount of premium rates that a carrier may charge  
10 an individual for health insurance coverage provided in the individual market; or to prevent a health  
11 insurance carrier offering health insurance coverage in the individual market from establishing  
12 premium rates or modifying applicable copayments or deductibles in return for adherence to  
13 programs of health promotion and disease prevention.

14 (g) OHIC may pursue federal funding in support of the development of a high-risk pool for  
15 the individual market, as defined in § 27-18.5-2, contingent upon a thorough assessment of any  
16 financial obligation of the state related to the receipt of said federal funding being presented to, and  
17 approved by, the general assembly by passage of concurrent general assembly resolution. The  
18 components of the high-risk pool program, including, but not limited to, rating rules, eligibility  
19 requirements and administrative processes, shall be designed in accordance with § 2745 of the  
20 Public Health Service Act (42 U.S.C. § 300gg-45) also known as the State High Risk Pool Funding  
21 Extension Act of 2006 and defined in regulations promulgated by the office of the health insurance  
22 commissioner on or before October 1, 2007.

23 (h)(1) In the case of a health insurance carrier that offers health insurance coverage in the  
24 individual market through a network plan, the carrier may limit the individuals who may be enrolled  
25 under that coverage to those who live, reside, or work within the service areas for the network plan;  
26 and within the service areas of the plan, deny coverage to individuals if the carrier has demonstrated  
27 to the commissioner that:

28 (i) It will not have the capacity to deliver services adequately to additional individual  
29 enrollees because of its obligations to existing group contract holders and enrollees and individual  
30 enrollees; and

31 (ii) It is applying this subsection uniformly to individuals without regard to any health  
32 status-related factor of the individuals. ~~and without regard to whether the individuals are eligible~~  
33 ~~individuals.~~

34 (2) Upon denying health insurance coverage in any service area in accordance with the

1 terms of this subsection, a carrier may not offer coverage in the individual market within the service  
2 area for a period of one hundred eighty (180) days after the coverage is denied.

3 (i) A carrier may restrict the period during which an eligible applicant may enroll for  
4 coverage under (x) an open enrollment period to be established by the commissioner and held  
5 annually for a period of between thirty (30) and sixty (60) days, and (y) special enrollment periods  
6 as established in accordance with the version of 45 C.F.R. § 147.104 in effect on January 1, 2020.

7 **27-18.5-4. Continuation of coverage – Renewability.**

8 (a) A health insurance carrier that provides individual health insurance coverage to an  
9 individual in this state shall renew or continue in force that coverage at the option of the individual.

10 (b) A health insurance carrier may ~~nonrenew~~ non-renew or discontinue health insurance  
11 coverage of an individual in the individual market based only on one or more of the following:

12 (1) The individual has failed to pay premiums or contributions in accordance with the terms  
13 of the health insurance coverage, ~~or the carrier has not received~~ including terms relating to timely  
14 premium payments;

15 (2) The individual has performed an act or practice that constitutes fraud or made an  
16 intentional misrepresentation of material fact under the terms of the coverage;

17 (3) The carrier is ceasing to offer coverage in accordance with subsections (c) and (d) of  
18 this section;

19 (4) In the case of a carrier that offers health insurance coverage in the market through a  
20 network plan, the individual no longer resides, lives, or works in the service area (or in an area for  
21 which the carrier is authorized to do business) but only if the coverage is terminated uniformly  
22 without regard to any health status-related factor of covered individuals; or

23 (5) In the case of health insurance coverage that is made available in the individual market  
24 only through one or more bona fide associations, the membership of the individual in the association  
25 (on the basis of which the coverage is provided) ceases but only if the coverage is terminated  
26 uniformly and without regard to any health status-related factor of covered individuals.

27 (c) In any case in which a carrier decides to discontinue offering a particular type of health  
28 insurance coverage offered in the individual market, coverage of that type may be discontinued  
29 only if:

30 (1) The carrier provides notice, to each covered individual provided coverage of this type  
31 in the market, of the discontinuation at least ninety (90) days prior to the date of discontinuation of  
32 the coverage;

1 (2) The carrier offers to each individual in the individual market provided coverage of this  
2 type, the opportunity to purchase any other individual health insurance coverage currently being  
3 offered by the carrier for individuals in the market; and

4 (3) In exercising this option to discontinue coverage of this type and in offering the option  
5 of coverage under subdivision (2) of this subsection, the carrier acts uniformly without regard to  
6 any health status-related factor of enrolled individuals or individuals who may become eligible for  
7 the coverage.

8 (d) In any case in which a carrier elects to discontinue offering all health insurance  
9 coverage in the individual market in this state, health insurance coverage may be discontinued only  
10 if:

11 (1) The carrier provides notice to the ~~director~~ commissioner and to each individual of the  
12 discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the  
13 coverage; and

14 (2) All health insurance issued or delivered in this state in the market is discontinued and  
15 coverage under this health insurance coverage in the market is not renewed.

16 (e) In the case of a discontinuation under subsection (d) of this section, the carrier may not provide  
17 for the issuance of any health insurance coverage in the individual market in this state during the  
18 five (5) year period beginning on the date the carrier filed its notice with the department to withdraw  
19 from the individual health insurance market in this state. This five (5) year period may be reduced  
20 to a minimum of three (3) years at the discretion of the ~~health insurance~~ commissioner, based on  
21 his ~~or~~ her analysis of market conditions and other related factors.

22 (f) The provisions of subsections (d) and (e) of this section do not apply if, at the time of  
23 coverage renewal, a health insurance carrier modifies the health insurance coverage for a policy  
24 form offered to individuals in the individual market so long as the modification is consistent with  
25 this chapter and other applicable law and effective on a uniform basis among all individuals with  
26 that policy form.

27 (g) In applying this section in the case of health insurance coverage made available by a  
28 carrier in the individual market to individuals only through one or more associations, a reference  
29 to an "individual" includes a reference to the association (of which the individual is a member).

30 **27-18.5-5. Enforcement – Limitation on actions.**

31 The ~~director~~ commissioner has the power to enforce the provisions of this chapter in  
32 accordance with § 42-14-16 and all other applicable laws.

33 **27-18.5-6. Rules and regulations.**

34 The ~~director~~ commissioner may promulgate rules and regulations necessary to effectuate

1 the purposes of this chapter.

2 **27-18.5-10. Prohibition on preexisting condition exclusions.**

3 (a) A health insurance policy, subscriber contract, or health plan offered, issued, issued for  
4 delivery, or issued to cover a resident of this state by a health insurance company licensed pursuant  
5 to this title and/or chapter; shall not limit or exclude coverage for any individual by imposing a  
6 preexisting condition exclusion on that individual.

7 ~~Shall not limit or exclude coverage for an individual under the age of nineteen (19) by imposing a~~  
8 ~~preexisting condition exclusion on that individual.~~

9 ~~For plan or policy years beginning on or after January 1, 2014, shall not limit or exclude coverage~~  
10 ~~for any individual by imposing a preexisting condition exclusion on that individual.~~

11 (b) As used in this section, “preexisting condition exclusion” ~~(1) “Preexisting condition~~  
12 ~~exclusion” means a limitation or exclusion of benefits, including a denial of coverage, based on the~~  
13 ~~fact that the condition (whether physical or mental) was present before the effective date of~~  
14 ~~coverage, or if the coverage is denied, the date of denial, under a health benefit plan whether or not~~  
15 ~~any medical advice, diagnosis, care or treatment was recommended or received before the effective~~  
16 ~~date of coverage.~~

17 ~~(2) “Preexisting condition exclusion”~~ means any limitation or exclusion of benefits,  
18 including a denial of coverage, applicable to an individual as a result of information relating to an  
19 individual's health status before the individual's effective date of coverage, or if the coverage is  
20 denied, the date of denial, under the health benefit plan, such as a condition (whether physical or  
21 mental) identified as a result of a pre- enrollment questionnaire or physical examination given to  
22 the individual, or review of medical records relating to the pre-enrollment period.

23 (c) This section shall not apply to grandfathered health plans providing individual health  
24 insurance coverage.

25 (d) This section shall not apply to insurance coverage providing benefits for: (1) Hospital  
26 confinement indemnity; (2) Disability income; (3) Accident only; (4) Long-term care; (5) Medicare  
27 supplement; (6) Limited benefit health; (7) Specified disease indemnity; (8) Sickness or bodily  
28 injury or death by accident or both; and (9) Other limited benefit policies.

29 SECTION 9. Chapter 27-18.5 of the General Laws entitled "Individual Health Insurance  
30 Coverage" is hereby amended by adding thereto the following section:

31 **27-18.5-11 Essential Health Benefits – Individual**

32 (a) The following words and phrases as used in this section have the following meanings  
33 consistent with federal law and regulations adopted thereunder, so long as they remain in effect. If



1 such authorities are no longer in effect, the laws and regulations in effect on January 1, 2020 as  
2 identified by the commissioner shall govern, unless a different meaning is required by the context:

3 (1) “Essential health benefits” means the following general categories, and the services  
4 covered within those categories:

5 (i) Ambulatory patient services;

6 (ii) Emergency services;

7 (iii) Hospitalization;

8 (iv) Maternity and newborn care;

9 (v) Mental health and substance use disorder services, including behavioral health treatment;

10 (vi) Prescription drugs;

11 (vii) Rehabilitative and habilitative services and devices;

12 (viii) Laboratory services;

13 (ix) Preventive services, wellness services, and chronic disease management; and

14 (x) Pediatric services, including oral and vision care.

15 (2) “Preventive services” means those services described in 42 U.S.C. § 300gg-13 and  
16 implementing regulations and guidance. If such authorities are determined by the commissioner to  
17 no longer be in effect, and to the extent that federal recommendations change after January 1, 2020,  
18 the commissioner shall rely on the recommendations as described in the version of 42 U.S.C. §  
19 300gg-13 in effect on January 1, 2020 to determine which services qualify as preventive services  
20 under this section.

21 (b) A health insurance policy, subscriber contract, or health plan offered, issued, issued for  
22 delivery, or issued to cover a resident of this state, by a health insurance company licensed pursuant  
23 to this title and/or chapter, shall provide coverage of at least the essential health benefits categories  
24 set forth in this section, and shall further provide coverage of preventive services from in-network  
25 providers without applying any copayments, deductibles, coinsurance, or other cost sharing, as set  
26 forth in this section.

27 (c) This provision shall not be construed as authority to expand the scope of preventive  
28 services beyond those in effect on January 1, 2020. However, to the extent that the U.S. Preventive  
29 Services Taskforce revises its recommendations with respect to grade “A” or “B” preventive  
30 services, OHIC shall have the authority to issue guidance clarifying the services that shall qualify  
31 as preventive services under this section, consistent with said recommendations.

32 SECTION 10. Chapter 27-18.6 of the General Laws entitled "Large Group Health  
33 Insurance Coverage" is hereby amended by adding thereto the following section:

34 **27-18.6-13 Preventive Services**

1 (a) As used in this section, “preventive services” means those services described in 42  
2 U.S.C. § 300gg-13 and implementing regulations and guidance. If such authorities are determined  
3 by the commissioner to no longer be in effect, and to the extent that federal recommendations  
4 change after January 1, 2020, the commissioner shall rely on the recommendations as described in  
5 the version of 42 U.S.C. § 300gg-13 in effect on January 1, 2020 to determine which federally-  
6 recommended evidence-based preventive services qualify as preventive care.

7 (b) A health insurance policy, subscriber contract, or health plan offered, issued, issued for  
8 delivery, or issued to cover a resident of this state, by a health insurance company licensed pursuant  
9 to this title and/or chapter, shall provide coverage of preventive services from in-network providers  
10 without applying any copayments, deductibles, coinsurance, or other cost sharing, as set forth in  
11 this section.

12 (c) This provision shall not be construed as authority to expand the scope of preventive  
13 services beyond those in effect on January 1, 2020. However, to the extent that the U.S. Preventive  
14 Services Taskforce revises its recommendations with respect to grade “A” or “B” preventive  
15 services, OHIC shall have the authority to issue guidance clarifying the services that shall qualify  
16 as preventive services under this section, consistent with said recommendations.

17 SECTION 11. Section 27-50-11 of the General Laws in Chapter 27-50 entitled "Small  
18 Employer Health Insurance Availability Act" is hereby amended to read as follows:

19 **27-50-11. Administrative procedures.**

20 (a) The ~~director shall~~ commissioner may issue promulgate rules and regulations necessary  
21 to effectuate the purposes of this chapter. ~~in accordance with chapter 35 of this title for the~~  
22 ~~implementation and administration of the Small Employer Health Insurance Availability Act.~~

23 SECTION 12. Chapter 27-50 of the General Laws entitled "Small Employer Health  
24 Insurance Availability Act" is hereby amended by adding thereto the following section:

25 **27-50-18 Essential Health Benefits**

26 (a) The following words and phrases as used in this section have the following meanings  
27 consistent with federal law and regulations adopted thereunder, so long as they remain in effect. If  
28 such authorities are no longer in effect, the laws and regulations in effect on January 1, 2020 as  
29 identified by the commissioner shall govern, unless a different meaning is required by the context:

30 (1) “Essential health benefits” means the following general categories, and the services  
31 covered within those categories:

32 (i) Ambulatory patient services;

33 (ii) Emergency services;

34 (iii) Hospitalization;

- 1           (iv) Maternity and newborn care;  
2           (v) Mental health and substance use disorder services, including behavioral health  
3 treatment;  
4           (vi) Prescription drugs;  
5           (vii) Rehabilitative and habilitative services and devices;  
6           (viii) Laboratory services;  
7           (ix) Preventive services, wellness services, and chronic disease management; and  
8           (x) Pediatric services, including oral and vision care.

9           (2) "Preventive services" means those services described in 42 U.S.C. § 300gg-13 and  
10 implementing regulations and guidance. If such authorities are determined by the commissioner to  
11 no longer be in effect, and to the extent that federal recommendations change after January 1, 2020,  
12 the commissioner shall rely on the recommendations as described in the version of 42 U.S.C. §  
13 300gg-13 in effect on January 1, 2020 to determine which services qualify as preventive services  
14 under this section.

15           (b) A health insurance policy, subscriber contract, or health plan offered, issued, issued for  
16 delivery, or issued to cover a resident of this state, by a health insurance company licensed pursuant  
17 to this title and/or chapter shall provide coverage of at least the essential health benefits categories  
18 set forth in this section, and shall further provide coverage of preventive services from in-network  
19 providers without applying any copayments, deductibles, coinsurance, or other cost sharing, as set  
20 forth in this section.

21           (c) This provision shall not be construed as authority to expand the scope of preventive  
22 services beyond those in effect on January 1, 2020. However, to the extent that the U.S. Preventive  
23 Services Taskforce revises its recommendations with respect to grade "A" or "B" preventive  
24 services, OHIC shall have the authority to issue guidance clarifying the services that shall qualify  
25 as preventive services under this section, consistent with said recommendations.

26           SECTION 13. Section 40-8.4-12 of the General Laws in Chapter 40-8.1 entitled "Small  
27 Employer Health Insurance Availability Act" and 44-1-2 of the General Laws in Chapter 44-1  
28 entitled "State Tax Officials" are hereby amended to read as follows:

29           **40-8.4-12. RItE Share Health Insurance Premium Assistance Program.**

30           (a) *Basic RItE Share health insurance premium assistance program.* Under the terms of  
31 Section 1906 of Title XIX of the U.S. Social Security Act, 42 U.S.C. § 1396e, states are permitted  
32 to pay a Medicaid-eligible person's share of the costs for enrolling in employer-sponsored health  
33 insurance (ESI) coverage if it is cost effective to do so. Pursuant to the general assembly's direction  
34 in the Rhode Island health reform act of 2000, the Medicaid agency requested and obtained federal

1 approval under § 1916, 42 U.S.C. § 1396o, to establish the RItE Share premium-assistance program  
2 to subsidize the costs of enrolling Medicaid-eligible persons and families in employer-sponsored  
3 health insurance plans that have been approved as meeting certain cost and coverage requirements.  
4 The Medicaid agency also obtained, at the general assembly's direction, federal authority to require  
5 any such persons with access to ~~ESI~~ Employer-sponsored health insurance (ESI) coverage to enroll  
6 as a condition of retaining eligibility providing that doing so meets the criteria established in Title  
7 XIX for obtaining federal matching funds.

8 (b) *Definitions.* For the purposes of this section, the following definitions apply:

9 (1) "Cost-effective" means that the portion of the employer-sponsored health insurance  
10 (ESI) that the state would subsidize, as well as the cost of wrap-around ~~costs~~ services and cost  
11 sharing, would on average cost less to the state than enrolling that same person/family in a  
12 managed-care delivery system.

13 (2) "Cost sharing" means any co-payments, deductibles, or co-insurance associated with  
14 ESI.

15 (3) "Employee premium" means the monthly premium share a person or family is required  
16 to pay to the employer to obtain and maintain ESI coverage.

17 (4) "Employer" means any individual, partnership, association, corporation, estate, trust,  
18 fiduciary, limited liability company, limited liability partnership, or any other legal entity that  
19 employed at least fifty (50) employees during the preceding fiscal year. Excluded from this  
20 definition are all charitable, not for profit organizations specifically formed for purposes other than  
21 operating a profit-seeking business and all state or municipal governmental entities.

22 ~~(4-5)~~ "Employer-sponsored health insurance or ESI" means health insurance or a group  
23 health plan offered to employees by an employer. This includes plans purchased by small  
24 employers through the state health insurance marketplace, healthsource RI (HSRI).

25 ~~(5-6)~~ "Policy holder" means the person in the household with access to ESI, typically the  
26 employee.

27 ~~(6-7)~~ "RItE Share-approved employer-sponsored health insurance (ESI)" means an  
28 employer-sponsored health insurance plan that meets the coverage and cost-effectiveness criteria  
29 for RItE Share.

30 ~~(7-8)~~ "RItE Share buy-in" means the monthly amount an Medicaid-ineligible policy holder  
31 must pay toward RItE Share-approved ESI that covers the Medicaid-eligible children, young adults,  
32 or spouses with access to the ESI. The buy-in only applies in instances when household income is  
33 above one hundred fifty percent (150%) of the FPL.

1           (89) "RItE Share premium assistance program" (referred to hereafter as "RItE Share")  
2 means the Rhode Island Medicaid premium assistance program in which the State pays the eligible  
3 Medicaid member's share of the cost of enrolling in a RItE Share-approved ESI plan, as well as  
4 coverage of wrap-around services, or those that are covered under Medicaid, but not the ESI plan.  
5 This allows the state to share the cost of the health insurance coverage with the employer.

6           (910) "RItE Share Unit" means the entity within the executive office of health and human  
7 services (~~EOHHS~~) responsible for assessing the cost-effectiveness of ESI, contacting employers  
8 about ESI as appropriate, initiating the RItE Share enrollment and disenrollment process, handling  
9 member communications, and managing the overall operations of the RItE Share program.

10           (101) "Third-Party Liability (TPL)" means other health insurance coverage. This insurance  
11 is in addition to Medicaid and is usually provided through an employer. Since Medicaid is always  
12 the payer of last resort, the TPL is always the primary coverage.

13           (1+2) "Wrap-around services or coverage" means any health care services not included in  
14 the ESI plan that would have been covered had the Medicaid member been enrolled in a RItE Care  
15 or Rhody Health Partners plan. Coverage of deductibles and co-insurance is included in the wrap-  
16 around services or coverage. Co-payments to providers are not covered as part of the wrap-around  
17 coverage.

18           (c) *RItE Share populations.* Medicaid beneficiaries subject to RItE Share include: children,  
19 families, parent and caretakers eligible for Medicaid or the children's health insurance program  
20 (CHIP) under this chapter or chapter 12.3 of title 42; and adults between the ages of nineteen (19)  
21 and sixty-four (64) who are eligible under chapter 8.12 of this title, not receiving or eligible to  
22 receive Medicare, and are enrolled in managed care delivery systems. The following additional  
23 conditions apply:

24           (1) The income of Medicaid beneficiaries shall affect whether and in what manner they  
25 must participate in RItE Share as follows:

26           (i) Income at or below one hundred fifty percent (150%) of FPL – Persons and families  
27 determined to have household income at or below one hundred fifty percent (150%) of the Federal  
28 Poverty Level (FPL) guidelines based on the modified adjusted gross income (MAGI) standard or  
29 other standard approved by the secretary are required to participate in RItE Share if a Medicaid-  
30 eligible adult or parent/caretaker has access to cost-effective ESI. Enrolling in ESI through RItE  
31 Share shall be a condition of maintaining Medicaid health coverage for any eligible adult with  
32 access to such coverage.

33           (ii) Income above one hundred fifty percent (150%) of FPL and policy holder is not  
34 Medicaid-eligible – Premium assistance is available when the household includes Medicaid-

1 eligible members, but the ESI policy holder (typically a parent/caretaker, or spouse) is not eligible  
2 for Medicaid. Premium assistance for parents/caretakers and other household members who are not  
3 Medicaid-eligible may be provided in circumstances when enrollment of the Medicaid-eligible  
4 family members in the approved ESI plan is contingent upon enrollment of the ineligible policy  
5 holder and the executive office of health and human services (executive office) determines, based  
6 on a methodology adopted for such purposes, that it is cost-effective to provide premium assistance  
7 for family or spousal coverage.

8 (d) *RItE Share enrollment as a condition of eligibility.* For Medicaid beneficiaries over the  
9 age of nineteen (19) enrollment in RItE Share shall be a condition of eligibility except as exempted  
10 below and by regulations promulgated by the executive office.

11 (1) Medicaid-eligible children and young adults up to age nineteen (19) shall not be  
12 required to enroll in a parent/caretaker relative's ESI as a condition of maintaining Medicaid  
13 eligibility if the person with access to RItE Share-approved ESI does not enroll as required. These  
14 Medicaid-eligible children and young adults shall remain eligible for Medicaid and shall be  
15 enrolled in a RItE Care plan.

16 (2) There shall be a limited six-month (6) exemption from the mandatory enrollment  
17 requirement for persons participating in the RI works program pursuant to chapter 5.2 of this title.

18 (e) *Approval of health insurance plans for premium assistance.*

19 ~~(1) The executive office of health and human services shall adopt regulations providing~~  
20 ~~for the approval of employer-based health insurance plans for premium assistance and shall approve~~  
21 ~~employer-based health insurance plans based on these regulations.~~ In order for an employer-based  
22 health insurance plan to gain approval, the executive office must determine that the benefits offered  
23 by the employer-based health insurance plan are substantially similar in amount, scope, and  
24 duration to the benefits provided to Medicaid-eligible persons enrolled in a Medicaid managed-  
25 care plan, when the plan is evaluated in conjunction with available supplemental benefits provided  
26 by the executive office of health and human services. The executive office of health and human  
27 services shall obtain and make available to persons otherwise eligible for Medicaid, identified in  
28 this section as supplemental benefits, those benefits not reasonably available under employer-based  
29 health insurance plans that are required for Medicaid beneficiaries by state law or federal law or  
30 regulation. Once it has been determined by the ~~Medicaid agency~~ executive office of health and  
31 human services that the ESI offered by a particular employer is RItE Share-approved, all Medicaid  
32 members with access to that employer's plan are required to participate in RItE Share. Failure to  
33 meet the mandatory enrollment requirement shall result in the termination of the Medicaid  
34 eligibility of the policy holder and other Medicaid members nineteen (19) or older in the household

1 who could be covered under the ESI until the policy holder complies with the RItE Share enrollment  
2 procedures established by the executive office.

3 (2) Any employer defined in 40-8.4-12(b)(5) shall be required to:

4 (i) annually provide the executive office of health and human services and the Division of  
5 Taxation with sufficient and necessary information, for the Medicaid agency to determine  
6 employee eligibility for RItE Share in accordance with section 40-8.4-12(e)(1).

7 (ii) on a quarterly basis notify the executive office of health and human services of any  
8 employee(s) no longer employed and/or who otherwise loses their ESI.

9 (iii) on a quarterly basis submit ESI data and enrollment reports to the executive office of  
10 health and human services indicating which employees are currently enrolled or are not enrolled in  
11 ESI.

12 (iv) to include instructions provided by EOHHS for RItE Share determination and  
13 enrollment as a part of ESI enrollment materials whenever a new employee is offered ESI and/or  
14 during the employer's annual open enrollment period for health insurance coverage.

15 (v) participate in the executive office of health and human services' employer education  
16 and outreach campaign concerning the RItE Share program and all ESI options.

17 (vi) not offer financial incentives for employees to turn down ESI and remain on Medicaid.

18 (3) Any employer defined in 40-8.4-12(b)(5), that does not timely comply with the  
19 requirements of section 40-8.4-12(e)(2), shall in accordance with section 44-1-2(9) be assessed a  
20 penalty by the Division of Taxation in the amount of twenty-five hundred dollars (\$2500).

21 (4) Any employer defined in 40-8.4-12(b)(5), that fails to comply with the requirements of  
22 section 40-8.4-12(e)(2)(i) or who falsifies any data or reports required to be submitted to the  
23 executive office of health and human services pursuant to section 40-8.4-12(e)(2)(i), shall in  
24 accordance with the requirements of section 44-1-2 (9) be assessed a penalty by the Division of  
25 Taxation in amount of five thousand dollars (\$5000).

26 (5) The executive office of health and human services shall adopt regulations providing  
27 for the approval of employer-based health insurance plans for premium assistance, the mandatory  
28 data and reporting requirements for any employer defined in 40-8.4-12(b)(5), and shall approve  
29 employer-based health insurance plans based on these regulations.

30 (f) Premium Assistance. The executive office shall provide premium assistance by paying  
31 all or a portion of the employee's cost for covering the eligible person and/or his or her family under  
32 such a RItE Share-approved ESI plan subject to the buy-in provisions in this section.

33 (g) Buy-in. Persons who can afford it shall share in the cost. – The executive office is  
34 authorized and directed to apply for and obtain any necessary state plan and/or waiver amendments

1 from the secretary of the U.S. Department of Health and Human Services (DHHS) to require that  
2 persons enrolled in a RItE Share-approved employer-based health plan who have income equal to  
3 or greater than one hundred fifty percent (150%) of the FPL to buy-in to pay a share of the costs  
4 based on the ability to pay, provided that the buy-in cost shall not exceed five percent (5%) of the  
5 person's annual income. The executive office shall implement the buy-in by regulation, and shall  
6 consider co-payments, premium shares, or other reasonable means to do so.

7 (h) *Maximization of federal contribution.* The executive office of health and human  
8 services is authorized and directed to apply for and obtain federal approvals and waivers necessary  
9 to maximize the federal contribution for provision of medical assistance coverage under this  
10 section, including the authorization to amend the Title XXI state plan and to obtain any waivers  
11 necessary to reduce barriers to provide premium assistance to recipients as provided for in Title  
12 XXI of the Social Security Act, 42 U.S.C. § 1397 et seq.

13 (i) *Implementation by regulation.* The executive office of health and human services is  
14 authorized and directed to adopt regulations to ensure the establishment and implementation of the  
15 premium assistance program in accordance with the intent and purpose of this section, the  
16 requirements of Title XIX, Title XXI and any approved federal waivers.

17 (j) *Outreach and reporting.* The executive office of health and human services shall  
18 develop a plan to identify Medicaid eligible individuals who have access to employer sponsored  
19 insurance and increase the use of RItE Share benefits. Beginning October 1, 2019, the executive  
20 office shall submit the plan to be included as part of the reporting requirements under § 35-17-1.  
21 Starting January 1, 2020, the executive office of health and human services shall include the number  
22 of Medicaid recipients with access to employer sponsored insurance, the number of plans that did  
23 not meet the cost effectiveness criteria for RItE Share, and enrollment in the premium assistance  
24 program as part of the reporting requirements under § 35-17-1.

25 **§ 44-1-2. Powers and duties of tax administrator.**

26 The tax administrator is required:

27 (1) To assess and collect all taxes previously assessed by the division of state taxation in  
28 the department of revenue and regulation, including the franchise tax on domestic corporations,  
29 corporate excess tax, tax upon gross earnings of public service corporations, tax upon interest  
30 bearing deposits in national banks, the inheritance tax, tax on gasoline and motor fuels, and tax on  
31 the manufacture of alcoholic beverages;

32 (2) To assess and collect the taxes upon banks and insurance companies previously  
33 administered by the division of banking and insurance in the department of revenue and regulation,



1 including the tax on foreign and domestic insurance companies, tax on foreign building and loan  
2 associations, deposit tax on savings banks, and deposit tax on trust companies;

3 (3) To assess and collect the tax on pari-mutuel or auction mutuel betting, previously  
4 administered by the division of horse racing in the department of revenue and regulation;

5 (4) [Deleted by P.L. 2006, ch. 246, art. 38, § 10];

6 (5) To assess and collect the monthly surcharges that are collected by telecommunication  
7 services providers pursuant to § 39-21.1-14 and are remitted to the division of taxation;

8 (6) To audit, assess, and collect all unclaimed intangible and tangible property pursuant to  
9 chapter 21.1 of title 33;

10 (7) To provide to the department of labor and training any state tax information, state  
11 records, or state documents they or the requesting agency certify as necessary to assist the agency  
12 in efforts to investigate suspected misclassification of employee status, wage and hour violations,  
13 or prevailing wage violations subject to the agency's jurisdiction, even if deemed confidential under  
14 applicable law, provided that the confidentiality of such materials shall be maintained, to the extent  
15 required of the releasing department by any federal or state law or regulation, by all state  
16 departments to which the materials are released and no such information shall be publicly disclosed,  
17 except to the extent necessary for the requesting department or agency to adjudicate a violation of  
18 applicable law. The certification must include a representation that there is probable cause to  
19 believe that a violation has occurred. State departments sharing this information or materials may  
20 enter into written agreements via memorandums of understanding to ensure the safeguarding of  
21 such released information or materials; and

22 (8) To preserve the Rhode Island tax base under Rhode Island law prior to the December  
23 22, 2017, Congressional enactment of Public Law 115-97, The Tax Cuts and Jobs Act, the tax  
24 administrator, upon prior written notice to the speaker of the house, senate president, and  
25 chairpersons of the house and senate finance committees, is specifically authorized to amend tax  
26 forms and related instructions in response to any changes the Internal Revenue Service makes to  
27 its forms, regulations, and/or processing which will materially impact state revenues, to the extent  
28 that impact is measurable. Any Internal Revenue Service changes to forms, regulations, and/or  
29 processing which go into effect during the current tax year or within six (6) months of the beginning  
30 of the next tax year and which will materially impact state revenue will be deemed grounds for the  
31 promulgation of emergency rules and regulations under § 42-35-2.10. The provisions of this  
32 subsection (8) shall sunset on December 31, 2021.

33 (9) To collect the penalties from all Rhode Island employers, defined as any individual,  
34 partnership, association, corporation, estate, trust, fiduciary, limited liability company, limited

1 liability partnership, or any other legal entity that employed at least fifty (50) employees, but not  
2 including any charitable, not for profit organizations specifically formed for purposes other than  
3 operating a profit-seeking business and all state or municipal governmental entities, during the  
4 preceding fiscal year, who fail to file the forms required by the executive office of health and human  
5 services pursuant to section 40-8.4-12 of the Rhode Island General Laws and associated rules and  
6 regulations. An employer is required to file said forms if it had fifty (50) or more employees during  
7 the previous fiscal year (July 1<sup>st</sup> through June 30<sup>th</sup>). The first submissions under this program will  
8 be required from employers who had fifty (50) or more employees at any time between July 1, 2019  
9 and June 30, 2020. The forms must be filed with the division of taxation between November 15<sup>th</sup>  
10 and December 15<sup>th</sup> during the year in which they are due. The first forms under this program will  
11 be due between November 15, 2020 and December 15, 2020. The penalties are set forth in section  
12 40-8.4-12, as amended, and may be assessed on forms provided by the tax administrator, who, in  
13 consultation with the executive office of health and human services, may clarify the collection of  
14 said penalties with rules or regulations consistent with this chapter as well as chapter 8.4 of title  
15 40. The tax administrator may from time to time transmit to the executive office of health and  
16 human services a list of Rhode Island employers and/or the forms and related documentation or  
17 information required by Section 40-8.4-12 for the purpose of complying with this chapter as well  
18 as chapter 8.4 of title 40. The provisions of this subsection (9) shall be effective upon passage.

19 SECTION 14: Title 42 of the General Laws entitled “State Affairs and Government” is  
20 amended by adding thereto the following chapter:

21 CHAPTER 42-7.5

22 THE HEALTH SPENDING TRANSPARENCY AND CONTAINMENT ACT

23 **42-7.5-1. Short title.**

24 This chapter shall be known and may be cited as “The Health Spending Transparency and  
25 Containment Act.”

26 **42-7.5-2. Purpose**

27 (a) WHEREAS, in August of 2018, the RI Cost Trend Steering Committee, composed of  
28 stakeholders including business and consumer advocates and health industry leaders, was created  
29 to advise the RI Health Care Cost Trend Project in partnership with the Office of the Health  
30 Insurance Commissioner and the Executive Office on Health and Human Services.

31 (b) WHEREAS, the vision of the Cost Trend Steering Committee is to provide every Rhode  
32 Islander with access to high-quality, affordable healthcare through greater transparency of  
33 healthcare performance and increased accountability by key stakeholders to ensure healthcare  
34 spending does not increase at a rate that significantly outpaces the consumer price index.

1           (c) WHEREAS, the goal of the cost trend work is to use actionable data insights, analytic  
2 tools, State authority, and stakeholder engagement to drive meaningful changes in healthcare  
3 spending in Rhode Island.

4           (d) WHEREAS, since August 2018, Rhode Island has: (1) convened a diverse group of  
5 stakeholders to consider the establishment of a cost growth target; (2) achieved unanimous  
6 consensus on the establishment of such a target; and (3) issued an Executive Order to formalize the  
7 cost target.

8           (e) WHEREAS, the Cost Trend Steering Committee also convened national experts with  
9 RI government, advocates, business leaders, and healthcare leaders to share best practices on  
10 claims-based analyses, leading to the development of a strategy to track overall healthcare  
11 spending, report at several levels, and produce information that will inform and enhance provider  
12 decision making.

13           (f) WHEREAS, the values that guide Rhode Island's Cost Trend efforts include  
14 commitments to (1) broad based stakeholder engagement that ensures consensus and support, (2)  
15 transparency and actionability of data and reports, and (3) collaboration between experts in state  
16 government, the private sector, and academia that results in key decision makers using data in  
17 smarter ways to reduce costs while ensuring high quality care.

18           (g) WHEREAS, in the final year of Peterson Center RI Health Care Cost Trend Project  
19 funding (ending March 1, 2021), the Steering Committee has committed to work on sustainability  
20 planning to codify the practice of cost trend analytics and convenings in the annual practices of the  
21 state. This will require reporting in 2020 on the state's performance against the cost growth target,  
22 demonstrating that healthcare cost analytics can catalyze policy and behavior change, and  
23 coordinating the cost trend work with the other on-going healthcare reform and data use work in  
24 Rhode Island.

25           (h) WHEREAS, the mission of the Executive Office of Health and Human Services is to  
26 assure access to high quality and cost-effective services that foster the health, safety, and  
27 independence of all Rhode Islanders. The complementary responsibility of the RI Office of the  
28 Health Insurance Commissioner includes addressing the affordability of healthcare and viewing the  
29 healthcare system as a whole., combining consumer protection and commercial insurer regulation  
30 with system reform policy-making.

31           **42-7.5-3 Definitions**

32           The following words and phrases as used in this chapter shall have the following meaning:

1 (1)(i) "Contribution enrollee" means an individual residing in this state, with respect to  
2 whom an insurer administers, provides, pays for, insures, or covers healthcare services, unless  
3 excepted by this section.

4 (ii) "Contribution enrollee" shall not include an individual whose healthcare services are  
5 paid or reimbursed by Part A or Part B of the Medicare program, a Medicare supplemental policy  
6 as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. § 1395ss(g)(1), or Medicare  
7 managed care policy, the federal employees' health benefit program, the Veterans' healthcare  
8 program, the Indian health service program, or any local governmental corporation, district, or  
9 agency providing health benefits coverage on a self-insured basis;

10 (2) "Healthcare services funding contribution" means per capita amount each contributing  
11 insurer must contribute to support the Health Spending Transparency and Containment Program  
12 funded by the method established under this section, with respect to each contribution enrollee;

13 (3)(i) "Insurer" means all persons offering, administering, and/or insuring healthcare  
14 services, including, but not limited to:

15 (A) Policies of accident and sickness insurance, as defined by chapter 18 of title 27;

16 (B) Nonprofit hospital or medical-service plans, as defined by chapters 19 and 20 of title  
17 27;

18 (C) Any person whose primary function is to provide diagnostic, therapeutic, or preventive  
19 services to a defined population on the basis of a periodic premium;

20 (D) All domestic, foreign, or alien insurance companies, mutual associations, and  
21 organizations;

22 (E) Health maintenance organizations, as defined by chapter 41 of title 27;

23 (F) All persons providing health benefits coverage on a self-insurance basis;

24 (G) All third-party administrators described in chapter 20.7 of title 27; and

25 (H) All persons providing health benefit coverage under Title XIX of the Social Security  
26 Act (Medicaid) as a Medicaid managed care organization offering managed Medicaid.

27 (ii) "Insurer" shall not include any nonprofit dental service corporation as defined in § 27-  
28 20.1-2, nor any insurer offering only those coverages described in § 42-7.5-7.

29 (4) "Person" means any individual, corporation, company, association, partnership, limited  
30 liability company, firm, state governmental corporations, districts, and agencies, joint stock  
31 associations, trusts, and the legal successor thereof.

32 (5) "Secretary" means the secretary of health and human services.

33 **42-7.5-4. Imposition of health spending transparency and containment funding**  
34 **contribution.**

1 (a) Each insurer is required to pay the health spending transparency and containment  
2 funding contribution for each contribution enrollee of the insurer at the time the contribution is  
3 calculated and paid, at the rate set forth in this section.

4 (1) Beginning October 1, 2020, the secretary shall set the health spending transparency and  
5 containment funding contribution each fiscal year in an amount not to exceed one (1) dollar per  
6 contribution enrollee of all insurers.

7 (2) The contribution set forth herein shall be in addition to any other fees or assessments  
8 upon the insurer allowable by law.

9 (b) The contribution shall be paid by the insurer; provided, however, a person providing  
10 health benefits coverage on a self-insurance basis that uses the services of a third-party  
11 administrator shall not be required to make a contribution for a contribution enrollee where the  
12 contribution on that enrollee has been or will be made by the third-party administrator.

13 **42-7.5-5. Returns and payment.**

14 (a) Every insurer required to make a contribution shall, on or before the last day of January  
15 of each year, beginning January of 2021, make a return to the secretary together with payment of  
16 the annual health spending transparency and containment funding contribution.

17 (b) All returns shall be signed by the insurer required to make the contribution, or by its  
18 authorized representative, subject to the pains and penalties of perjury.

19 (c) If a return shows an overpayment of the contribution due, the secretary shall refund or  
20 credit the overpayment to the insurer required to make the contribution.

21 **42-7.5-6. Method of payment and deposit of contribution.**

22 (a) The payments required by this chapter may be made by electronic transfer of monies to  
23 the general treasurer.

24 (b) The general treasurer shall take all steps necessary to facilitate the transfer of monies  
25 to the health spending transparency and containment funding account established in § 42-7.5-8 in  
26 the amount described in § 42-7.5-3.

27 (c) The general treasurer shall provide the secretary with a record of any monies transferred  
28 and deposited.

29 **42-7.5-7. Rules and regulations.**

30 The secretary is authorized to make and promulgate rules, regulations, and procedures not  
31 inconsistent with state law and fiscal procedures as he or she deems necessary for the proper  
32 administration of this chapter.

33 **42-7.5-8. Excluded coverage from the health spending transparency and containment**  
34 **funding act.**

1 (a) In addition to any exclusion and exemption contained elsewhere in this chapter, this  
2 chapter shall not apply to insurance coverage providing benefits for, nor shall an individual be  
3 deemed a contribution enrollee solely by virtue of receiving benefits for the following:

4 (1) Hospital confinement indemnity;

5 (2) Disability income;

6 (3) Accident only;

7 (4) Long-term care;

8 (5) Medicare supplement;

9 (6) Limited benefit health;

10 (7) Specified disease indemnity;

11 (8) Sickness or bodily injury or death by accident or both; or

12 (9) Other limited benefit policies.

13 **42-7.5-9. Health Spending Transparency and Containment Account.**

14 There is created a restricted receipt account to be known as the “Health Spending  
15 Transparency and Containment Account.” All money in the account shall be utilized by the  
16 executive office of health and human services, with the advice of and in coordination with the  
17 Office of the Health Insurance Commissioner, to effectuate the requirements described in § 42-7.5-  
18 9.

19 (a) All money received pursuant to this section shall be deposited in the Health Spending  
20 Transparency and Containment account. The general treasurer is authorized and directed to draw  
21 his or her orders on the account upon receipt of properly authenticated vouchers from the executive  
22 office of health and human services.

23 (b) The Health Spending Transparency and Containment Account shall be exempt from  
24 the indirect cost recovery provisions of § 35-4-27.

25 **42-7.5-10. Health Spending Transparency and Containment Program Requirements.**

26 (a) The Health Spending Transparency and Containment Program (“Program”) is hereby  
27 created to utilize health care claims data to help reduce health care costs.

28 (b) The Program shall include the maintenance of an annual Health Care Cost Growth  
29 Target that will be used as a voluntary benchmark to measure Rhode Island health care spending  
30 performance relative to the target, which performance shall be publicly reported annually.

31 (c) The Program will use data to determine what factors are causing increased health  
32 spending in the state, and to create actionable analysis to drive changes in practice and policy and  
33 develop cost reduction strategies.

- 1            (d) Annual reports shall be made public and recommendations shall be issued to the
- 2            Governor and the General Assembly.
- 3            SECTION 15: This article shall take effect upon passage.